

Chapter 1 GENERAL PROVISIONS

Sec. 1-1. Designation and citation of Code.

The ordinances embraced in the following chapters and sections, along with applicable sections of the Collier County Code pursuant to the Charter, shall constitute and be designated the "Code of Ordinances, City of Marco Island, Florida," or "Code of Ordinances", 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 shall be observed, unless the context clearly indicates otherwise:

Charter. The term "Charter" means the Charter of the City of Marco Island, printed as part I of this volume.

City. The term "city" shall be construed as if the words "of Marco Island" followed the word "city," and shall extend to and include its officers, boards, committees and employees. *Code.* The term "Code" means the Code of Ordinances, City of Marco Island, 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, a Sunday nor a 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.

Council. The term "council" or "city council" means the City Council of the City of Marco Island.

County. The term "county" means the County of Collier in the State of Florida.

Fiscal year means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the city.

F.S. The abbreviation "F.S." refers to the official Florida Statutes and all amendments and supplements adopted by the state legislature. The symbol "\$" is an abbreviation for the "section." All references to a numbered provision within F.S. shall also include amendments to such provision, as may occur from time to time.

Gender. A word importing ~~the a particular masculine~~ gender ~~only may shall~~ extend and be applied to ~~females~~ all persons and to firms, partnerships and corporations ~~as well as to males~~.

Legal holiday. The term, "legal holiday" means all holidays declared by the state pursuant to F.S. § 110.17 and all holidays for which city hall is closed to the public.

Month. The term "month" means 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 term "oath" shall ~~be construed to~~ include an affirmation ~~when in all cases in which~~, by law, an affirmation may be substituted for an oath, and in such cases the words "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 construed as though the words "of Marco Island, Florida" were added. Whenever a provision appears

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

44 *Or, and.* The word “or” may be read “and,” and “and” may be read “or,” if the sense requires it.

45 *Owner.* The term “owner,” applied to a building or land, includes any part owner, joint owner, tenant in
46 common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of such building or
47 land.

48 *Person.* The term “person” shall extend and be applied to associations, clubs, societies, firms, partnerships,
49 copartnerships, and bodies politic and corporate, as well as to individuals.

50 *Personal property.* The term “personal property” includes every species-type of property except real property.

51 *Preceding, following.* The terms “preceding” and “following” mean next before and next after, respectively.

52 *Property.* The term “property” includes real and personal property.

53 Public nuisance. The term, “public nuisance” means the commission or omission of any act, by any person, or
54 the keeping, maintaining, propagation, existence or permitting of anything, by any person that may threaten or
55 impair the life, health, safety, or welfare of any person, or that may diminish the customary use and enjoyment of
56 property.

57 *Public place.* The term “public place” means any park, cemetery or open space adjacent thereto, and all
58 beaches, canals or other waterways, and any property owned by the city, state or federal government that is
59 normally accessible to the public.

60 *Real property.* The term “real property” includes lands, tenements and hereditaments.

61 Render; rendition. The term, “render” or “rendition” means the issuance of a written order, including approval,
62 approval with conditions, or denial of a determination by the city council, planning board other board with
63 jurisdiction, or administrative official, effective upon the date of signing by the authorized city official of such order
64 or final letter of determination and its filing in the records of the city council, board, or administrative official.

65 Right-of-way. The term, “right-of-way” means a strip of land occupied or intended to be occupied by a road,
66 sidewalk, pedestrian or bicycle path, utility, or stormwater conveyance. The term shall mean a public right-of-way
67 that is granted, dedicated or deeded to the public, unless the context clearly indicates otherwise.

68 *Shall, may.* The word “shall” is mandatory; the word “may” is permissive.

69 *Sidewalk.* The term “sidewalk” means any portion of a street between the edge of pavement of a roadway, or
70 curbline, and the adjacent property line, intended for the use of pedestrians, excluding parkwaysswales.

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

72 *State.* The term "state" means the State of Florida.

73 *Street.* The term "street" means right-of-way and improvements therein for a public thoroughfare that affords
74 access to abutting property. The term includes ~~streets~~, avenues, boulevards, roads, ways, alleys, lanes, viaducts and
75 all other public highways in the city regardless of the descriptive term used.

76 Swale, roadway . The term “swale” or “roadway swale” means a pervious, depressed strip of land used to
77 retain and/or convey surface water runoff, generally located between the edge of the pavement of a roadway, and
78 the inside edge of sidewalk or right-of-way boundary if no sidewalk is present.

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

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

82 *Week.* The term "week" means any seven-days period.

83 *Written, in writing.* The term "written" or "in writing" includes any representation of words, letters or figures,
84 whether by printing or otherwise.

85 *Year.* Unless otherwise designated, the term "year" means a calendar year, unless a fiscal year is indicated.

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

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

91 **Sec. 1-4. References to chapters or sections.**

92 (a) Whenever ~~in~~ one section of this Code references ~~is made to~~ another section of this Code, the reference shall
93 extend and apply to the referenced section ~~referred to~~ as may be subsequently amended, revised, recodified,
94 or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

95 (b) All references to chapters or sections are to the chapters and sections of this Code, unless otherwise specified.

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

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

99 **Sec. 1-6. Charter references, cross references, state law references and editor's notes.**

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

102 **Sec. 1-7. Provisions considered as continuation of existing ordinances.**

103 The provisions ~~of this Code appearing in this and the following chapters and sections, so far as they are the~~
104 ~~same as ordinances existing at the time of the adoption of this Code,~~ shall be considered as a continuation ~~thereof~~
105 of the ordinances that created them, and not as new enactments.

106 **Sec. 1-8. Ordinances not affected by Code.**

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

108 (1) Promising or guaranteeing the payment of money by or to the city, or authorizing the issuance of any
109 bonds of the city or any evidence of the city's indebtedness, or any contract or obligation assumed by
110 the city.

111 (2) Appropriating funds or establishing or relating to the annual budget.

112 (3) Imposing taxes which are not inconsistent with this Code.

113 (4) Granting any right or franchise.

114 (5) Dedicating, naming, establishing, locating, relocating, opening, paving, widening or vacating any street
115 or public way.

116 (6) Establishing or prescribing street grades.

117 (7) Providing for local improvements and assessing taxes therefor, or establishing special districts.

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- 1 (8) Prescribing through streets, parking prohibitions, parking limitations, one-way streets, speed limits, load
 - 2 limits or loading zones not inconsistent with this Code.
 - 3 (9) Zoning or rezoning specific property.
 - 4 (10) Dedicating, accepting or rejecting any plat or subdivision.
 - 5 (11) Annexing or deannexing property.
 - 6 (12) Which continues in effect pursuant to Charter section 10.06.
 - 7 (13) Which is special, although permanent.
 - 8 (14) Which is temporary, although general.
 - 9 (15) Whose purposes have not been consummated.

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

12 **Sec. 1-9. Effect of repeal of ordinances.**

- 13 (a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed
- 14 took effect.
- 15 (b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect,
- 16 or any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the
- 17 ordinance repealed.

18 **Sec. 1-10. Code does not affect prior offenses or rights.**

- 19 (a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or
- 20 any penalty or forfeiture incurred, or any contract or right established or accruing, before the effective date of
- 21 this Code.
- 22 (b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of
- 23 any use of a structure or premises in violation of any ordinance of the city in effect on the date of adoption of
- 24 this Code.

25 **Sec. 1-11. Amendments to Code; effect of new ordinances; amendatory language.**

- 26 (a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be
- 27 numbered in accordance with the numbering system of this Code and printed for inclusion in the Code. In the
- 28 case of repealed chapters, sections and subsections, or any part thereof, by subsequent ordinances, such
- 29 repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. The
- 30 subsequent ordinances, as numbered and printed, or omitted in the case of repeal, shall be prima facie
- 31 evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered
- 32 or omitted are readopted as a new code of ordinances by the city council.
- 33 (b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific
- 34 reference to the section number of this Code in substantially the following language: "NOW, THEREFORE, BE
- 35 IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA: That section _____ of the
- 36 Code of Ordinances, City of Marco Island, Florida, is hereby amended to read as follows:" The new provisions
- 37 shall then be set out in full as desired.

1 (c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "NOW,
2 THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA: That the Code
3 of Ordinances, City of Marco Island, Florida, is hereby amended by adding a section, to be numbered _____,
4 which section reads as follows" The new section shall then be set out in full as desired.

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

7 **Sec. 1-12. Supplementation of Code.**

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

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

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

22 (1) Organize the ordinance material into appropriate subdivisions;

23 (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code
24 printed in the supplement and make changes in catchlines, headings and titles;

25 (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where
26 necessary to accommodate new material, change existing section or other subdivision numbers;

27 (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this
28 division," etc., as the case may be, or to "sections _____ through _____." The inserted section
29 numbers will indicate the sections of the Code which embody the substantive sections of the ordinance
30 incorporated into the Code; and

31 (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections
32 inserted into the Code, but in no case shall the codifier make any change in the meaning or effect of
33 ordinance material included in the supplement or already embodied in the Code.

34 **Sec. 1-13. Severability of parts of Code.**

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

1 **Sec. 1-14. General penalty; continuing violations; violations deemed public nuisance.**

- 2 (a) Whenever in this Code any act is prohibited or is made or declared to be unlawful or an offense, or whenever
3 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,
4 where no specific penalty is provided therefor, the violation of any such provision of this Code shall be
5 punished by a fine not exceeding \$500.00 or imprisonment for a term not exceeding 60 days, or by both such
6 fine and imprisonment in the discretion of the court. Each day any violation of any provision of this Code shall
7 continue shall constitute a separate offense.
- 8 (b) In addition to the penalties provided in subsection (a) of this section, any condition caused or permitted to
9 exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be abated
10 by the city as provided by law, and each day that such condition continues shall be regarded as a new and
11 separate offense.
- 12 (c) The penalties in this section are in addition to any other remedy provided by law, which may include without
13 limitation, an equitable action for injunctive relief or an action at law for damages.

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15 **Sec. 1-15. Appeals.**

- 16 (a) Any person affected by a decision or determination of a city administrative official or of a city board or
17 committee established pursuant to Sec. 2-201, relating to a provision of this code of ordinances not
18 excluded in subsection (b), may appeal the decision according to the procedure established within this
19 section, if the affected person believes the decision was rendered in error.
- 20 (b) This section does not authorize an appeal from any provision in chapter 30, land development code, or
21 any other article or chapter that provides for a separate appeal procedure.
- 22 (1) Filing. The party filing the appeal (appellant) shall submit written notification of the appeal to the city
23 clerk. The appeal must be received within thirty (30) days after the decision was rendered, and shall
24 include at least the following information: name, address, phone number and email address of the
25 appellant, the decision being appealed and how the appellant is affected by the decision, the name of
26 the administrative official or board that rendered the decision, the date the decision was rendered, a
27 copy of the decision, and the reason the appellant believes the decision was issued in error together
28 with any pertinent information, exhibits and other backup information in support of the appeal. The
29 appellant shall pay a fee for the processing of the appeal as may be established by the city council
30 from time to time.
- 31 (2) Processing. Upon receipt of a timely notice of appeal, the appeal shall be assigned to the city council
32 servicing in an appellate capacity at one of the next two regularly scheduled meetings unless an
33 extension of time is requested or agreed to by the appellant.
- 34 (3) Hearing. The city council shall conduct a de novo review of the appeal at a quasi-judicial public hearing
35 noticed in a newspaper of general circulation at least seven days prior to the hearing. The city council
36 shall make a final determination based on the following criteria:
- 37 a. There exists an error or ambiguity that must be corrected;
38 b. Whether competent substantial evidence exists to support the decision being appealed;
39 c. The general intent of the section of this code of ordinances that is the subject of the appeal;
40 d. The impact of any finding on the surrounding community;
41 e. The testimony and submittals of any appellants, their counsel, agents, representatives, or
42 witnesses;
43 f. The testimony and submittals of city administrative officials, their counsel, representatives, or
44 witnesses;

1 g. Applicable statutes; and,

2 h. Established case law.

3 (4) Administrative resolution of appeal. In the event that the department or division that issued the
4 decision determines it erred after the appeal has been filed, nothing in this section precludes the
5 department or division from correcting the error and reversing or modifying its decision.

6 (5) Council authority. The city council shall have the authority to reverse or affirm, wholly or in part, or
7 modify any administrative or board order, requirement, decision, or determination made in the
8 administration, interpretation or enforcement of any provision of this code of ordinances. The council
9 shall have all the powers of the official or board from whose decision the appeal is taken, and its
10 decision shall become effective immediately. The City Council's decision shall be reflected in a written
11 order prepared by the City Attorney and filed with the City Clerk.

12 (6) Appeal of council decision. Appeal of the council's decision shall by petition for writ of certiorari to the
13 appropriate state court located in Collier County within thirty (30) days from the date of the rendering
14 of the decision.

15 (7) A violation of any order entered with respect to an appeal processed pursuant to this section shall be
16 considered a violation of the code section that was the subject of the appeal and shall be subject to
17 enforcement procedures of this code of ordinances.

19 Chapter 2 ADMINISTRATION

20 ARTICLE I. IN GENERAL

21 Sec. 2-1. City seal.

- 22 (a) There is hereby designated an official seal of the city.
- 23 (b) The ~~city manager/~~city clerk shall be the custodian of the city seal.
- 24 (c) The manufacture, use, display, or employment of any facsimile or reproduction of the city seal, except by
25 municipal officials or employees in the performance of their duties, without express approval of the city council
26 is prohibited.
- 27 (d) ~~Nothing in this section shall be construed to prohibit the~~ The city manager/city clerk is authorized from to
28 using use a corporate seal, which reflects the name of the city and the state of incorporation, for certification
29 of official documents.

30 Sec. 2-2. Court cost for criminal justice education.

31 ~~In addition to costs~~As provided for in F.S. § 938.01, the city hereby assesses an additional \$~~32~~.00 for
32 expenditures for criminal justice education degree programs and training courses.

33 Secs. 2-3—2-30. Reserved.

34 ARTICLE II. CITY COUNCIL

35 Sec. 2-31. Induction of members into office: oath.

36 Except as provided by section 2-31.1, the newly elected councilmembers shall take office at noon on the
37 Monday following their election, and shall be inducted into office at a special meeting called for that purpose. At
38 that time, the city attorney or any judicial officer shall administer an oath of office to the newly elected
39 councilmembers. The oath of office shall be as follows:

1 "I solemnly swear (or affirm) that I will support the Constitution and will obey the Laws of the United States
2 and of the State of Florida; that I will, in all respects, observe the provisions of the Charter and the Ordinances
3 of the City of Marco Island, and will faithfully discharge the duties of the office of City Council."

4 **Sec. 2-31.1. City council election dates; commencement of term; qualifying; vacancy in**
5 **candidacy; extension of term.**

6 (a) *Priority of provisions.* The provisions of this section 2-31.1 shall control over any conflicting provision of the
7 City Code or Charter, ~~to the fullest extent authorized by F.S. § 100.3605 (2).~~

8 (b) *Election dates.* ~~The regular municipal election shall be held on the last Tuesday in January for the 2008 and~~
9 ~~2010 elections, and, beginning with the 2012 election and every election thereafter, the regular~~Regular
10 municipal elections shall be held on the first Tuesday, following the first Monday, in November of even-
11 numbered years.

12 (c) *Commencement of terms.* ~~Those persons certified as duly elected in the 2008 and 2010 elections shall take~~
13 ~~office at the second city council meeting held in March.~~ Those persons certified as duly elected in the 2012
14 election, and any election thereafter, shall take office at the next city council meeting held following the
15 certification of the election results. Terms of office shall remain staggered such that elections to fill four seats
16 shall be conducted during presidential election years and three seats during non-presidential election years.

17 (d) *Qualifying; vacancy in candidacy.*

18 (1) The qualifying period for candidates shall begin at 8:00 a.m. on the sixteenth Tuesday prior to the
19 election and end at 5:00 p.m. on the fourteenth Tuesday preceding the election.

20 (2) If the death, withdrawal or removal of a qualified candidate or candidates following the end of the
21 qualifying period results in the number of candidates remaining on the ballot equal to or less than the
22 vacancies on city council, one supplemental qualifying period shall be established for a period of five
23 days beginning on the first day following the vacancy in candidacy. No further supplemental qualifying
24 period shall thereafter be established and no supplemental qualifying period shall be established at all if
25 a vacancy in candidacy occurs within 30 days prior to the date of the general municipal election. If within
26 30 days prior to the date of the general municipal election for city council there remains a number of
27 candidates on the ballot equal in number to the vacancies on city council, said candidates shall be
28 declared elected and no election for city council shall be required. In the event that there are less
29 candidates than vacancies following the qualifying period or supplemental qualifying period, said
30 remaining qualified candidates shall be declared elected and city council shall, within 60 days, by majority
31 vote of the councilmembers seated, appoint a person to fill the vacancy or vacancies until the next
32 regularly scheduled city election at which the seat shall be filled in accordance with Article V of the City
33 Charter.

34 ~~(e) —Extension of term. The term of office for those certified as duly elected in the 2008 election shall be extended~~
35 ~~to the date of the 2012 election. The term of office for those certified as duly elected in the 2010 election~~
36 ~~shall be extended to the date of the 2014 election.~~

37 **Sec. 2-32. Time and place of regular meetings.**

38 The city council shall hold regular meetings at least once in every month at such times and places as prescribed
39 by the city council's rules of procedure. The city council shall cause to be published annually a schedule of regular
40 city council meetings.

41 **Sec. 2-33. Special meetings.**

42 The city council may hold special meetings at any time pursuant to due notice, and whenever practicable, upon
43 no less than 24 hours' notice to each member and the public. Special meetings may be held on the call of the
44 chair~~man~~, or by the city manager, when a majority of councilmembers express a desire to call a special meeting.

1 **Sec. 2-34. Agenda and notice of meetings.**

2 The procedure for the preparation of the agenda for regular meetings and the notice of meetings of the city
3 council shall be established by resolution and incorporated with the city council rules of procedure.

4 **Sec. 2-35. Recessed meetings.**

5 The city council may recess at any regular or special meeting, provided such recessed meetings shall be to a
6 future day and hour to be specifically provided for in the motion for such recess. A recessed meeting shall not be
7 later than the next regular meeting, and any such recessed meeting shall not be held at any hour or time other than
8 as specified in such motion.

9 **Sec. 2-36. Parliamentary rules; conduct of meetings.**

10 Parliamentary rules and conduct of meetings shall be established by resolution and incorporated in the city
11 council rules of procedure.

12 **Secs. 2-37—2-60. Reserved.**

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16 **ARTICLE III. OFFICERS AND EMPLOYEES**

17 *DIVISION 1. GENERALLY*

18 **Secs. 2-61—2-80. Reserved.**

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20 *DIVISION 2. CITY MANAGER*

21 **Sec. 2-81. Office established; qualifications.**

22 (a) There shall be a city manager, who shall be the chief administrative officer of the city. The city manager shall
23 be responsible to the council for the administration of all city affairs placed in the manager's charge by or
24 under the Charter.

25 (b) The selection of a city manager shall be based on education, experience, and administrative background.
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27 **Sec. 2-82. Appointment; removal; residency; compensation.**

28 (a) The council shall appoint a city manager by a vote of five of the seven councilmembers. The city manager shall
29 serve at the will of the council and shall not be given a fixed term by resolution, ordinance, contract, or
30 otherwise.

31 (b) The city manager shall serve at the will of the city council. The council may remove the city manager by the
32 affirmative vote of at least four members of the council.

33 (1) Upon request by the city manager, to be made within five days after receipt of written notification of
34 such vote, a public hearing shall be held within ten days after receipt of such request.

1 (2) After such hearing, the council by affirmative vote of at least four councilmembers shall decide whether
2 to reconsider its previous action.

3 (c) The manager need not be a resident of the city or state at the time of the manager's appointment, but may
4 reside outside the city while in office only with the approval of the council.

5 (d) The compensation of the city manager shall be fixed by the council.

6 **Sec. 2-83. Powers and duties.**

7 The city manager shall:

8 (1) Appoint and, when deemed necessary for the good of the city, suspend or remove any city employees
9 and appointive administrative officers provided for by or under the Charter, except as otherwise
10 provided by law or personnel rules adopted by council resolution. The city manager may authorize any
11 administrative officer who is subject to the direction and supervision of the city manager to exercise
12 these powers with respect to subordinates in that officer's department.

13 (2) Direct and supervise the administration of all departments, officers, and agencies of the city, except as
14 otherwise provided by the Charter or by law.

15 (a) Appoint an officer to administer each such department, office, and agency. Such officers shall be
16 under the direction and supervision of the city manager, provided that, with the consent of the
17 council, the city manager may serve as the head of one or more such departments, offices, or
18 agencies or may appoint one person as the head of two or more of them.

19 (3) Attend all council meetings and shall have the right to take part in discussion, but may not vote.

20 (4) See that all laws, provisions of the Charter, and acts of the council subject to enforcement by the city
21 manager or by officers subject to the city manager's direction and supervision are faithfully executed.

22 (5) Prepare and submit the annual budget, budget message, and capital program to the council in a form
23 provided by ordinance.

24 (6) Submit to the council, and make available to the public, a complete report on the finances and
25 administrative activities of the city as of the end of each fiscal year.

26 (7) Prepare and enforce personnel policies, wage and compensation plans, and collective bargaining
27 contracts, and shall keep such policies current and in conformity with applicable federal and state laws.

28 ~~(8)~~ Make such other reports as the council may require concerning the operations of city departments,
29 offices, and agencies subject to the manager's direction and supervision.

30 ~~(9)~~ Keep the council fully advised as to the financial condition and future needs of the city and make such
31 recommendations to the council concerning the affairs of the city as manager deems desirable.

32 ~~(10)~~ Perform such other duties as are specified in the Charter or as may be required by the council.

33 ~~(11)~~ Execute all formal contracts on behalf of the city. Such contracts shall be attested by the ~~deputy~~
34 city clerk.

35 **Sec. 2-84. Acting city manager.**

36 (a) By letter filed with the council, the city manager may designate a qualified city administrative officer to exercise
37 the powers and perform the duties of manager during the city manager's temporary absence or disability, not
38 to exceed a period of 30 days.

39 (b) During such absence or disability, the council may revoke such designation at any time and appoint another
40 officer of the city to serve until the city manager ~~shall return~~ or the city manager's disability ~~shall cease~~.

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Sec. 2-85. ~~Supervision of departments. Reserved.~~

- ~~(a) Except as otherwise provided in the Charter or by general law, the city manager shall be responsible for the supervision and direction of all departments, agencies, or offices of the city.~~
- ~~(b) All departments, offices, and agencies under the direction and supervision of the manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager.~~
- ~~(c) With the consent of council, the manager may serve as the head of one or more such departments, offices, or agencies or may appoint one person as the head of two or more of them.~~
- ~~(d) The city manager shall prepare and enforce personnel policies, wage and compensation plans, and collective bargaining contracts, and shall keep such policies current and in conformity with applicable federal and state laws.~~

~~Sec. 2-86. Preparation of administrative code.~~

~~The manager shall develop and keep current an administrative code for the purpose of implementing ordinances passed by the council.~~

Secs. 2-~~867~~—2-100. Reserved.

DIVISION 3. CITY ATTORNEY

Sec. 2-101. Office established; appointment and removal; term; compensation.

- (a) ~~The council~~ shall ~~be appoint~~ a city attorney, ~~appointed by the council, who shall to~~ serve as chief legal advisor to the council and city administrators and ~~shall to~~ represent the city in all legal proceedings and perform such other related duties as the council may deem necessary.
- (b) The city attorney may be full-time or part-time or on retainer as the council may deem necessary. If the position of city attorney is full-time:
 - (1) The council shall appoint a city attorney by a vote of five of the seven councilmembers. The city attorney shall serve at the will of the council and shall not be given a fixed term by resolution, ordinance, contract, or otherwise.
 - (2) The council may remove the city attorney by the affirmative vote of at least four members of the council.
 - a. Upon request by the city attorney, to be made within five days after receipt of written notification of such vote, a public hearing shall be held within ten days after receipt of such request.
 - b. After such hearing, the council by affirmative vote of at least four councilmembers shall decide whether to reconsider its previous action.
- (c) The attorney need not be a resident of the city or state at the time of the attorney's appointment, but may reside outside the city while in office only with the approval of the council.
- (d) The compensation of the city attorney shall be fixed by the council.

1 **Sec. 2-102. Duties.**

2 In addition to any other duties assigned to the city attorney by the city council, the city attorney shall:

- 3 (1) Upon request, give all necessary advice to the city council and all officers and agents of the city.
- 4 (2) Institute and defend such proceedings and render such other legal services on behalf of the city as may
- 5 be requested by the proper officers or agents of the city.
- 6 (3) Be responsible for drafting or reviewing all ordinances, resolutions, and other instruments of writing
- 7 relating to the business of the city.
- 8 (4) Approve official documents of the city, as to form.
- 9 (5) Attend regular and special meetings of the city council, render legal advice upon request, and review the
- 10 legal propriety of documents under consideration by council or administrative officials.

11

12 **Secs. 2-103—2-120. Reserved.**

13 *DIVISION 4. CITY CLERK*

14 **Sec. 2-121. Office established; duties.**

15 The city manager shall appoint a city clerk ~~who to shall~~ be responsible for the following:

- 16 (1) Provide public notice of all public meetings to city council and the public.
- 17 (2) Keep a journal of all city council proceedings, which shall be a public record.
- 18 (3) Be custodian of all official records and the official city seal.
- 19 (4) Supervise city elections, initiatives, and referendums.
- 20 (5) Provide access to public records as required by article 1, section 24, of the state constitution and F.S. ch.
- 21 119, as amended.
- 22 (6) Serve as a member of the board of trustees of the City of Marco Island Firefighters' Pension Plan and the
- 23 board of trustees of the City of Marco Island Police Officers' Pension Plan, if eligible.

24

25 **Secs. 2-122—2-140. Reserved.**

26 *DIVISION 5. DEPARTMENT OF FINANCE*

27 **Sec. 2-141. Established; director.**

28 There shall be a department of finance under the direction of the finance director. The finance director shall
29 be under the direction of the city manager.

1 **Sec. 2-142. Duties.**

2 The finance director shall be responsible for the proper administration of the financial affairs of the city, ~~subject~~
3 ~~to the supervision of the city manager.~~ The department of finance shall be required to:

- 4 (1) Maintain a general accounting system for the city government and each of its departments, offices, and
5 agencies.
- 6 (2) Keep the books for, and exercise financial budgetary control over, each office, department, and agency.
- 7 (3) Direct the data processing function for the city government.
- 8 (4) Collect revenues due the city, including ~~occupational business taxes~~ license fees.
- 9 (5) Upon the approval of the city manager, open and maintain checking and savings accounts in the name
10 of the city; designate persons to sign checks, drafts, notes, bills of exchange, acceptance or other orders
11 for the payment or withdrawal of money from such accounts; endorse checks, notes, bills, certificates of
12 deposit or other instruments owned or held by the city for deposit in such accounts or for collection or
13 discount by depository banks; accept drafts, acceptances and other instruments payable at city
14 depositories; and waive presentment, demand, protests, and notices of protest, or dishonor of any
15 check, note, bill, draft, or other instrument made, drawn, or endorsed by the city.
- 16 (6) Establish a "returned check" service charge to be assessed against any person who ~~presents issues or~~
17 ~~delivers to this city any a~~ check, draft, or other written order on any bank or depository for ~~the~~ payment
18 ~~of money to the city, when, upon presentation of such check, the payment is that is~~ not paid for any
19 reason.
- 20 (7) Invest funds of the city as provided by state statutes.
- 21 (8) Perform other duties and functions as may be prescribed by the city manager.
- 22 (9) Be responsible for establishing and maintaining accounting procedures and a system of internal controls.
- 23 (10) Produce monthly and yearly financial reports and the annual financial statements.
- 24 (11) Coordinate and establish the budget approval process and TRIM regulations.

25
26 **Secs. 2-143—2-160. Reserved.**

27 *DIVISION 6. TRAVEL POLICIES AND PROCEDURES*

28 **Sec. 2-161. Purpose of division.**

29 The purpose of ~~the~~ this division is to effectively allocate limited funds available for business-related expenses,
30 including training and professional development of elected and appointed officials and employees. This division is
31 established to pay for and reimburse all allowable expenditures, while reducing required paperwork to a minimum.
32 Business and travel expenditures, as with other purchases, represent an expenditure of city funds. Each employee
33 is responsible for ensuring that expenditures are prudent and necessary.

34
35 **Sec. 2-162. Definitions.**

36 The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them
37 in this section, except where the context clearly indicates a different meaning. These definitions are supplemental
38 to the definitions in section 1-2 of this code. The definitions in this section shall prevail in case of conflict.:

1 *Authorized individual* means a public officer or employee, whether elected or not, who is authorized by the
2 city manager to incur travel expenses in the performance of ~~his or her~~their duties, including, but not limited to,
3 board and committee members performing services on behalf of the city and persons who are candidates for
4 executive or professional positions.

5 *Common carrier* means a train, bus, commercial airline operating scheduled flights, taxi, ferry, airport
6 limousine, rental cars of an established rental car firm, or ride sharing company.

7 *Public employee* means an individual, either elected or appointed, who in the performance of ~~his or her~~their
8 official duties is vested by law with powers of government.

9
10 **Sec. 2-163. Authority to incur travel and business expenses.**

- 11 (a) If a member of the city council or the city manager finds it necessary to incur travel and business expenses,
12 and when the expenses are within the intent of the adopted budget, the expenditures are authorized. All travel
13 and business expenses by public employees must be authorized by the city manager.
- 14 (b) Traveling expenses shall be limited to those expenses necessarily incurred by the traveler in the performance
15 of duties related to the functions and responsibilities of the city.
- 16 (c) Traveling expenses of prospective employees for the sole purpose of taking merit system or other job
17 placement examinations, interviews, etc., may be authorized by the city council or the city manager.
- 18 (d) Business expenses shall apply to those expenditures which are incurred in the performance of a public purpose,
19 including meetings with governmental officials, seminars and training programs, pickup and delivery of parts
20 and equipment, recruitment of personnel, community promotion, and any other related activities.

21 **Sec. 2-164. Funding; travel advances.**

- 22 (a) All travel must have prior written authorization, in accordance with the city's administrative procedures
23 established pursuant with section 2-165, showing the itinerary, the source of funding and whether or not a
24 travel advance is needed.
- 25 (b) Travel advances may be issued to authorized persons or individuals prior to departure on an authorized trip.
26 The cash amount will be based on a schedule commensurate with the known expenses as stated in the travel
27 authorization. If common carrier tickets are necessary, issuance of such tickets shall be made only upon receipt
28 of a travel authorization. The authorized traveler receiving a travel advance must keep a record of all travel
29 expenses and report the expenses. If an authorized travel advance is less than the approved actual expenses,
30 the difference will be reimbursed to the authorized traveler. If the travel advance is greater than the actual or
31 allowed travel expenses, then the difference shall be reimbursed to the city within 30 days after return of the
32 traveler.

33 **Sec. 2-165. Expense administrative procedures.**

34 The city manager shall establish procedures for travel requests, expenses and reimbursements, and mileage
35 allowances, where applicable, and prescribe such regulations as are reasonable and necessary to effectuate the
36 purpose of this division. The finance director, or designee, shall verify requests for travel expenses and
37 reimbursements before payment is made.

38 **Sec. 2-166. Eligibility for receiving meal and accommodations allowances.**

39 For the purpose of reimbursements under this division, the allowance for meals will be based on the following
40 schedule, where each period covered must be of three hours' duration or longer to be valid:

- 41 (1) Breakfast allowance will be made when travel begins before 6:00 a.m. and extends beyond 8:00 a.m.

- 1 (2) Lunch allowance will be made when travel begins before 12:00 noon and extends beyond 2:00 p.m.
- 2 (3) Dinner allowance will be made when travel begins before 6:00 p.m. and extends beyond 7:00 p.m., or
3 when travel occurs during nighttime hours due to special assignment.
- 4 (4) Hotel or accommodations allowances will be made when travel extends overnight and requires lodging
5 not within the county at the single occupancy rate. An employee taking a guest will pay any cost
6 differences for double occupancy. Room service expenses will not be reimbursed by the city.
- 7 (5) No expenses incurred by employees in the county shall be reimbursed unless approved by the city
8 manager.

9 **Sec. 2-167. Amount of meal and accommodations allowances.**

- 10 (a) When the period of travel conforms to the schedule of allowances in section 2-166, all authorized travelers
11 may be allowed subsistence when traveling to a convention, conference, seminar or activity or on city-related
12 business which serves a direct public purpose.
- 13 (b) Subsistence will consist of the basic travel allowance for meals as follows and actual hotel or accommodation
14 charges when the period of travel extends overnight. Meal allowances shall be in accordance with the amounts
15 authorized in F.S. § 112.061, ~~as may be amended~~.
16 Hotel or accommodation charges must be single-occupancy rate and substantiated by receipt. The basic travel
17 allowance for meals shall exclude meals which have been prepaid as a part of registration fees.
- 18 (c) Tips and gratuities are included in the basic travel allowance for meals.

19 **Sec. 2-168. Reimbursement for transportation expenses.**

- 20 (a) All travel must be on a convenient and mainly traveled route. Air travel shall be at the coach fare. If a person
21 travels by an indirect route for his or her convenience, any extra costs shall be borne by the traveler.
22 Reimbursement for expenses shall be made accordingly upon the presentation of receipts.
- 23 (b) If a privately owned vehicle is used for travel, the vehicle owner shall be entitled to a mileage reimbursement
24 at a cents per mile rate equal to the Internal Revenue Service allowable rate then in effect.
- 25 (c) Transportation by a common carrier which has not been prepaid and for which the authorized traveler seeks
26 reimbursement must be substantiated by an official receipt from the common carrier.
- 27 (d) Transportation by charter vehicle_s may be authorized when it is determined to be the most economical
28 method of travel when considering the nature of the business, the number of people making the trip and the
29 most efficient and economical means of travel (considering the time of the traveler, cost of transportation and
30 subsistence required).

31 **Sec. 2-169. Use of private vehicles.**

- 32 (a) Authorized travelers shall not be allowed either mileage or transportation expenses when they are transported
33 gratuitously by another person or when they are transported by another authorized traveler who is entitled
34 to mileage or transportation expense.
- 35 (b) Reimbursement for expenditures related to the operation, maintenance, depreciation and ownership of a
36 vehicle shall not be allowed when a privately owned vehicle is used on public business or a mileage allowance
37 is paid.

38 **Sec. 2-170. Reimbursable incidental expenses.**

39 An authorized traveler may be reimbursed for incidental travel expenses incurred during the course of travel.
40 These incidental travel expenses include but are not limited to the following:

- 41 (1) Common carrier fares.

- 1 (2) Bridge, road and tunnel tolls.
- 2 (3) Storage and parking fees.
- 3 (4) Communication expenses relating to city business.
- 4 (5) Registration fees associated with conventions, conferences, seminars, or training.

5 **Sec. 2-171. Fraudulent request.**

6 By submitting requests pursuant to this division the authorized traveler declares that the request is true and
7 correct as to every material matter. Any individual who makes or aids in the making of a false or fraudulent request
8 shall be guilty of a violation against the city, and upon conviction thereof shall be punished as provided in the city's
9 personnel rules and regulations. In addition, any person who receives a travel allowance, advance or reimbursement
10 by means of a false request shall be civilly liable for the repayment of the amount into the public fund from which
11 the request was paid.

12 **Secs. 2-172—2-200. Reserved.**

13 ***ARTICLE IV. BOARDS AND COMMISSION***

14 **Sec. 2-201. Procedure for establishment.**

15 Boards, committees, or commissions ("boards") may be established by ordinance or, resolution, ~~or motion~~ at
16 the discretion of city council. Such ordinance or resolution and shall also describe the duties and the qualifications
17 of its members.

18 **Sec. 2-202. Qualifications of members.**

19 In addition to qualifications that may be specified for membership by state statutes, the Charter, ordinance,
20 or resolution, ~~or motion~~, a person appointed to a board, ~~committee, or commission~~ shall be a resident of the city,
21 shall be a registered elector, and shall serve without compensation.

22 **Sec. 2-203. Appointment of members; vacancies.**

23 Except as otherwise provided by state statutes, ordinance, or resolution, ~~or motion~~ ("otherwise provided"),
24 appointments to a board, ~~committee, or commission~~ shall be filled by the city council in accordance with the
25 following procedure:

- 26 (1) The city council may direct the city manager to advertise a vacancy and seek resumes from interested
27 members of the public willing to accept appointment.
- 28 (2) The composition of each board, ~~committee, or commission~~ shall consist of seven members. Each council
29 member shall reserve the right to recommend the appointment ~~appoint~~ of one member. The city council
30 may accept or reject the an - recommendation appointment ~~offered by the council member~~.
- 31 (3) If a vacancy occurs on the board, ~~committee, or commission~~ during the term of the appointing council
32 member, such council member shall have the right to may recommend appoint a replacement to fill the
33 vacancy to complete the unexpired term. The city council may accept or reject the
34 recommendation appointment.
- 35 (4) The city council may delegate the appointment of advisory board members committees to the city
36 manager.

1 **Sec. 2-204. Terms of members.**

2 Unless otherwise ~~regulated provided, by state statutes, ordinance, resolution, or motion~~, the following shall
3 apply ~~with respect to the terms of board members~~:

- 4 (1) The members appointed to all boards, ~~committees, or commissions~~ shall serve staggered terms that run
5 concurrently with the terms of office of the appointing city council member.
- 6 a. ~~Such~~ staggered terms shall commence for appointed members ~~s~~ as follows:
- 7 1. June 1 following the election of the appointing city council member for the audit advisory
8 committee ~~and the code compliance board~~.
- 9 2. February 1 following the election of the appointing city council member for all other boards,
10 ~~committees, or commissions~~.
- 11 b. ~~Such~~ staggered terms shall end for appointed members at the earliest of any of the following:
- 12 1. May 31 following the election for which the appointing city council member did qualify, or
13 would have been qualified, to seek re-election, or was term-limited, in the case of
14 appointments to the audit advisory committee ~~and the code compliance board~~; or
- 15 2. January 31 following the election for which the appointing city council member did qualify,
16 or would have been qualified, to seek re-election, or was term-limited, in the case of
17 appointments to all other boards, ~~committees, or commissions~~; or
- 18 3. Upon replacement by a person appointed by the procedure described in section 2-203 of
19 this article; or
- 20 4. Upon removal by majority vote of city council.
- 21 c. No ~~members appointed to any boards, committees or commissions~~ ~~person~~ may serve more than
22 a total of eight continuous years on any single board, ~~committee or commission~~.
- 23 ~~Members~~ ~~A person~~ who ~~have~~ ~~has~~ served eight years on one board, ~~committee, or commission~~ ~~are~~
24 ~~is~~ eligible immediately for appointment to a different board, ~~committee or commission~~.
- 25 d. If reappointment or replacement is not made prior to or at the expiration of a term of office, ~~the a~~
26 ~~board~~ member shall continue to serve until a re-appointment or replacement is made.
- 27

28 **Sec. 2-205. Removal of members.**

29 Unless otherwise ~~provided~~ ~~precluded by state statutes, ordinance, resolution, or motion~~, any member of a
30 board, ~~committee, or commission~~ shall serve at the pleasure of the city council and may be removed by the city
31 council with or without cause.

32

33 **Sec. 2-206. Meetings; attendance requirements.**

- 34 (a) *Regular meetings.* Meetings shall be scheduled in accordance with the ordinance or resolution authorizing the
35 establishment of the board, ~~committee, or commission~~. Public notice of the meeting shall be provided in
36 accordance with procedures adopted for city council meetings. Meetings may be called by the ~~committee~~
37 ~~board chairman~~ ~~chairperson~~ or by the city manager ~~or his designee~~.
- 38 (b) *Quorum.* A majority of all members appointed to the board, ~~committee, or commission~~ shall constitute a
39 quorum for the transaction of business unless otherwise ~~provided~~ ~~required by the ordinance or resolution~~
40 ~~authorizing the establishment of a particular board, committee, or commission~~.

- 1 (c) *Minutes*. A written record of the proceedings of the board, ~~committee, or commission~~ shall be kept, showing
2 its action on each question considered. Such record shall be filed with the city clerk and shall be open to public
3 inspection.
- 4 (d) *Attendance*. Unless otherwise provided, ~~by state statute, ordinance, resolution, or motion~~, absence from 30
5 percent of the meetings held by a board, ~~committee, or commission~~ within any 12-month period, ~~which period~~
6 ~~shall be considered to be the 12-month period, immediately prior to and~~ including the day of the last absence,
7 shall automatically operate to vacate the seat of a member.

8

9 **Sec. 2-207. Rules of procedure.**

10 Unless otherwise ~~regulated provided by state statutes, ordinance, resolution, or motion~~, the city manager shall
11 prepare standard rules of procedure for the conduct of meetings. Such rules of procedure shall be followed by each
12 appointed board, ~~committee, or commission~~.

13 **Sec. 2-208. Authority of council regarding establishment and dissolution.**

14 Unless otherwise regulated by state statutes, the city council may dissolve a city board, ~~committee, or~~
15 ~~commission~~.

16

17 **Secs. 2-209—2-230. Reserved.**

18 **ARTICLE V. FINANCES**

19 **DIVISION 1. GENERALLY**

20 **Secs. 2-231—2-250. Reserved.**

21 **DIVISION 2. PURCHASING**

22 **Sec. 2-251. Purpose of division.**

- 23 (a) The ~~city~~ City of Marco Island is required to purchase goods and services, which are necessary for the operation
24 and maintenance of city government. This ~~article division~~ establishes the procedures to maximize the use of
25 financial and personnel resources with sound procurement practices in order to obtain the best value for each
26 tax dollar expended; to ensure fair and equitable treatment of all persons who deal with the ~~city's~~ purchasing
27 system ~~of Marco Island~~; to develop procurement capability responsive to user department needs; to provide
28 safeguards for the maintenance of a procurement system dedicated to quality and integrity; and to promote
29 public confidence in the procedures followed in public procurement.
- 30 (b) The purchase of goods and services shall follow sound financial management practices, utilizing techniques
31 and processes that ensure that those goods and services are obtained at the best quality and lowest prices
32 and which meet the requirements of the city.
- 33 (c) The purchase of goods and services shall follow all applicable state statutes.
- 34 (d) When competitive bidding is required, adequate fair and open competitive practices will be employed to
35 ensure that all parties that are interested in earning city business will be given the opportunity to do so.

1 **Sec. 2-252. Definitions.**

2 The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them
3 in this section, except where the context clearly indicates a different meaning.~~The following words and phrases as~~
4 ~~used in this division shall have the following meanings.~~ These definitions are supplemental to the definitions in
5 section 1-2 of this code. The definitions in this section shall prevail in case of conflict.:

6 *Addendum* means written or graphic instruments, issued prior to the opening of bids, which clarify, correct,
7 or change the bidding ~~documents~~ or ~~the~~ contract documents.

8 *Adequate competition* means the solicitation of sources to ensure that the price paid is fair and reasonable.

9 *Bid, proposal and quotation* each means an offer given to the city in response to a solicitation.

10 *Change order* means revisions made to an executed contract, which does not alter the character of the work.

11 *Contract* means any agreement for the procurement of supplies, services, or construction. Typical contracts
12 include, but are not limited to, contracts, purchase orders or agreements, including verbal or email authorizations.

13 *Contracting officer representative (COR)* means a person designated to direct one or more contractors in the
14 delivery of products and services. The COR also reports on the progress of the contractor(s), approves invoices (or
15 release of progress payments), and prepares all change orders including termination paperwork at the end of a
16 contract.

17 *Cooperative purchasing ("piggy-backing") or competitive pricing* can usually be assured when using
18 cooperative purchasing agreements, which were negotiated through the RFB/RFP process.

19 *Design-build* means a procurement method in which a single firm has been given responsibility for the design
20 and construction of a public project. Selection of a firm requires a combination of qualification-based selection and
21 negotiated pricing based on project requirements and specifications.

22 *Emergency procurement* means a purchase made in response to a need when the delay incidental to
23 compliance with all governing rules, regulations, and/or procedures would be detrimental to the life, health, welfare,
24 safety, or convenience of the city and/or its residents.

25 *Noncompetitive purchase* means any purchase of supplies, materials, equipment, or services from one source
26 without competition.

27 *Project manager* means the city's representative for procurement of supplies, services, and construction.

28 *Proprietary* means a technological design or architecture whose configuration is unavailable to the public and
29 may not be duplicated without permission from the designer or architect.

30 *Prototype* means an original, full-scale, and usually working model of a new product or new version of an
31 existing product.

32 *Purchasing* means the buying, renting, leasing, or otherwise acquiring of any supplies, materials, and
33 equipment, professional or contractual services, or construction services.

34 *Responsible bidder* means a person or firm who has submitted a bid and has the capability in all respects to
35 perform fully the contract requirements and the tenacity, perseverance, experience, integrity, reliability, capacity
36 facilities, equipment, and credit ~~which~~ that will ensure good-faith performance.

37 *Responsive bidder* means a person or firm who has submitted a bid ~~that~~ which conforms in all material
38 respects to the invitation to bid or request for proposals.

39 ~~*Small purchases* means the procurement of goods and services that do not exceed \$25,000.00.~~

40 *Sole source* means the only known vendor or the only responsible vendor capable of providing commodities
41 or contractual services to the city.

1 *Surplus* means materials, supplies or equipment for which the city no longer has a use, or materials, supplies
2 and equipment ~~which that have~~ reached the end of ~~its~~their useful life, or items that are not functional and for
3 which the cost of repair is not a sound business decision.

4 *Warrant* means a written authorization of authority to a specific individual issued by the city manager, to be
5 reviewed no less than annually.

6 **Sec. 2-253. ~~Purchasing authority~~Authority of the city manager.**

7 (a) The city manager ~~shall ensure the city's efficient and effective contracting, compliance with terms and~~
8 ~~conditions of contracts, and protection of city interests in all contractual relationships. In exercising the~~
9 ~~authority granted in this section, the city manager shall ensure that the city's best interests are served, shall~~
10 ~~exercise sound business judgement, and adhere to the requirements of this section and sound procurement~~
11 ~~principles. shall have purchasing authority, including authority to award and administer contracts necessary to~~
12 ~~procure goods and services for the city. The city manager may delegate procurement authority to a purchasing~~
13 ~~agent, contract officer, or employee(s).~~The city manager may:

14 (1) ~~Delegate procurement authority to the purchasing agent, contract manager or other employee.~~

15 (2) ~~Establish procurement policies and procedures.~~

16 (3) ~~Enter into, award, administer, modify, and terminate contracts, and approve, reject, or modify bids, for~~
17 ~~purchase of goods and services as necessary, unless otherwise provided in this article.~~

18 (4) ~~Require bid bonds, performance, and payment bonds before entering into a contract, in such form and~~
19 ~~amount as found reasonably necessary to protect the best interest of the city, procure supplies, material,~~
20 ~~equipment, contractual services, and construction services required by the city.~~

21 (5) ~~Require chemical and physical tests of samples submitted with quotations, bids, or proposals to~~
22 ~~determine their quality and conformance with specifications.~~

23 (6) ~~Declare city-owned items as surplus.~~

24 (a) ~~Transfer surplus stock items to other another city offices, departments, or agencies of the city~~
25 ~~government when the estimated value is less than \$1,000.00.~~

26 (5)(b) ~~Sales-Sell of personal and surplus property, when the estimated value exceeds \$1,000.00, shall via~~
27 ~~be sold by~~ written sales contract or at public auction to the highest responsible bidder, after due
28 notice inviting proposals or bids. ~~Alternatively, Surplus-surplus~~ personal property may be sold to
29 other governmental agencies in lieu of using sealed bid or public auction procedures.

30 (6) ~~Sell all supplies, materials and equipment which have become surplus property or unsuitable for use.~~

31 (7) Trade in supplies, material and equipment when deemed in the best interest of the city.

32 (8) Enter into interlocal agreements for cooperative purchasing when the best interest of the city would be
33 served.

34 **Sec. 2-254. ~~Authority and responsibilities of city manager~~Reserved.**

35 (a) ~~Authority of the city manager.~~

36 (1) ~~The city manager may establish procurement policies and procedures and execute agreements for the~~
37 ~~purchases of goods and services as necessary.~~

38 (2) ~~The city manager shall have the authority to approve, reject, or modify bids or contracts and to~~
39 ~~administer the purchase of goods and services to ensure that the best interests of the city are served.~~

40 (3) ~~The city manager may delegate procurement authority to the purchasing/contract manager or~~
41 ~~purchasing agent.~~

~~(4) The city manager shall have the authority to declare city owned items as surplus and direct the department owning such surplus items to transfer the items to another city department or to dispose of such surplus equipment in an approved manner as specified in purchasing policies and procedures.~~

~~(b) Responsibilities of the city manager.~~

~~(1) The city manager or designee is responsible for ensuring efficient and effective contracting, compliance with the terms and conditions of contracts, and protecting the interest of the city in all contractual relationships. The city manager is provided the latitude to exercise sound business judgment while adhering to the requirements of this section and sound procurement principles.~~

~~(2) The city manager is ultimately responsible for ensuring that the best interest of the city is served.~~

Sec. 2-255. General practices.

(a) ~~Method of procurement.~~ The method of procurement is dependent upon the type of commodity or service and the value of that commodity or service. Where required by state statute, city ordinance or department procedures, the city shall competitively award contracts in accordance with those statutes, ordinances or policy and procedures.

(b) *Competition.* Purchases should be planned and made on the basis of adequate competition whenever feasible. Adequate competition means the solicitation of sources to ensure that the price paid is fair and reasonable. The requirement for adequate competition does not preclude noncompetitive procurement as enumerated in this section.

(1) Request for bids (RFB) shall be used for projects exceeding \$25,000.00 when the specifications for the product or services can be clearly defined and there is little or no leeway in the interpretation of the requirement. Care must be taken not to create a specification that only one vendor can meet.

(2) Request for proposals (RFP) shall be used for those projects that cannot be precisely defined and specifications are such that more than one approach or product type could fulfill the requirement.

(3) Request for qualifications (RFQ) shall be primarily used to obtain professional services. The intent is to choose the vendor based on qualifications rather than price alone.

(c) *Noncompetitive purchases are permitted in the following circumstances provided:*

(1) Acquisition of supplies or services does not exceed \$25,000.00 in value.

(2) In emergencies involving public health, public safety, or where necessary for repairs to city property in order to protect against further loss or damage to city property or to prevent or minimize serious disruption in city services.

(3) Where goods and services are available from federal, state or local government agencies, and contracts with firms that provide goods or services subject to uniform tariff, government regulation or area-wide rates (utilities).

(4) Repair, maintenance, remodeling, renovation, construction or demolition of a single project not involving an increase in the size and type of an existing facility.

(5) Maintenance and servicing of equipment by the manufacturer or authorized service agent of the equipment.

(6) Telecommunications systems and information technology, including data processing equipment, systems software, and reproduction equipment.

(7) Where complete systems or equipment, parts or replacements of specified makes and models are needed for interoperability, compatibility or standardization purposes.

(8) When competitive purchasing would not otherwise be in the best interest of the city.

- 1 (9) When purchasing land, buildings, structures, or assets of other government agencies or private utilities.
- 2 (10) When granting nonexclusive franchise agreements, or contracts to manage and operate municipal
3 facilities and programs.
- 4 (d) *Standards of conduct.* City employees are held to the highest standard of conduct in the performance of their
5 duties and shall conduct themselves so as to avoid even the appearance of any impropriety in the planning
6 and execution of purchase requirements. All employees shall adhere to the standards of ethical conduct as
7 listed in the city's personnel manual and other applicable policies and laws.
- 8 (e) *Gifts and rebates.* The city manager and every officer and employee of the city are expressly prohibited from
9 accepting any valuable gift, whether in the form of service, loan, thing or promise that may tend to unduly and
10 improperly influence them in the discharge of their duties.
- 11 ~~(f) *Public notice.* Public notice should be provided for all purchases requirements valued at over \$25,000.00 unless~~
12 ~~otherwise provided in this article.~~
- 13 (fg) *Purchasing methods.*
- 14 (1) ~~[Purchases not exceeding \$25,000.00....]~~ Small purchases are determined by the level of effort expected
15 and the documentation of the effort used to ensure that the price received is fair and reasonable and is
16 in direct proportion to the cost of the good or service. ~~Purchases~~ Purchasing requirements aggregating
17 may not be separated solely for the purpose of avoiding formal contract procedures. When smaller
18 purchases are a part (segment) of a system, process, structure, facility and/or project, the total cost of
19 the system, etc., will determine the controlling purchasing method and procedure.
- 20 (2) The basis for award would be the lowest bid price submitted by a responsive and responsible bidder.
- 21 (3) Factors other than price are considered and negotiations with the best proposer(s) are used to determine
22 the ultimate awardee.
- 23 (4) The method of the procurement of professional services is governed by F.S. § 287.055, the Consultants'
24 Competitive Negotiation Act.
- 25 (5) Contracts or purchasing agreements that were obtained through competitive purchasing methods by
26 federal, state, county, or municipal purchasing organizations can be used by the city in place of issuing
27 its own RFBs or RFPs.
- 28 (6) Emergency procurement may justify noncompetitive purchasing. Documentation shall be prepared to
29 enable the finance department to process the invoices and to provide management insight and ultimate
30 approval.
- 31 (7) Design-build. Some of the primary objectives of using this procurement method are; (a) fast tracking of
32 project completion (b) quick re-pricing and the ability to obtain an immediate analysis of options during
33 a critical time when changes in plans are being considered, (c) competitive bids are obtained from each
34 subcontractor and (d) it ensures that a project is going to be within an established budget before any
35 early and/or substantial expenditures are made. For design-build projects, the city shall follow the
36 procedures set forth in F.S. § 287.055, ~~as may be amended from time to time.~~
- 37 (8) Purchases shall be made following established procurement and contracting principles and requirements
38 of this article and supplemental procurement policies established by the city manager. The purchasing
39 method employed is based upon the purchase requisition dollar estimate and the complexity of the
40 purchase requirement.
- 41 a. *Purchasing using petty cash.* Department heads are authorized to make purchases for supplies and
42 material valued up to \$100.00 using departmental petty cash funds. The department head shall be
43 responsible for the accounting and documentation of petty cash transactions. Use of petty cash
44 for services is prohibited.

- 1 b. *Purchasing using a credit card.* The city has obtained credit cards and assigned them to select
2 employees. The purpose of the credit card is to obtain services and supplies via internet and
3 telephonic sources. A secondary use of the credit card is to pay for travel related expenses. In all
4 instances, purchase via credit card should be limited to the signature authority of the individual
5 making the purchase (e.g. \$10.00, \$500.00, \$1,000.00).
- 6 c. ~~*Employee purchase with subsequent reimbursement.*~~ Purchasing by an employee with
7 subsequent reimbursement by city is discouraged and should be used only as a last resort.
- 8 d. *Competition for simplified* ~~*or small*~~ *purchases.* Competition is not required if the city manager ~~*or*~~
9 ~~*designee*~~ determines that the price received is fair and reasonable. Where practicable,
10 noncompetitive purchases may be distributed equitably among qualified suppliers in order to
11 develop and maintain a responsive industrial/supplier base for the city.
- 12 e. *Basis for award.* Simplified purchases are awarded to the proposer who offers the best value to
13 the city. Best value is obtained by basing the award on price or a combination of price with price-
14 related factors, other evaluation factors, or both. Rationale for making other than low-price award
15 will be documented in the appropriate files. In instances of equal prices and all other evaluation
16 factors being equal, the award should be made to the local proposer.
- 17 f. *Solicitations.* Solicitation of proposals or quotations for ~~*small*~~ purchases up to \$25,000.00 may be
18 done in writing or orally, at the discretion of the city manager ~~*or designee*~~. Public notice ~~*of small*~~
19 for such purchases is not required, but may be initiated at the discretion of the city manager.
- 20 g. *Negotiation.* The city manager ~~*or designee*~~ may negotiate with proposers to ensure prices are
21 reasonable, and that the city's requirements are understood.
- 22 h. *Suppliers or sources in default to city.* No purchases shall be made from vendors or contractors who
23 are delinquent in the payment of taxes, licenses or other monies due the city.
- 24 i. *Ordering methods.* Simplified purchases or ~~*small*~~ purchases up to \$25,000.00 may be made using
25 petty cash or by purchase methods, such as purchase orders, unpriced purchase orders, blanket
26 purchase orders and delivery agreements.
- 27 j. *Administration of small purchases.* ~~*Small purchases*~~ Purchases up to \$25,000.00 will be
28 administered in accordance with the terms and conditions of the order or agreement. The city
29 manager may amend, modify, cancel, or terminate purchase orders and agreements as deemed
30 necessary by the particular circumstances or situation.

31 (g9) *Formal contract procedures.*

- 32 (1) All supplies, material, equipment and contractual services valued in excess of \$25,000.00, whether
33 purchased competitively or noncompetitively through sealed bids or sealed proposals, shall be purchased
34 by formal written contract or purchase order.
- 35 (2) Sale of property between two governmental entities shall be pursuant to Florida Statutes. ~~*The principles*~~
36 ~~*listed in the subparagraph below apply to formal contracts:*~~
- 37 (3)a. ~~*Public notice requirements.*~~ All purchases ~~*requirements*~~ over \$25,000.00, except those authorized to be
38 purchased noncompetitively by this article, shall only be awarded after due public notice. The public
39 notice required for purchases over \$25,000.00 shall include a general description of the articles or
40 services, state where written solicitations may be obtained, and shall state the time and place for receipt
41 of bids or proposals.
- 42 (4)b. ~~*Solicitations.*~~ Except in cases of emergency, written solicitations will be issued when requesting sealed
43 bids and sealed proposals.

1 **Sec. 2-256. Use of sealed competitive bidding.**

2 Sealed, competitive bidding is a method of contracting that employs competitive bids, public opening of bids,
3 and award to the lowest responsive and responsible bidder. Invitations to bid (written solicitations) shall be used to
4 request sealed bids and shall describe the purchase requirements. Sealed bid procedures are normally used for
5 standard products or services where the specifications or statement of work are so definitive that prospective
6 bidders may clearly understand the requirement and may take the necessary business risk to propose a firm-fixed
7 price for the contract.

- 8 (1) *Bid bonds for sealed bids.* When deemed necessary, bid bonds shall be prescribed in the public notices
9 inviting sealed bids. Upon entering into a contract, bidders will be entitled to return of the bid bond. A
10 successful bidder shall forfeit any bid deposit upon failure on his part to enter into a contract within the
11 working days specified following the award of contract. The city, in its sole discretion, may waive this
12 forfeiture.
- 13 (2) *Sealed bids—Award to other than low bidder.* When contract award is not made to the lowest
14 responsible bidder, a full and complete statement of the reasons should be prepared and filed with the
15 purchase transaction.
- 16 (3) ~~*Payment and performance bonding.* Bond of contractor, as defined in F.S. § 255.05, means (in part) any~~
17 ~~Any person entering into a formal contract with the state or any county, city, or political subdivision~~
18 ~~thereof, or other public authority or private entity, for the construction of a public building, for the~~
19 ~~prosecution and completion of a public work, or for repairs upon a public building or public work shall~~
20 ~~be required, to comply with the bonding requirement in F.S. § 255.05 before commencing the work or~~
21 ~~before recommencing the work after a default or abandonment, to execute, deliver to the public owner,~~
22 ~~and record in the public records of the county where the improvement is located, a payment and~~
23 ~~performance bond with a surety insurer authorized to do business in this state as surety. When such~~
24 ~~work is done for the state and the contract is for \$100,000.00 or less, no payment and performance bond~~
25 ~~shall be required. At the discretion of the official or board awarding such contract when such work is~~
26 ~~done for any county, city, political subdivision, or public authority, any person entering into such a~~
27 ~~provided the city may exempt contracts which is for \$200,000.00 or and less, may be exempted from~~
28 ~~executing the payment and performance bond.~~

29 **Sec. 2-257. Contract through negotiation.**

30 (a) Negotiation is a process of contracting through the use of either competitive or other-than-competitive
31 proposals and discussions. Negotiation is a procedure that may include the receipt of sealed proposals from
32 offerors, permits bargaining, and may afford offerors an opportunity to revise their offers before award of a
33 contract. Award may be made on a basis other than the lowest price. Negotiation is the preferred method of
34 contracting when specifications or statements of work may not be definitive and may allow for variation in
35 providing the products or services. Requests for proposals (written solicitation) should be used in negotiated
36 acquisitions to communicate purchase requirements to prospective contractors and to solicit proposals or
37 quotations from them.

- 38 (1) *Award without negotiation.* A contractor may be selected from the sealed proposals and award made
39 without discussing proposals with the offerors. Whenever price or price-related factors are the most
40 important or the only evaluation factors, award will normally be made without discussion, if adequate
41 competition exists, to ensure that offerors submit their most favorable proposals at the outset. However,
42 even when award will be based on price alone, discussions may be held as necessary to determine that
43 the price is fair and reasonable. The decision to make an award without discussions shall be made by the
44 city manager for amounts up to \$50,000.00.
- 45 (2) *Award with negotiation.* Whenever appropriate, written or oral discussions may be held with offerors to
46 resolve uncertainties in their proposals, to give them an opportunity to correct deficiencies, and to

1 provide the opportunity to revise proposals. Discussion may be held with one offeror or with all offerors
2 in the competitive range. The competitive range will be determined following evaluation of proposals.
3 The competitive range shall be determined on the basis of the evaluation factors stated in the solicitation
4 and shall only include all proposals that have a reasonable chance of being selected for award.

5 (3) *Conduct of discussions.* When necessary, discussions shall be held with the assistance or participation of
6 technical, accounting or legal personnel as appropriate. Discussions may be conducted so as to:

7 a. Advise the offeror of deficiencies in its proposal in terms of user department requirements, but
8 not deficiencies relative to other proposals.

9 b. Attempt to resolve uncertainties concerning aspects of the proposal.

10 c. Resolve any suspected mistakes by calling them to the offeror's attention as specifically as possible
11 without disclosing information concerning other offerors' proposals or the evaluation process.

12 d. Provide the offeror a reasonable opportunity to submit any price, technical or other revisions to
13 its proposal that may result from the discussions.

14 (4) *Best and final offers.* Upon completion of discussions, a request for "best and final offer" will be issued
15 to all offerors still in the competitive range.

16 (5) *Contractor selection.* Following receipt of the best and final offers, the contract may be awarded to the
17 offeror (contractor) whose proposal offers the best value to the city.

18 **Sec. 2-258. Award of contracts.**

19 *Authority to award contracts:*

20 (1) Contracts with a total value under \$50,000.00 may be awarded by the city manager.

21 (2) Contracts with a total value over \$50,000.00 shall be awarded by the city council.

22 (3) Exemptions:

23 ~~• Contracts for capital projects and equipment;~~

24 ~~• Utility department water and wastewater production chemicals.~~

25 a. The city manager shall have the authority to award all contracts for capital equipment and projects
26 specifically approved by the city council in the current year budget provided that:

27 1. All purchasing requirements are met and documented and available for public inspection;
28 and

29 2. The final cost per item does not exceed the ~~approved current year amount~~ budgeted cost
30 ~~for the item~~ by more than 25 percent ~~of the budgeted amount or more than a total dollar~~
31 ~~value of and does not exceed~~ \$50,000.00. ~~If the final cost of the item exceeds the approved~~
32 ~~current year budget cost by more than \$50,000.00, the award shall be made by city council.~~

33 b. The city manager shall have the authority to award term contracts for utility department chemicals
34 that are used in the production of water or the treatment of wastewater, and previously funded in
35 the current year utility department operating budget and required in the day to day operation of
36 the utility department.

37 (4) Blanket/price agreement contracts shall be awarded by the purchasing/contracts manager provided that
38 all purchasing requirements are met, ~~and~~ documented and available for public inspection.

39 (5) Emergency procurements. If the city manager determines that an emergency exists and a delay would
40 be detrimental to the interests of the city, the city manager is authorized to direct the purchase of any
41 supplies or professional or contractual services needed to protect the health, safety, and welfare of the

1 city and its residents. The city manager shall inform the city council of the conditions and circumstances
2 requiring such action for purchases having a dollar value exceeding \$50,000.00.

3 (6) Basis of award. Contracts may be awarded to the lowest and most responsible bidder, as determined on
4 the basis of the entire bid and the investigations into the bidder by the city manager and
5 purchasing/contracts manager. When the contract is awarded by the city manager or
6 purchasing/contracts manager, such award shall be evidenced by either a notice of award or purchase
7 order, signed by the purchasing/contracts manager.

8 (7) Modification and withdrawal of bids. Bids submitted in response to RFBs or RFPs may be modified or
9 withdrawn [by the bidder or proposer](#) at any time prior to the applicable public opening date (for
10 advertised solicitations) or due date (for unadvertised purchases). The request for withdrawal or
11 modification should be made in writing and signed by an officer of the company. After the public opening
12 or due date, as applicable, obvious errors that are clearly evident on the face of the bid document may
13 be corrected by the purchasing/contracts manager and such required changes noted on the official bid
14 tab.

15 (8) The city reserves the right to:

16 a. Evaluate the current capacity of the low bidder to perform the size and scope of work specified in
17 the contract bidding documents;

18 b. Use previous performance on similar job(s) for the city as a factor in the selection of the bidder;

19 c. To negotiate with the apparent lowest and most responsible bidder to correct obvious defects in
20 the original bid;

21 d. To waive defects in the form of bid or to waive formalities and negotiate with the apparent lowest
22 and most responsible bidder to such extent as may be necessary to satisfy the intent and
23 requirements of the city's project.

24 (9) In the event of a tie, the project manager and the purchasing/contracts manager shall consider the
25 following factors including: delivery lead time, documented quality, warranty, availability of local service,
26 cost of repair parts, contractor reputation, and all other relevant information to make the
27 recommendation of award. In instances of equal prices and all other evaluation factors being equal, the
28 award should be made to the local proposer. All considerations used in the decision should be
29 documented for reference. For purchases or construction agreements, the final decision on the
30 resolution of the tie shall be made by the city manager. Protest of the recommended award shall follow
31 the standard protest procedure.

32 (10) Any prospective bidder who desires to protest any aspect(s) or provision(s) of the bid invitation shall file
33 a protest with the city manager in writing prior to the time of the bid opening.

34 **Sec. 2-259. Change orders and renewals.**

35 (a) ~~{Change orders.}~~ Change orders are often needed to (i) address unforeseen conditions, (ii) to add or decrease
36 the scope of work due to changes in the city's requirements, and (iii) to execute price revisions to material
37 supply contracts as are authorized by that contract.

38 The authority to award or approve change orders is subject to the following:

39 (1) For contracts authorized by city council, the city manager may approve change orders or contract
40 modifications provided that the cumulative [cost of the](#) changes [does](#) not exceed 25 percent of the
41 original contract amount and [does](#) not exceed the city manager's signature authorization level.

42 (2) For contracts of less than \$50,000.00, the city manager may approve change orders or contract
43 modifications provided that the cumulative [cost of the](#) contract and change orders [does](#) not exceed 25
44 percent of the original contract amount.

1 (3) The city manager may approve change orders decreasing the cost of the contract to the city that do not
2 materially alter the character of the work contemplated by the contract.

3 (4) All change orders that the city manager is not authorized to approve must be formally approved by the
4 city council before work may be authorized to begin.

5 (5) In the event that a change order, which under the aforementioned criteria must be approved by city
6 council, is of an emergency nature or if a delay in the approval by city council caused by the timing of a
7 city council meeting will result in a work stoppage or cause increases in the cost of the project, the city
8 manager is authorized to approve the change order and is then required to advise city council shortly
9 thereafter of that change order and the circumstances which necessitated that decision.

10 (b) *Contract renewals.*

11 (1) If the city council previously awarded a contract that contained a renewal option, the city manager, ~~or~~
12 ~~his designee~~, shall determine if such a renewal is in the best interest of the city and may exercise this
13 option on behalf of the city in accordance with the terms and conditions of the contract, for a period not
14 exceeding three years.

15 (2) When a contract is entered into by the city, pursuant to city council approval, and provides for one or
16 more automatic renewals unless one party notifies the other of its intent not to renew, only the city
17 council is authorized to decide not to renew the contract.

18 (c) *Extensions.* If provided for in a contract, the purchasing/contracts manager may authorize up to a 90-day
19 extension of a contract in accordance with the terms and conditions of the contract. Otherwise, the city
20 manager is authorized to extend, for operational purposes only for a maximum of 180 days, any contract
21 entered into by the city pursuant to city council approval. Any further extensions of such contract require the
22 approval of the city council.

23 (d) *Price adjustment.* For any material supply contract that has a price adjustment clause that allows for increases
24 after the initial set price term, the purchasing/contracts manager has the authority to authorize price changes
25 that are supported by either the consumer price index (CPI) or by documented fuel surcharges. That authority
26 is limited to a maximum increase of 25 percent over the prior year price. Price changes exceeding that
27 maximum are to be submitted to the city manager for approval. The city manager may either approve the
28 change or may instruct the purchasing/contracts manager to advertise and award the contract.

29
30 **Sec. 2-260. Rejecting bids; negotiation.**

31 (a) *Rejection of bids.* The city reserves the right to reject any bids or portions of them as best serves the interest
32 of the city. By way of example and not limitation, bids may be rejected if:

- 33 (1) They are nonresponsive;
- 34 (2) They are materially higher than expected;
- 35 (3) Errors in specifications may have caused confusion;
- 36 (4) Sufficient funds are not available;
- 37 (5) The item or service is no longer needed;
- 38 (6) There is a lack of competition;
- 39 (7) The item or service can be provided in-house;
- 40 (8) The bidder does not qualify under state or federal law;
- 41 (9) The bidder is not in compliance with city ordinances. This requirement may be waived if the city finds
42 that the noncompliance is inadvertent, minor, and curable as a condition of the award;

1 (10) The bidder does not appear to have the expertise, financial capability or other ability to meet the
2 requirements of the contract to be awarded, or is otherwise shown not to be responsible.

3 (b) *Negotiation.* If no bid is received, the city council may authorize the purchasing/contracts manager to purchase
4 by negotiation.

5
6 **Sec. 2-261. Bidder suspension and debarment procedure.**

7 After reasonable notice to an actual or prospective contractual party, and after reasonable opportunity to such
8 party to be heard, the city manager shall have the authority to debar a person or entity for the causes listed below
9 from consideration for award of city contracts. The debarment shall be for a period of not fewer than three years.
10 The city manager shall also have the authority to suspend a contractor from consideration for award of city contracts,
11 if there is probable cause for debarment, pending the debarment determination. The authority to debar and suspend
12 contractors shall be exercised in accordance with the following regulations:

13 (1) *Causes for debarment or suspension.* Causes for debarment or suspension include the following: Bidders,
14 contractors, and other proposing parties may be debarred from doing business with the city for any of
15 the following reasons:

- 16 a. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain
17 a public or private contract or subcontract, or in the performance of such contract or subcontract.
- 18 b. Conviction under state or federal statutes of embezzlement, theft, receiving stolen property, or
19 any other offense indicating a lack of business integrity or business honesty.
- 20 c. Conviction under state or federal anti-trust statutes arising out of the submission of bids or
21 proposals.
- 22 d. Civil finding of guilt of activity described above.
- 23 e. Violation of contract provisions including the following:
 - 24 1. Deliberate failure without good cause to perform in accordance with the specifications, or
25 within the time limit provided in the contract.
 - 26 2. Unauthorized withdrawal of a submitted bid or proposal after opening.
 - 27 3. Failure to execute contract following notification of award.
 - 28 4. A record of failure to perform or of unsatisfactory performance in accordance with the terms
29 of one or more contracts or other contract violation. Failure to perform or unsatisfactory
30 performance caused by acts beyond the control of the contractor shall not be considered to
31 be a basis for debarment or suspension.

32 (2) *Certification.* Prior to or contemporaneously with any submission of a bid or request for proposal, or if
33 there is no such bid or proposal, prior to execution of a contract for commodities or services, such bidder
34 or proposer shall execute an affidavit certifying that neither the contractual party nor any of its principal
35 owners or personnel have been convicted of any violations, debarment, or suspensions as set forth
36 above.

37 (3) *Debarment and suspension decisions.* Subject to the provisions of this section, the city manager shall
38 render a written decision stating the reasons for the debarment or suspension. A copy of the decision
39 shall be provided promptly to the suspended or debarred party, along with a notice of said party's right
40 to seek judicial relief. ~~The city manager or designee is responsible for ensuring efficient and effective
41 contracting, compliance with the terms and conditions of contracts, and protecting the interests of the
42 city in all contractual relationships. The city manager is provided the latitude to exercise sound business
43 judgment while adhering to the requirements of this section and sound procurement principles.~~

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Sec. 2-262. Dispute resolution and protest procedure.

- (a) Applicability. Any unresolved dispute pertaining to:
 - (1) Unadvertised or noncompetitive purchases made under this section shall be submitted to the city manager for resolution and/or final determination.
 - (2) Unresolved disputes pertaining to protests by bidders on advertised solicitations for purchases greater than \$25,000.00 shall follow the following bid/proposal protest procedure.

- (b) Bid/proposal protest procedure. Any firm-person that has submitted a formal bid/proposal to the cityCity of Marco Island and who-claims to beis adversely affected by an intended decision with respect to the award of the formal bid/proposal, shall file a written "notice of protest" with the purchasing/contracts manager~~within three days of either the bidder's receipt of the notice of disqualification of its bid, or receipt of a notice of intent to recommend award from the purchasing/contracts manager.~~ Failure to submit the notice of protest as outlined in the Code this section shall constitute a waiver of proceedings.
 - (1) The "notice of protest" shall identify the solicitation and specify the basis for the protest. The "notice of protest" must be received by the city clerk and time stamped no later than 4:00 p.m. on the third working day following the posting date of the recommended award or bidder's receipt of a notice of disqualification of bid.
 - (2) The protesting party must then file a formal written protest within five calendar days after delivery of the notice of protest to the city clerk's~~receipt of the notice of protest.~~ The protesting party shall post a bond (bond, cashier's check, or letter of credit) in an amount equal to five percent of the firm's total bid/proposal or \$10,000.00, whichever is less at the time of delivery of the notice of protest. Said bond shall be designated and held for the payment of any costs that may be levied against the protesting firm by the city council, if the protest is deemed by the council to be a frivolous protest.
 - (3) The formal written protest shall contain the following:
 - a. Bid/proposal (RFB, RFP, or RFQ) identification number and title.
 - b. Name and address of the affected party and the title or position of the person submitting the protest.
 - c. A statement of all claimed disputed issues of material fact. If there are no disputed material facts, the formal written protest must so indicate.
 - d. A concise statement of the facts alleged and the rules, regulations, statutes or constitutional provisions which entitle the affected party to relief.
 - e. All information, documents, other materials, calculations and any statutory or case law authority in support of the ground for the protest.
 - f. A statement indicating the relief sought by the affected (protesting) party.
 - g. Any other relevant information that the affected party deems to be material to the protest.
 - (4) Upon receipt of a timely filed notice of protest, the purchasing/contracts manager will abate the award of the formal bid/proposal as appropriate until the protest is heard pursuant to the informal hearing process as further outlined below, except and unless the city manager shall find and set forth-makes a written finding thatin writing particular facts and circumstances ~~that~~ would require an immediate award of the formal bid/proposal for the purpose of avoiding a danger to the public health, safety or welfare. Upon such written finding by the city manager, the city manager may authorize an expedited protest hearing and may void the requirement for a formal written protest and bond.

- 1 (5) A dispute committee, comprised of the city manager ~~or designee~~, finance director ~~or designee~~, public
2 works director ~~or designee~~ and, as deemed appropriate, the city attorney to provide legal counsel, but
3 not as a voting member, will convene a meeting within seven working days from receipt of the formal
4 written protest with the protesting firm to attempt to resolve the protest. The hearing is to (1) review
5 the basis of the protest; (2) to evaluate the facts and merits of the protest; and (3) to make a
6 determination whether to accept or reject the protest. If at all possible, the parties will resolve the
7 protest at this first meeting.
- 8 (6) If a resolution to the satisfaction of the dispute committee and the protesting firm cannot be
9 accomplished during the meeting(s), the dispute committee, with respect to the merits of the protest,
10 shall place the protest on the city council agenda with the staff recommendation and relevant
11 background information.
- 12 (7) City council shall conduct a hearing on the matter at the regularly scheduled city council meeting.
13 Following presentations by the affected parties, the council shall render its decision on the merits of the
14 protest.
- 15 (8) If the council's decision upholds the recommendation ~~by of~~ the dispute committee in denial of the
16 protest regarding the award and further finds that the protest was either frivolous and/or lacked merit,
17 the council, at its discretion, may assess costs, charges or damages associated with any delay of the
18 award and any costs incurred with regard to the protest. The bond posted by the party filing the protest
19 may be applied by city council at its discretion to pay in whole or in part said costs, charges, or damages.
- 20 (9) If the council's decision upholds the position of the party filing the protest, the purchasing/contracts
21 manager will cancel any prior award and award the contract to the party filing the protest in the amount
22 of that party's original bid/proposal.

24 **Sec. 2-263. Professional services.**

25 The selection of professional engineering and architectural services shall follow the procedure established by
26 F.S. § 287.055, ~~as revised~~.

27 The city manager shall appoint a committee of no ~~less fewer~~ than three individuals to evaluate statements of
28 qualification and proposals for professional services. Such individuals may be employees, citizens, or elected officials.

30 **Sec. 2-264. ~~Administration of contracts~~Purchase orders.**

31 ~~While administration of contracts (including purchase orders) requires the efforts and skills of many city~~
32 ~~employees, the city manager shall provide guidance regarding contract administration functions. Once a Upon~~
33 ~~contract has been awarded,~~ pursuant to ~~approval of contract the~~ requirements in this chapter, the city manager is
34 authorized to issue purchase orders for the direct purchase of materials as part of a contract award. Competitive
35 proposals shall not be required when a purchase is made for materials, equipment, prefabricated elements and
36 components, appliances, fixtures and supplies bought under a sales tax savings procedure constituting part of a
37 construction project, which construction contract has been awarded in compliance with this chapter. Concurrent
38 with the issuance of a direct materials purchase order, a deduct purchase order amendment shall be issued to the
39 contract holder.

40 **Sec. 2-265. Contracting officer's representative (COR).**

41 A person may be designated as contracting officer's representative (COR). In a complex procurement (~~i.e.ex:~~
42 the septic tank replacement program) or a major redevelopment project (~~i.e.ex:~~ Collier Boulevard reconstruction)
43 the COR directs one or more contractors in the delivery of products and services. The COR also reports on the

1 progress of the contractor(s), the COR approves invoices (or release of progress payments), and COR prepares all
2 change orders including termination paperwork at the end of a contract. The COR may not change the scope of work.

3 **Sec. 2-266. Purchasing agent.**

- 4 (a) One or more purchasing agents may be staffed by the city. An appropriate use of a purchasing agent is to
5 conduct buying activity on behalf of a utility wherein there exists a steady and repetitive need to purchase
6 materials, chemicals, and supplies; and to regularly rebid utility supplies in order to obtain the best terms and
7 prices.
- 8 (b) The purchasing agent's authority is exhibited in the form of a warrant which specifies the purchasing agent's
9 scope of authority and the time frame of the warrant. All warrants will be issued by the city manager and
10 reviewed no less than annually.
- 11 (c) The purchasing agent is responsible to adhere to all purchasing rules and regulations, and to maintain records
12 of all buying transactions.
- 13 (d) The purchasing agent has no authority to approve invoices or authorize the payment of monies to
14 contractors/suppliers. Invoice approval must come from operations or administration personnel responsible
15 for receiving supplies and services.

16 **Secs. 2-267—2-280. Reserved.**

17 *DIVISION 3. CAPITAL IMPROVEMENTS*

18 **Subdivision I. In General**

19 **Sec. 2-281. Definitions.**

20 (a) ~~As used in this division, unless the context indicates otherwise, the terms "hereof," "hereby," "herein,"~~
21 ~~"hereto," "hereunder" and similar terms refer to this division. The term "hereafter" means after, and the term~~
22 ~~"heretofore" means before, the effective date of the ordinance from which this division is derived.~~

23 ~~(b)~~ The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them
24 in this section, except where the context clearly indicates a different meaning. These definitions are
25 supplemental to the definitions in section 1-2 of this code. The definitions in this section shall prevail in case
26 of conflict.:

27 ~~Annual assessment resolution means the resolution described in section 2-327, approving an assessment roll~~
28 ~~for a specific fiscal year.~~

29 ~~Assessment means a special assessment imposed by the city pursuant to this division to fund the capital cost~~
30 ~~of local improvements.~~

31 ~~Assessment area means any of the municipal special benefit areas created by resolution of the city council,~~
32 ~~pursuant to section 2-301, that specially benefit from a local improvement.~~

33 ~~Assessment coordinator means the chief administrative officer of the city and such person's designee.~~

34 ~~Assessment roll means the special assessment roll relating to local improvements, approved by a final~~
35 ~~assessment resolution or an annual assessment resolution pursuant to section 2-326 or section 2-327.~~

36 ~~Assessment unit means the apportionment unit utilized to determine the assessment for each parcel of~~
37 ~~property, as set forth in the initial assessment resolution. Assessment units may include, by way of example and not~~
38 ~~limitation, one or a combination of the following: front footage, land area, improvement area, equivalent residential~~
39 ~~connections, permitted land use, trip generation rates, rights to future trip generation capacity under applicable~~

1 concurrency management regulations, property value, or any other physical characteristic or reasonably expected
2 use of the property that is related to the local improvement to be funded from proceeds of the assessment.

3 *Capital cost* means all or any portion of the expenses that are properly attributable to the acquisition, design,
4 construction, installation, reconstruction, renewal or replacement (including demolition, environmental mitigation
5 and relocation) of local improvements under generally accepted accounting principles, including reimbursement to
6 the city for any funds advanced for capital cost and interest on any interfund or intrafund loan for such purposes.

7 ~~*Clerk* means the city clerk or deputy city clerk.~~

8 ~~*Final assessment resolution* means the resolution described in section 2-326, which shall confirm, modify or
9 repeal the initial assessment resolution and which shall be the final proceeding for the imposition of an assessment.~~

10 ~~*Fiscal year* means the period commencing on October 1 of each year and continuing through the next
11 succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the city.~~

12 *Government property* means property owned by the United States of America, the state, a county, a special
13 district, a municipal corporation, or any of their respective agencies or political subdivisions.

14 ~~*Initial assessment resolution* means the resolution described in section 2-322, which shall be the initial
15 proceeding for the imposition of an assessment.~~

16 *Local improvement* means a capital improvement constructed or installed by the city for the special benefit of
17 a neighborhood or other local area within the city.

18 *Obligations* means bonds or other evidence of indebtedness, including but not limited to, notes, commercial
19 paper, capital leases or any other obligation issued or incurred to finance any portion of the capital cost of local
20 improvements and secured, in whole or in part, by proceeds of the assessments.

21 *Pledged revenue* means, as to any series of obligations:

- 22 (1) The proceeds of such obligations, including investment earnings;
23 (2) Proceeds of the assessments pledged to secure the payment of such obligations; and
24 (3) Any other legally available non-ad-valorem revenue pledged, at the council's sole option, to secure the
25 payment of such obligations, as specified by the ordinance and resolution authorizing such obligations.

26 *Property appraiser* means the county property appraiser.

27 ~~*Resolution of intent* means the resolution expressing the council's intent to collect assessments on the ad
28 valorem tax bill required by the Uniform Assessment Collection Act.~~

29 *Tax collector* means the county tax collector.

30 *Tax roll* means the real property ad valorem tax assessment roll maintained by the property appraiser for the
31 purpose of the levy and collection of ad valorem taxes.

32 *Uniform Assessment Collection Act* means F.S. §§ 197.3632 and 197.3635, or any successor statutes authorizing
33 the collection of non-ad-valorem assessments on the same bill as ad valorem taxes, and any applicable regulations
34 promulgated thereunder.

35
36 **~~Sec. 2-282. Findings.~~**

37 ~~It is hereby ascertained, determined and declared that:~~

- 38 ~~(1) Pursuant to article VIII, section 2 of the state constitution, F.S. § 166.021, and other applicable
39 provisions of law, the city has all powers of local self-government to render municipal services and may
40 exercise any power for municipal purposes, except when expressly prohibited by law.~~

~~(2) State law authorizes a municipality to impose a special assessment under its home rule.~~

~~(3) The use of special assessments is a fair and equitable alternative revenue source whereby benefited properties pay for capital improvements on a basis commensurate with the benefit provided to such property without burdening the general taxpayer.~~

~~(4) The city council finds it to be in the best interests of the citizens of the city to enact this division in order to establish a process and procedures by which assessment areas may be created within the city and by which the cost of capital improvements may be assessed against the specially benefited properties within such areas.~~

Sec. 2-28~~23~~. Interpretation of division; provisions supplemental.

This division shall be deemed to provide an additional and alternative method for funding local capital improvements ~~the doing of the things authorized by this division~~ and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may ~~hereafter~~ come into existence. This division, being necessary for the health, safety and welfare of the inhabitants of the city, shall be liberally construed to effect the purposes of this division.

Secs. 2-284—2-300. Reserved.

Subdivision II. Assessment Areas

Sec. 2-301. Creation.

The council is hereby authorized to create assessment areas by resolution. Each assessment area shall encompass only that property specially benefited by the local improvements proposed for funding from the proceeds of assessments to be imposed therein. The resolution creating each assessment area shall include brief descriptions of the proposed local improvements, a description of the property to be included within the assessment area, and specific legislative findings that recognize the special benefit to be provided by each proposed local improvement to property within the assessment area.

Sec. 2-302. Landowner petitions.

The council shall establish a process ~~pursuant to which for the~~ owners of property located within the city ~~may to~~ petition for creation of an assessment area to fund local improvements. ~~Notwithstanding the petition process established pursuant to this section, the~~ The council shall retain the authority to create assessment areas without a landowner petition.

Secs. 2-303—2-320. Reserved.

Subdivision III. Imposition and Payment of Assessments

Sec. 2-321. Authority to impose assessments.

The council is hereby authorized to impose assessments against property located within an assessment area to fund the capital cost of local improvements. The assessment shall be computed in a manner that fairly and reasonably apportions the capital cost among the parcels of property within the assessment area, based upon objectively determinable assessment units related to the value, use or physical characteristics of the property.

1 **Sec. 2-322. ~~Initial assessment resolution~~ Procedure for establishing assessments.**

2 (a) The initial proceeding for imposition of an assessment shall be the council's adoption of an initial
3 assessment resolution pursuant to F.S. 170.03, which shall include specific legislative findings that
4 recognize the equity provided by the apportionment methodology. ~~The initial assessment resolution~~
5 ~~shall:~~

- 6 (1) ~~Describe the local improvement proposed for funding from proceeds of the assessments;~~
7 (2) ~~Estimate the capital cost;~~
8 (3) ~~Describe Specify with particularity the proposed method of apportioning the capital cost among the~~
9 ~~parcels of property located within the assessment area, such that the owner of any parcel of property can~~
10 ~~objectively determine the amount of the assessment, based upon its value, use or physical characteristics; and~~
11 (4) ~~Include specific legislative findings that recognize the equity provided by the apportionment~~
12 ~~methodology.~~

13 **Sec. 2-323. ~~Preliminary assessment roll.~~**

14 (b) The ~~assessment coordinator~~ city manager shall prepare a preliminary assessment roll pursuant to F.S.
15 170.06 that includes the number of assessment units attributable to each parcel and the estimated
16 maximum annual assessment to become due in any fiscal year for each assessment unit and
17 parcel contains the following information:

- 18 (1) ~~A summary description of each parcel of property (conforming to the description contained in the tax~~
19 ~~roll) subject to the assessment;~~
20 (2) ~~The name of the owner of record of each parcel, as shown on the tax roll;~~
21 (3) ~~The number of assessment units attributable to each parcel;~~
22 (4) ~~The estimated maximum annual assessment to become due in any fiscal year for each assessment unit;~~
23 ~~and~~
24 (5) ~~The estimated maximum annual assessment to become due in any fiscal year for each parcel.~~

25 (c) ~~Copies~~ The of the initial assessment resolution and the preliminary assessment roll shall be on file in the
26 office of the assessment coordinator and open to available on digital media for public inspection in city
27 hall and on the city's website at least 20 days prior to the public hearing for establishing the special
28 assessment. ~~This subsection shall not be construed to require that the assessment roll be in printed form~~
29 ~~if the amount of the assessment for each parcel of property can be determined by use of a computer~~
30 ~~terminal.~~

31 **Sec. 2-324. ~~Publication of notice and hearing.~~**

32 (d) ~~The city~~ After filing the assessment roll in the office of the assessment coordinator, as required by
33 section 2-323(b), the assessment coordinator shall publish once in a newspaper of general circulation
34 within the city a notice stating that at a meeting of the council on a certain day and hour, not earlier
35 than 20 calendar days from such publication, which meeting shall be a regular, adjourned or special
36 meeting, the council will hear objections of all interested persons to the final assessment resolution
37 and approve the preliminary assessment roll. The published shall hold a duly noticed public hearing to
38 consider the proposed assessment notice in shall conform ance with to the publication and mailed
39 notice requirements set forth in the Uniform Assessment Collection Act. ~~After the hearing, the council~~
40 ~~may adopt the final assessment resolution, which shall:~~

- 41 (1) Confirm, modify or repeal the initial assessment resolution with such amendments, if any, as may
42 be deemed appropriate by the council;
43 (2) Establish the maximum amount of the assessment for each assessment unit;
44 (3) Approve the assessment roll, with such amendments as it deems just and right; and
45 (4) Determine the method of collection.

1 **~~Sec. 2-325. Mailing of notice.~~**

2 In addition to the published notice required by section 2-324, the assessment coordinator shall provide
3 notice of the proposed assessment by first class mail to the owner of each parcel of property subject to the
4 assessment. The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection
5 Act. Notice shall be mailed at least 20 calendar days prior to the hearing to each property owner at such address as
6 is shown on the tax roll on the 20th calendar day prior to the date of mailing. Notice shall be deemed mailed upon
7 delivery thereof to the possession of the U.S. Postal Service. The assessment coordinator may provide proof of
8 such notice by affidavit.

9 **~~Sec. 2-326. Final assessment resolution.~~**

10 ~~At the time named in the notice required by this subdivision or to which an adjournment or continuance may be~~
11 ~~taken, the council shall receive written objections and hear testimony of interested persons and may then, or at~~
12 ~~any subsequent meeting of the council, adopt the final assessment resolution, which shall:~~

- 13 ~~(1) Confirm, modify or repeal the initial assessment resolution with such amendments, if any, as may be~~
14 ~~deemed appropriate by the council;~~
- 15 ~~(2) Establish the maximum amount of the assessment for each assessment unit;~~
- 16 ~~(3) Approve the assessment roll, with such amendments as it deems just and right; and~~
- 17 ~~(4) Determine the method of collection.~~

18 **Sec. 2-32~~3~~7. Annual assessment resolution.**

19 The council shall adopt an annual assessment resolution during its budget adoption process for each fiscal
20 year in which assessments will be imposed to approve the assessment roll for such fiscal year. The final assessment
21 resolution shall constitute the annual assessment resolution for the initial fiscal year. The assessment roll shall be
22 prepared in accordance with the initial assessment resolution, as confirmed or amended by the final assessment
23 resolution. If the proposed assessment for any parcel of property exceeds the maximum amount established in the
24 notice provided pursuant to section 2-32~~2~~(d)5 or if an assessment is imposed against property not previously subject
25 thereto, the council shall provide notice to the owner of such property in accordance with sections 2-32~~2~~(d)4 and 2-
26 ~~325~~ and conduct a public hearing prior to adoption of the annual assessment resolution.

27 **Sec. 2-32~~4~~8. Effect of assessment resolutions.**

28 The adoption of the final assessment resolution shall be the final adjudication of the issues presented
29 (including but not limited to the apportionment methodology, the rate of assessment, the adoption of the
30 assessment roll and the levy and lien of the assessments), unless proper steps are initiated in a court of competent
31 jurisdiction to secure relief within 20 days from the date of council adoption of the final assessment resolution. The
32 assessments for each fiscal year shall be established upon adoption of the annual assessment resolution. The
33 assessment roll, as approved by the annual assessment resolution, shall be delivered to the tax collector, or such
34 other official as the council, by resolution, deems appropriate.

35 **Sec. 2-32~~5~~9. Prepayment of assessments.**

36 The assessment imposed against any parcel of property to fund the capital cost of a local improvement shall
37 be subject to prepayment at the option of the property owner, as follows:

- 38 (1) Prior to the issuance of obligations to finance the capital cost of such local improvement, the assessment
39 coordinator shall provide first class mailed notice to the owner of each parcel of property subject to the
40 assessment of the council's intent to issue such obligations. On or prior to the date specified in such
41 notice (which shall not be earlier than the 30th day following the date on which the notice is delivered

1 to the possession of the U.S. Postal Service), or such later date as the council may allow in its sole
2 discretion, the owner of each parcel of property subject to the assessment shall be entitled to prepay
3 the total assessment obligation upon payment of such parcel's share of the capital cost.

4 (2) Following the date specified in the notice provided pursuant to subsection (1) of this section, or such
5 later date as the council may allow in its sole discretion, the owner of each parcel of property subject to
6 the assessment shall be entitled to prepay the total remaining assessment obligation upon payment of
7 an amount equal to the sum of (i) such parcel's share of the principal amount of obligations then
8 outstanding, (ii) the premium associated with redemption of such parcel's share of the principal amount
9 of obligations then outstanding, and (iii) interest on such parcel's share of the principal amount of
10 obligations then outstanding, from the most recent date to which interest has been paid to the next date
11 following such prepayment on which the city can redeem obligations after providing all notices required
12 by the ordinance or resolution authorizing issuance of such obligations; provided, however, that during
13 any period commencing on the date the annual assessment roll is certified for collection pursuant to the
14 Uniform Assessment Collection Act and ending on the next date on which unpaid ad valorem taxes
15 become delinquent, the city may reduce the amount required to prepay the assessments imposed
16 against any parcel of property by the amount of the assessment certified for collection with respect to
17 such parcel.

18 (3) At the city's election, the assessment imposed against any parcel of property may be subject to
19 acceleration and mandatory prepayment if at any time a tax certificate has been issued and remains
20 outstanding in respect of such property. In such event, the amount required for mandatory prepayment
21 shall be the same as that required for an optional prepayment authorized by subsection (2) of this
22 section.

23 (4) The amount of all prepayments computed in accordance with this section shall be final. The city shall not
24 be required to refund any portion of a prepayment if:

- 25 a. The capital cost of the local improvement is less than the amount upon which such prepayment
26 was computed; or
- 27 b. Annual assessments will not be imposed for the full number of years anticipated at the time of
28 such prepayment.

29 **Sec. 2-~~326~~~~330~~. Assessments to constitute lien.**

30 (a) ~~Upon adoption of the annual assessment resolution for each fiscal year, assessments~~Assessments to be
31 collected under the Uniform Assessment Collection Act shall constitute a lien against assessed property
32 ~~as provided in F.S. 170.09equal in rank and dignity with the liens of all state, county, district or municipal~~
33 ~~taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be~~
34 ~~superior in dignity to all other liens, titles and claims, until paid.~~ The lien shall be deemed perfected upon
35 adoption by the council of the annual assessment resolution and shall attach to the property included on
36 the assessment roll as of the prior January 1, the lien date for ad valorem taxes.

37 (b) Upon adoption of the final assessment resolution, assessments to be collected under the alternative
38 method of collection provided in section 2-352 shall constitute a lien against assessed property as
39 provided in F.S. 170.09~~equal in rank and dignity with the liens of all state, county, district or municipal~~
40 ~~taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be~~
41 ~~superior in dignity to all other liens, titles and claims, until paid.~~ The lien shall be deemed perfected on
42 the date notice thereof is recorded in the official records of the county.

43 **Sec. 2-~~323~~~~34~~. Revisions to assessments; procedural irregularities.**

44 ~~(a) Revisions to assessments shall be made in accordance with F.S. 170.14.If any assessment made under the~~
45 ~~provisions of this division is either in whole or in part annulled, vacated or set aside by the judgment of~~
46 ~~any court, or if the council is satisfied that any such assessment is so irregular or defective that the~~

1 assessment cannot be enforced or collected, or if the council has omitted to include any property on the
2 assessment roll which property should have been so included, the council may take all necessary steps to
3 impose a new assessment against any property benefited by the local improvement, following, as nearly
4 as may be practicable, the provisions of this division, and in case such second assessment is annulled, the
5 council may obtain and impose other assessments until a valid assessment is imposed.

6 (b) Any informality or irregularity in the proceedings under this subdivision are subject to F.S. 170.16 and
7 shall not affect the validity of the assessment.

8 **~~Sec. 2-332. Procedural irregularities.~~**

9 Any informality or irregularity in the proceedings in connection with the levy of any assessment under the
10 provisions of this division shall not affect the validity of the assessment after the approval thereof, and any
11 assessment as finally approved shall be competent and sufficient evidence that such assessment was duly levied,
12 that the assessment was duly made and adopted, and that all other proceedings adequate to such assessment were
13 duly had, taken and performed as required by this division; and no variance from the directions under this division
14 shall be held material unless it be clearly shown that the party objecting was materially injured thereby.
15 Notwithstanding the provisions of this section, any party objecting to an assessment imposed pursuant to this
16 division must file an objection with a court of competent jurisdiction within the time periods prescribed in this
17 division.

18 **Sec. 2-~~234~~³³. Correction of errors and omissions.**

- 19 (a) No act of error or omission on the part of the council, assessment coordinator, property appraiser, tax
20 collector, clerk, or their deputies or employees shall operate to release or discharge any obligation for payment
21 of any assessment imposed by the council under the provisions of this division.
- 22 (b) The city may correct the number of assessment units attributed to a parcel of property may be corrected at
23 any time by the assessment coordinator. Any such correction which reduces an assessment shall be considered
24 valid from the date on which the assessment was imposed and shall in no way affect the enforcement of the
25 assessment imposed under the provisions of this division. Any such correction which increases an assessment
26 or imposes an assessment on omitted property shall first require notice to the affected owner at the address
27 shown on the tax roll notifying the owner of the date, time and place that the council will consider confirming
28 the correction and offering the owner an opportunity to be heard.
- 29 (c) After the assessment roll has been delivered to the tax collector in accordance with the Uniform Assessment
30 Collection Act, any changes, modifications or corrections thereto shall be made in accordance with the
31 procedures applicable to errors and insolvencies for ad valorem taxes.

32 **Secs. 2-~~235~~³³⁴—2-350. Reserved.**

33 **Subdivision IV. Collection of Assessments**

34 **Sec. 2-351. Collection pursuant to Florida's Uniform Assessment Collection Act.**

35 Unless directed otherwise by the council, assessments (other than assessments imposed against government
36 property) shall be collected pursuant to the Florida's Uniform Assessment Collection Act, and the city shall comply
37 with all applicable provisions thereof, including but not limited to (i) entering into a written agreement with the
38 property appraiser and the tax collector for reimbursement of necessary expenses, and (ii) adopting a resolution of
39 intent after publishing weekly notice of such intent for four consecutive weeks preceding the hearing. The
40 resolution of intent may be adopted either prior to or following the initial assessment resolution; provided,
41 however, that the resolution of intent must be adopted prior to January 1 (March 1 with consent of the property
42 appraiser and tax collector) of the year in which the assessments are first collected on the ad valorem tax bill. Any

~~hearing or notice required by this division may be combined with any other hearing or notice required by the Uniform Assessment Collection Act.~~

Sec. 2-352. Alternative method of collection.

In lieu of using ~~the~~Florida's Uniform Assessment Collection Act, the city may elect to collect the assessment by any other method which is authorized by law or provided by this section as follows:

- (1) The city shall provide assessment bills by first class mail to the owners of each affected parcel of property, other than government property. The bill or accompanying explanatory material shall include:
 - a. A brief explanation of the assessment;
 - b. A description of the assessment units used to determine the amount of the assessment;
 - c. The number of assessment units attributable to the parcel;
 - d. The total amount of the parcel's assessment for the appropriate period;
 - e. The location at which payment will be accepted;
 - f. The date on which the assessment is due; and
 - g. A statement that the assessment constitutes a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad-valorem assessments.
- (2) A general notice of the lien resulting from imposition of the assessments shall be recorded in the official records of the county. Nothing in this section shall be construed to require that individual liens or releases be filed in the official records.
- (3) The city shall have the right to appoint or retain an agent to foreclose and collect all delinquent assessments in the manner provided by law. An assessment shall become delinquent if it is not paid within 30 days from the due date. The city or its agent shall notify any property owner who is delinquent in payment of an assessment within 60 days from the date such assessment was due. Such notice shall state in effect that the city or its agent will initiate a foreclosure action and cause the foreclosure of such property subject to a delinquent assessment in a method now or ~~later~~hereafter provided by law for foreclosure of mortgages on real estate, or otherwise as provided by law.
- (4) All costs, fees and expenses, including reasonable attorneys' fees and title search expenses, related to any foreclosure action as described in this section shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the city may be the purchaser to the same extent as an individual person or corporation. The city may join in one foreclosure action the collection of assessments against any or all property assessed in accordance with the provisions of this division. All delinquent property owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the city and its agents, including reasonable attorneys' fees, in collection of such delinquent assessments and any other costs incurred by the city as a result of such delinquent assessments, including but not limited to costs paid for draws on a credit facility, and such costs shall be collectible as a part of, or in addition to, the costs of the action.
- (5) In lieu of foreclosure, any delinquent assessment, and the costs, fees and expenses attributable thereto, may be collected pursuant to the Uniform Assessment Collection Act; provided, however, that:
 - a. Notice is provided to the owner in the manner required by law and this division; and
 - b. Any existing lien of record on the affected parcel for the delinquent assessment is supplanted by the lien resulting from certification of the assessment roll to the tax collector.

1 **Sec. 2-353. Responsibility for enforcement.**

2 The city and its agent, if any, shall maintain the duty to enforce the prompt collection of assessments by the
3 means provided in this division. The duties related to collection of assessments may be enforced at the suit of any
4 holder of obligations in a court of competent jurisdiction by mandamus or other appropriate proceedings or actions.

5 **Sec. 2-354. Assessments imposed on government property.**

6 (a) If assessments are imposed against government property, the city shall provide assessment bills by first class
7 mail to the owner of each affected parcel of government property. The bill or accompanying explanatory
8 material shall include:

- 9 (1) A brief explanation of the assessment;
- 10 (2) A description of the assessment units used to determine the amount of the assessment;
- 11 (3) The number of assessment units attributable to the parcel;
- 12 (4) The total amount of the parcel's assessment for the appropriate period;
- 13 (5) The location at which payment will be accepted; and
- 14 (6) The date on which the assessment is due.

15 (b) Assessments imposed against governmental property shall be due on the same date as assessments against
16 other property within the assessment area and, if applicable, shall be subject to the same discounts for early
17 payment.

18 (c) An assessment shall become delinquent if it is not paid within 30 days from the due date. The city shall notify
19 the owner of any governmental property that is delinquent in payment of its assessment within 60 days from
20 the date such assessment was due. Such notice shall state in effect that the city will initiate a mandamus or
21 other appropriate judicial action to compel payment.

22 (d) All costs, fees and expenses, including reasonable attorneys' fees and title search expenses, related to any
23 mandamus or other action as described in this section shall be included in any judgment or decree rendered
24 therein. All delinquent owners of government property against which a mandamus or other appropriate action
25 is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the city,
26 including reasonable attorneys' fees, in collection of such delinquent assessments and any other costs incurred
27 by the city as a result of such delinquent assessments, including but not limited to costs paid for draws on a
28 credit facility, and such costs shall be collectible as a part of, or in addition to, the costs of the action.

29 (e) As an alternative to subsections (a) through (d) of this section, an assessment imposed against government
30 property may be collected on the bill for any utility service provided to such governmental property. The
31 council may contract for such billing services with any utility not owned by the city.

32 **Secs. 2-355—2-370. Reserved.**

33 **Subdivision V. Issuance of Obligations**

34 **Sec. 2-371. Generally.**

35 (a) Upon adoption of the final assessment resolution imposing assessments to fund a local improvement or at any
36 time thereafter, the council shall have the power and is hereby authorized to provide by ordinance or
37 resolution, at one time or from time to time in series, for the issuance of obligations to fund the capital cost

1 thereof and any amounts to be paid or accrued in connection with issuance of such obligations, including but
2 not limited to capitalized interest, transaction costs and reserve account deposits.

3 (b) The principal of and interest on each series of obligations shall be payable from pledged revenue. At the option
4 of the council, the city may agree, by ordinance or resolution, to budget and appropriate funds to make up any
5 deficiency in the reserve account established for the obligations, or in the payment of the obligations, from
6 other non-ad-valorem revenue sources. The council may also provide, by ordinance or resolution, for a pledge
7 of or lien upon proceeds of such non-ad-valorem revenue sources for the benefit of the holders of the
8 obligations. Any such ordinance or resolution shall determine the nature and extent of any pledge of or lien
9 upon proceeds of such non-ad-valorem revenue sources.

10 **Sec. 2-372. Terms of obligations.**

11 The obligations shall be dated, shall bear interest at such rate, and shall mature at such times as may be
12 determined by ordinance or resolution of the council, and may be made redeemable before maturity, at the option
13 of the city, at such price and under such terms and conditions as may be fixed by the council. The obligations shall
14 mature not later than 40 years after their issuance. The council shall determine by ordinance or resolution the form
15 of the obligations, and the manner of executing such obligations, and shall fix the denominations of such obligations,
16 the place of payment of the principal and interest, which may be at any bank or trust company within or outside of
17 the state, and such other terms and provisions of the obligations as it deems appropriate. The obligations may be
18 sold at public or private sale for such price as the council shall determine by ordinance or resolution. The obligations
19 may be delivered to any contractor to pay for his work in constructing the local improvements or may be sold in such
20 manner and for such price as the council may determine by ordinance or resolution to be for the best interests of
21 the city.

22 **Sec. 2-373. Variable rate obligations.**

23 At the option of the council, obligations may bear interest at a variable rate.

24 **Sec. 2-374. Temporary obligations.**

25 Prior to the preparation of definitive obligations of any series, the council may, under like restrictions, issue
26 interim receipts, interim certificates, or temporary obligations, exchangeable for definitive obligations when such
27 obligations have been executed and are available for delivery. The council may also provide for the replacement of
28 any obligations which shall become mutilated, destroyed or lost. Obligations may be issued without any other
29 proceedings or the happening of any other conditions or things than those proceedings, conditions or things which
30 are specifically required by this division.

31 **Sec. 2-375. Anticipation notes.**

32 In anticipation of the sale of obligations, the council may, by ordinance or resolution, issue notes, and may
33 renew the notes from time to time. Such notes may be paid from the proceeds of the obligations, the proceeds of
34 the assessments, the proceeds of the notes and such other legally available moneys as the council deems appropriate
35 by ordinance or resolution. The notes shall mature within five years of their issuance and shall bear interest at a rate
36 not exceeding the maximum rate provided by law. The council may issue obligations or renewal notes to repay the
37 notes. The notes shall be issued in the same manner as the obligations.

38 **Sec. 2-376. Taxing power not pledged.**

39 Obligations issued under the provisions of this division shall not be deemed to constitute a general obligation
40 or pledge of the full faith and credit of the city within the meaning of the state constitution, but such obligations
41 shall be payable only from pledged revenue and, if applicable, proceeds of the assessments, in the manner provided
42 in this division and by the ordinance or resolution authorizing the obligations. The issuance of obligations under the

1 provisions of this division shall not directly or indirectly obligate the city to levy or to pledge any form of ad valorem
2 taxation whatever therefor. No holder of any such obligations shall ever have the right to compel any exercise of the
3 ad valorem taxing power on the part of the city to pay any such obligations or the interest thereon or to enforce
4 payment of such obligations or the interest thereon against any property of the city, nor shall such obligations
5 constitute a charge, lien or encumbrance, legal or equitable, upon any property of the city, except the pledged
6 revenue.

7 **Sec. 2-377. Trust funds.**

8 The pledged revenue received pursuant to the authority of this division shall be deemed to be trust funds, to
9 be held and applied solely as provided in this division and in the ordinance or resolution authorizing issuance of the
10 obligations. Such pledged revenue may be invested by the city, or its designee, in the manner provided by the
11 ordinance or resolution authorizing issuance of the obligations. The pledged revenue, upon receipt thereof by the
12 city, shall be subject to the lien and pledge of the holders of any obligations or any entity other than the city providing
13 credit enhancement on the obligations.

14 **Sec. 2-378. Remedies of holders.**

15 Any holder of obligations, except to the extent the rights given in this division may be restricted by the
16 ordinance or resolution authorizing issuance of the obligations, may, whether at law or in equity, by suit, action,
17 mandamus or other proceedings, protect and enforce any and all rights under the laws of the state or granted under
18 this division or under such ordinance or resolution, and may enforce and compel the performance of all duties
19 required by this division, or by such ordinance or resolution, to be performed by the city.

20 **Sec. 2-379. Refunding obligations.**

21 The city may, by ordinance or resolution of the council, issue obligations to refund any obligations issued
22 pursuant to this division, or any other obligations of the city theretofore issued to finance the capital cost of a local
23 improvement, and provide for the rights of the holders thereof. Such refunding obligations may be issued in an
24 amount sufficient to provide for the payment of the principal of, redemption premium, if any, and interest on the
25 outstanding obligations to be refunded. If the issuance of such refunding obligations results in an annual assessment
26 that exceeds the estimated maximum annual assessments set forth in the notice provided pursuant to section 2-
27 325, the council shall provide notice to the affected property owners and conduct a public hearing in the manner
28 required by subdivision III of this division.

29 **Secs. 2-380—2-388. Reserved.**

30 ***DIVISION 4. CAPITAL EXPENDITURES***

31 **Sec. 2-389. Definitions.**

32 The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this
33 section, except where the context clearly indicates a different meaning. These definitions are supplemental to the
34 definitions in section 1-2 of this code. The definitions in this section shall prevail in case of conflict.

35 *Capital ~~cost~~ expenditure* means all or any portion of the expenses that are properly attributable to the
36 acquisition, design, construction, installation, reconstruction, renewal or replacement (including demolition,
37 environmental mitigation and relocation) of local improvements under generally accepted accounting principles,
38 including reimbursement to the city for any funds advanced for capital cost and interest on any loan for such
39 purposes.

1 *Capital improvement* means a non-recurring expenditure or any expenditure for physical improvements,
2 including costs for: acquisition of existing buildings, land, or interests in land; construction of new buildings or other
3 structures, including additions and major alterations; construction of streets and highways or utility lines; acquisition
4 of fixed equipment; landscaping; and similar expenditures.

5 ~~*City council* means the city council of the City of Marco Island, Florida.~~

6 *General fund revenue* means all general purpose tax revenue and other unrestricted general purpose revenue
7 of the city, including state and federal revenue sharing monies, credited to the city general fund and from which
8 appropriations may be made.

9 ~~*Government property* means property owned by the United States of America, the state of Florida, a county,
10 a special district, a municipal corporation, or any of their respective agencies or political subdivisions.~~

11 ~~*Local improvement(s)* means a capital improvement constructed or installed by the city, for a municipal
12 benefit.~~

13 *Obligations* means bonds or other evidence of indebtedness, including but not limited to, external or interfund
14 loans, notes, commercial paper, capital leases or any other obligations issued or incurred to finance any portion of
15 the capital cost of local improvements.

16 *Super majority vote*, unless otherwise required or prohibited by law, means at least five members of council
17 shall be required when seven council members are present; at least four members of council when six or fewer
18 council members are present.

19
20 **Sec. 2-390. Super majority vote required for capital improvement approval.**

21 (a) Approval by a super majority vote of city council shall be required for any capital expenditure that exceeds ten
22 percent of the average of the last four fiscal year's general fund revenue, except as provided in subsection (b).

23 (b) A super majority vote shall not apply to any capital improvement constructed or installed by the city, for a
24 municipal benefit local improvement(s), which that are is:

- 25 (1) Mandated by applicable regulation or existing bond covenants;
- 26 (2) Funded through enterprise funds, including without limitation, water/sewer utility improvement or
27 maintenance projects;
- 28 (3) Funded through grant funds;
- 29 (4) Funded through discretionary tax funds;
- 30 (5) Funded with proceeds of obligations which shall be secured by and/or payable from grant funds,
31 enterprise funds or discretionary tax funds; or
- 32 (6) Occasioned by an emergency and is accompanied by an official declaration of emergency issued by the
33 council chair and city manager, including without limitation a hurricane or other natural disaster.

34 **Sec. 2-391. Super majority vote required to amend or repeal this division.**

35 An affirmative vote by a super majority of city council shall be required to amend or repeal any section or
36 portion of this division 4.

1 ~~Sec. 2-392.~~ **Applicability.**

2 Unless otherwise exempted as provided in section 2-390(b), this vote requirement shall apply to all capital
3 improvement expenditures requiring initial approval subsequent to the date of adoption of the ordinance from
4 which this division is derived.

5 ~~Secs. 2-392~~²³—2-400. Reserved.

6 **ARTICLE VI. INVESTMENT POLICY**

7 **Sec. 2-401. Introduction.**

8 (a) *Goal.* The goal of the city investment policy shall be to ensure the safety of all funds entrusted to the city
9 (safety), the availability of those funds for the payment of all necessary obligations of the city (liquidity), and
10 to provide for the investment of all funds, not immediately required, in interest-bearing securities (return).
11 The highest investment priority will be safety of principal, followed by liquidity and return, in that order.

12 The city shall maintain a comprehensive cash management program in order to maximize total return as a
13 viable and material revenue source to all operating and capital funds. The cash management program will include
14 collection of accounts receivable on a timely basis, vendor payment in accordance with invoice terms and state law,
15 and prudent investment of its available cash.

16 (b) *Scope.* This investment policy of the city shall include those funds in excess of those required to meet short-
17 term expenses and any new funds created. This investment policy shall also include those funds which may be
18 created by bond ordinances to include, but not limited to, the revenue fund, the sinking fund, reserve accounts
19 and the bond amortization fund. These accounts will be called "bond trust accounts" for the remainder of this
20 document. It will not pertain to pension or trust funds where there are other existing policies or indentures in
21 effect.

22 ~~(c) *Amendments.* This policy may be amended from time to time as the city council may so desire, or as state law
23 may require.~~

24 **Sec. 2-402. Responsibility.**

25 (a) *Purpose.* The purpose of this section is to establish an investment officer for the city and define the authority
26 of the investment officer.

27 (b) *Responsibility and designation.* The director of finance is the city's investment officer and is responsible for the
28 city's comprehensive cash management program, including the administration of these investment policies.
29 The investment officer shall maintain timely, accurate and systematic records of all securities, maturities and
30 earnings. The investment officer must annually complete eight hours of continuing education in subjects and
31 courses of study related to investment practices and products.

32 The investment officer shall be responsible for establishing written procedures for cash management and for
33 the development and updating on the periodic basis of a cash forecast for the city. This cash forecast will provide
34 information essential to properly structure investment maturities to meet required disbursement of funds. The
35 investment officer is also responsible for developing and maintaining expertise in the areas of market evaluation
36 and economic forecasting. Professional training and outside experts will be used as appropriate to meet the overall
37 policy goal of maximizing interest earnings within the constraints of portfolio safety and liquidity.

38 Responsibility and authority for investment transactions resides with the investment officer. The investment
39 officer is fully authorized to buy and sell investments in accordance with the goals and objectives of the city's
40 investment strategy. Officers and employees involved in the investment process shall refrain from personal business

1 activity that could conflict with the proper execution and management of the investment program, or that could
2 impair their ability to make impartial decisions. Employees and investment officers shall disclose any material
3 interests in financial institutions with which they conduct business. They shall further disclose any personal
4 financial/investment positions that could be related to the performance of the investment portfolio. Employees and
5 officers shall refrain from undertaking personal investment transactions with the same individual with whom
6 business is conducted on behalf of their entity.

7 Certain signatory responsibilities are shared by bonded officials for the purpose of providing continuity of the
8 city's investment program in the absence of the investment officer. Positions authorized, including the investment
9 officer, are:

- 10 (1) City manager.
- 11 (2) Finance director.
- 12 (3) Deputy city clerk.

13 (c) *Bonding requirements.* Each of the above authorized positions designated to serve as the investment officer
14 or designee in the absence of the city's investment officer shall be bonded employees. All participants in the
15 investment process shall act responsibly as custodians of the public trust and the investments should be made
16 with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and
17 intelligence exercise in the management of their own affairs, not for speculation, but for investment,
18 considering the probable safety of their capital as well as the probable income to be derived from the
19 investment.

20 **Sec. 2-403. Statutory guidelines.**

21 F.S. § 218.415
22 Local Government Investment Policies
23 Attached to Ordinance No. 02-19 as Appendix A.

24 **Sec. 2-404. Investment objectives.**

25 All investments are required to satisfy the investment objectives of safety of capital, liquidity of funds, and
26 investment income, in that order of importance. The objective will be to mitigate credit risk and interest rate risk.
27 The investments purchased under the provisions of this investment policy shall be managed to maintain liquidity for
28 meeting the city's needs for cash and to limit potential market risks in periods of rising interest rates which depress
29 the market value of securities. Investments will be made in accordance with known/anticipated cash needs and cash-
30 flow requirements enabling The city to meet day to day liquidity demands in addition to debt service payments and
31 sinking fund deposits on the bond trust accounts.

32 As a general guideline, the city cash management portfolio shall be designed with the objective of meeting,
33 over the course of full market cycles, the average return of three-month U.S. treasury bill, or the average rate of
34 federal funds, whichever is higher. These indices are considered benchmarks for riskless investment transactions
35 and therefore comprise a standard for the portfolio's rate of return. The investment program shall seek to augment
36 rates of return above this level. In a diversified portfolio, measured losses are inevitable and must be considered
37 within the context of the overall portfolio.

38 The investment performance of the city bond trust accounts portfolio shall have the objective of meeting or
39 exceeding the average return of governments, U.S. treasury, intermediate-term bonds or the average return of
40 governments, federal agencies, intermediate term bonds or a combination of both. The bond trust accounts are
41 limited by law on the earnings allowed by arbitrage regulations. These regulations will take precedence over the
42 indices when making a portfolio comparison.

43 Active portfolio management includes the practice of selling securities prior to maturity, using the proceeds to
44 purchase other securities. Such transactions are called "swaps" and are performed for a variety of valid reasons. One

1 reason such a "swap" is performed is to take advantage of the difference in relative yield between different types of
2 securities and varying maturities. "Swap analysis" is the responsibility of the city investment officer and the decision
3 to execute the "swap rests with him/her.

4 **Sec. 2-405. Safekeeping and custody.**

5 (a) *Authorized financial dealer and institution.* The city will authorize broker/dealers to provide investment
6 services to the city only after the following information has been provided:

- 7 (1) Proof of state registration.
- 8 (2) Proof of National Association of Securities Dealers (NASD) certification or, if a dealer bank, certification
9 from the office of comptroller of currency.
- 10 (3) Certification of having read the city's investment policy, with specific understanding of portfolio risk
11 constraints and investment trading requirements.
- 12 (4) References from other municipal investment officers.

13 (b) *Eligible investments.* All securities shall be purchased on a delivery-vs-payment basis through a third-party
14 safekeeping account. The city shall authorize the release of its funds only after it has received notification from
15 the safekeeping bank that a purchased security has been received in the city's safekeeping account. This
16 notification may be oral, but shall be followed up in writing with the original safekeeping receipt within 24
17 hours. All securities will be required to have a favorable volatility rating from a nationally recognized rating
18 agency prior to purchase. The following are a list of permitted investments:

- 19 (1) Direct obligations of the U.S. treasury: Treasury bills, notes and bonds.
20 Portfolio allocation: Up to 100 percent of the total cash investments of the portfolio may be invested in
21 this class of investment.
- 22 (2) Securities backed by the full faith and credit of the United States government: Government National
23 Mortgage Association (GNMA), GNMA ARMs, GNMA PCs, Small Business Administration (SBA) loans or
24 pools.
25 Portfolio allocation: Up to 35 percent of the total cash and investment of the portfolio may be invested
26 in GNMA securities; up to ten percent of the total cash and investments of the portfolio may be invested
27 in SBA loans or pools.
- 28 (3) Securities backed by federal agencies: Federal National Mortgage Association (FNMA), Federal Home
29 Loan Mortgage Corporation (FHLMC), Federal Home Loan Institutions (FHLB), Student Loan Marketing
30 Association (SLMA), Federal Farm Credit Institutions (FFCB), Federal Housing Administration (FHA), step-
31 ups, short-term floating rate notes and other similar instruments issued by above agencies.
32 Portfolio allocation: Up to 75 percent of the total cash investments of the portfolio may be invested in
33 this class of investment; however, no more than 50 percent of the portfolio may be invested with any
34 one agency.
- 35 (4) Agency-issued mortgage-backed securities: FNMA, FNMA ARMs, FHLMC, FHLMC ARMs, FNMA or FHLMC
36 Collateralized Mortgage Obligations (CMOs) or Private Issue CMOs backed by Agency MBS. All CMOs
37 must qualify at purchase as appropriate non "high risk" investments under proposed or enacted
38 regulatory guidelines and must meet the Federal Financial Institution Examination Council (FFIEC) test.
39 Portfolio allocation: Up to 35 percent of the total cash and investments of the portfolio may be invested
40 in this class of securities.
- 41 (5) Repurchase agreements made in compliance with Florida State Statutes. A master repurchase
42 agreement will be executed with each counterparty detailing the requirements of all authorized
43 institutions/dealers involved in repurchase agreement transactions on behalf of the city. Repurchase
44 collateral shall be perfected and delivered to an unaffiliated third-party safekeeping account. Repurchase

1 agreements shall be collateralized at a minimum of 101 percent of the purchase price of the repurchase
2 agreement. Collateral shall be marked-to-market at least weekly by the investment officer or designee.
3 Counterparty to the repurchase agreement will be required to immediately provide additional collateral
4 to cure any deficiency. Collateral must be securities which this policy would allow for direct purchase by
5 the city.

6 Portfolio allocation: Up to 50 percent of the total cash and investments of the portfolio may be invested
7 in this class of securities.

- 8 (6) Non-negotiable interest-bearing time certificates of deposit in state or federal banks or state or federal
9 savings and loan associations as permitted and/or prescribed by state or federal law. Collateral are
10 required by state law shall be held through an agreement with an independent, third-party custodian
11 and any CDs held shall be federally insured.

12 Portfolio allocation: Up to 35 percent of the total cash and investments of the portfolio may be invested
13 in this class of securities.

- 14 (7) Negotiable interest-bearing time certificates of deposit issued by institutions whose long-term debt is
15 rated at time of purchase at least "A" or equivalent by Standard & Poor's or Moody's Rating Service or
16 who are approved as a certified public depository by the State of Florida. Collateral as required by state
17 law shall be held through an agreement with an independent, third-party custodian and any CDs held
18 shall be federally insured.

19 Portfolio allocation: Up to 35 percent of the total cash and investments of the portfolio may be invested
20 in this class of securities.

- 21 (8) Bankers acceptances which are issued by domestic institutions whose long-term debt is rated at time of
22 purchase at least "A" or equivalent by Standard & Poor's or Moody's Rating Service.

23 Portfolio allocation: Up to 25 percent of the total cash and investments of the portfolio may be invested
24 in this class of securities; however, no more than \$1,000,000.00 in principal may be invested with any
25 individual institution.

- 26 (9) Prime commercial paper, which is commercial paper which has received a Standard & Poor's rating at
27 time of purchase of at least "A-1" and/or Moody's rating at time of purchase of "Prime-1".

28 Portfolio allocation: Up to 25 percent of the total cash and investments of the portfolio may be invested
29 in this class of securities; however, no more than \$1,000,000.00 may be invested with any individual
30 corporation.

- 31 (10) State and/or local government taxable and tax-exempt debt, general obligation and/or revenue bonds
32 rated at time of purchase at least "A" by Standard & Poor's or Moody's. Portfolio allocation: Up to 25
33 percent of the total cash and investments of the portfolio may be invested in this class of securities.

- 34 (11) Dollar denominated money market mutual funds registered with the United States Securities and
35 Exchange Commission. The city will be required to receive a mutual fund prospectus prior to purchasing
36 mutual fund shares. Only mutual funds investing exclusively in short-and intermediate-term instruments
37 are permitted.

38 Portfolio allocation: Up to 25 percent of the total cash and investments of the portfolio may be invested
39 in this class of securities.

- 40 (12) Fixed-income mutual funds comprised of only those securities which would be eligible for direct
41 purchase under provisions of this policy; and, where the average weighted maturity of the portfolio of
42 such fund is no greater than five years. Such funds must be registered with the Securities and Exchange
43 Commission. The city will be required to receive a mutual fund prospectus prior to purchasing shares.

44 Portfolio allocation: Up to 25 percent of the total cash and investments of the portfolio may be invested
45 in this class of securities.

1 (13) Local Government Surplus Funds Trust Fund or any intergovernmental investment pool authorized
2 pursuant to the Florida Interlocal Cooperation Act as provided in F.S. §§ 163.01.

3 Portfolio allocation: Up to 100 percent of the total cash and investments of the portfolio may be invested
4 in this class of securities.

5 **Sec. 2-406. Allocation of assets.**

6 Diversification of investments as to investment type and term to maturity serve to reduce both market risk
7 and interest rate uncertainty. The city shall maintain prudent diversification of investments as to both issuer and
8 term as outlined in this policy in the previous section. In the cash management portfolio the city should limit their
9 maximum final stated maturities to five years. The bond trust accounts investment maturities should not exceed the
10 stated final maturity of the bond issue as stated in the bond indentures. Deviation from the maturity restrictions are
11 allowed only when specific circumstances warrant. To the extent possible, the city will attempt to match its
12 investments with anticipated cash flow requirements.

13 **Sec. 2-407. Highest yield requirements.**

14 The city's funds shall be invested in instruments or accounts that yield the highest possible rate of return while
15 providing the desired maturity schedule, level of liquidity, and necessary protection of principal as required by these
16 policies and state law.

17 **Sec. 2-408. Bidding requirements.**

18 As prescribed by state statutes, the city shall solicit bids prior to the purchase or sale of any investment
19 instrument. For each such investment transaction, a minimum of three phone bids will be obtained, with bid
20 documentation maintained on file. It is the investment officer's responsibility to determine prudent maturity and
21 liquidity, and to assess the potential for market gains or losses caused by fluctuating interest rates during the term
22 of the investment.

23 **Sec. 2-409. Pooling of assets.**

24 To maximize the effective investment of assets, all general cash management funds needed for general
25 obligations of the city should be pooled onto one account for investment purposes. All bond trust accounts will be
26 kept separate from general cash management funds and are pooled according to type of account and fund. The
27 income derived from these accounts will be distributed to the various funds based on their average balances on a
28 periodic basis.

29 **Sec. 2-410. Reporting.**

30 The investment officer shall submit annually to the city council and city manager, an investment report
31 outlining the city's investment transactions for the preceding year and describing the investment position of the city
32 as of the date of the report. Market values will be obtained from a reputable and independent source and disclosed
33 to the city council and city manager at least monthly in a written report. This report will include the market value,
34 book value and unrealized gain or loss of the securities in the portfolio. Earnings on investments shall be compared
35 to benchmark indicators to indicate relative portfolio performance.

36 **Sec. 2-411. Internal controls.**

37 The investment officer is responsible for establishing and maintaining an internal control structure designed
38 to ensure that the assets of the city are protected from loss, theft or misuse. The internal control structure shall be
39 designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance

1 recognizes that (1) the cost of a control should not exceed the benefits likely to be derived; and (2) the valuation of
2 costs and benefits requires estimates and judgments by management. State and local laws require an annual audit
3 of the financial records of the city. That audit will include a review of all investment activity for the year to review
4 compliance with these investment procedures. Included in the audit review will also be a review of internal controls
5 as pertains to investment of the city funds and appropriate investment documentation. Annual audit procedures will
6 also include verification of collateral held by the city for both bank deposits in excess of F.D.I.C. insurance and
7 repurchase agreement transactions.

8 **Sec. 2-412. Indemnity.**

9 The investment officer and employees involved in the investment process shall not be liable for any error in
10 judgment or any act or omission performed or omitted to be performed in good faith and without negligence so long
11 as the investments are made in full compliance with these policies.

12 **Chapter 4 ALCOHOLIC BEVERAGES**

13 **ARTICLE I. IN GENERAL**

14 **Sec. 4-1. Purpose and intent.**

15 The purpose and intent of this chapter is to provide uniform operational regulations pursuant to the authority
16 reserved to the city by F.S. ch. 562, for all establishments in the city dealing directly or indirectly with the sale or
17 consumption of alcoholic beverages.

18 **Sec. 4-2. Definitions.**

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

23 *Alcoholic beverage* means any beverage containing ~~more than~~ one-half of one percent ~~or more of~~ alcohol by
24 weight.

25 *Bottle club* is any business premises in which ~~no intoxicating liquors are sold but where patrons may bring~~
26 ~~alcoholic beverages for their own use, and where~~ food, soft drinks and mixes are ~~often~~ sold, and suitable places and
27 premises are provided for consumption of ~~such liquors alcoholic beverages as individual club members or their~~
28 ~~guests bring upon premises for their own use. A bottle club may or may not sell alcoholic beverages on premises.~~
29 This chapter shall apply to bottle clubs and all of their duly authorized agents. The consumption of alcoholic
30 beverages in bottle clubs is not allowed during prohibited hours as set forth below.

31 *Establishment dealing in alcoholic beverages* means any business, club, or establishment licensed by the state
32 for the sale of alcoholic beverages; any area or part of any building or structure in which alcoholic beverages are
33 kept for sale, offered for sale, sold, served or dispensed under license by the state; any other building or structure
34 or part thereof having an entrance, door or other passageway that could in any manner be used or utilized as a
35 means of access, ingress or egress into the area in which alcoholic beverages are kept, offered for sale, sold or
36 dispensed; or which is in any other manner capable of access, ingress or egress at any time to the area in which
37 alcoholic beverages are kept, offered for sale, sold, served or dispensed. However, the term "establishment dealing
38 in alcoholic beverages," when applied to a hotel or club means that area or part of such hotel or club in which
39 alcoholic beverages are kept, sold, served or dispensed when such area is capable of being closed or in some other
40 manner set apart and forbidden to access.

1 Intoxicated person means a person overcome by the consumption of alcoholic beverages to the point of losing
2 control of one's faculties.

3 Premises includes the interior of an establishment, the exterior grounds and parking areas.

4 ~~Sale or sell~~ includes any transfer of ~~liquor, wine or beer or other~~an alcoholic beverages for a consideration,
5 and any gift of ~~liquor, beer or wine~~an alcoholic beverage in connection with or as a part of a transfer of property
6 other than ~~liquor, beer or wine or other~~an alcoholic beverages for a consideration.

7 ~~Vendor~~ means any person who keeps for sale, sells or dispenses any alcoholic beverages in any quantity in any
8 place or business licensed by the state for the sale of alcoholic beverages, or any person who holds a license from
9 the state for the sale of alcoholic beverages, including the owner, manufacturer, operator, proprietor or licensee, or
10 the servant, agent or employee of any one of such. Vendor also means any duly authorized agent of a bottle club.

11 **Sec. 4-3. Hours during which sales, consumption, and service are prohibited.**

12 No establishment dealing in alcoholic beverages shall sell or offer for sale, or serve or offer to serve, any beers,
13 wines or alcoholic beverages of any kind, regardless of alcoholic content, between 2:00 a.m. and 7:00 a.m.; provided,
14 however, the hours of prohibition for January 1 of each year shall be 5:00 a.m. to 7:00 a.m.

15 **Sec. 4-4. Consumption off premises.**

16 No person shall consume any alcoholic beverage on or within any property which is licensed to sell alcoholic
17 beverages in sealed containers only for off-premises consumption.

18 **Sec. 4-5. Dispensing, selling or serving intoxicating beverages.**

19 (a) It shall be unlawful for any vendor to ~~suffer, permit or~~allow any establishment dispensing, selling or serving
20 ~~intoxicating alcoholic~~ beverages to be ~~and or remain~~open for the transaction of business during prohibited
21 hours.

22 (b) It shall be unlawful for any vendor to ~~suffer, permit or~~allow any person to ~~enter or to be~~ ~~and remain~~in any
23 establishment dispensing, selling or serving ~~intoxicating alcoholic~~ beverages at any time during prohibited
24 hours.

25 (c) It shall be unlawful for any person to ~~enter or to be~~ ~~or remain~~in any establishment dispensing, selling, or
26 serving ~~intoxicating alcoholic~~ beverages at any time during prohibited hours.

27 (d) Nothing in this section shall ~~be construed to~~prevent vendors that are permitted to engage in other permitted
28 business activity, and are also licensed to sell ~~intoxicating alcoholic~~ beverages, from remaining open for the
29 permitted business activity, so long as ~~intoxicating alcoholic~~ beverages are not sold or consumed during
30 prohibited hours.

31 (e) Nothing in this section shall ~~be construed to~~prevent any person from ~~entering or remaining being~~ in any
32 establishment that is engaged in other permitted business activity and is also licensed to sell ~~intoxicating~~
33 ~~alcoholic~~ beverages, so long as intoxicating beverages are not being served or consumed on the premises
34 during prohibited hours.

35 (f) Nothing contained in this section shall ~~be construed to~~prevent a vendor of any establishment dispensing,
36 selling or serving ~~intoxicating alcoholic~~ beverages from ~~entering, being~~ ~~or remaining~~in the establishment
37 during prohibited hours when the vendor is actually engaged in duties other than the sale of or serving of
38 ~~intoxicating alcoholic~~ beverages in the establishment, nor shall this section ~~be construed to~~ prevent any
39 firefighter, ~~or~~ law enforcement officer or agent of the city from ~~entering, being~~ ~~or remaining~~in the
40 establishment in the performance of ~~his~~their official duties.

1 **Sec. 4-6. Sale to ~~certain-intoxicated~~ persons prohibited.**

2 No ~~person who is a~~ vendor ~~of alcoholic beverages~~ shall sell, furnish or deliver ~~or permit any person in his~~
3 ~~employ to sell, furnish or deliver~~ any alcoholic beverages in any quantity to any intoxicated person ~~who is overcome~~
4 ~~by the consumption of alcoholic beverages to the point of losing control of one's faculties.~~

5 **Sec. 4-7. Permitting intoxicated person to loiter about premises.**

6 It shall be unlawful for any intoxicated person to loiter in and about the business premises used or occupied
7 by any person licensed under the state beverage law. ~~For the purposes of this section "intoxicated person" means a~~
8 ~~person overcome by the consumption of alcoholic beverages to the point of losing control of one's faculties.~~

9 **Sec. 4-8. Loitering during prohibited hours of operation.**

10 It shall be unlawful for any person to loiter in and about the business premises licensed under the state
11 beverage law during prohibited hours of operation. It shall be unlawful for ~~the a vendor operator~~ of such premises
12 to permit and knowingly allow any person to loiter thereon during prohibited hours of operation. ~~In and about the~~
13 ~~business premises includes, but is not limited to, the interior of the establishment, the exterior grounds and parking~~
14 ~~areas.~~ When applied to a vendor that is permitted to engage in other business activity, it is the intent of this section
15 to apply only to that area or part of such vendor's business in which alcoholic beverages are kept, sold, served or
16 dispensed when such area is capable of being closed or in some other manner set apart and forbidden to access.

17 **Sec. 4-9. Public consumption or possession.**

18 (a) *Definitions.* The following words, terms and phrases, when used in this section shall have the meanings
19 ascribed to them in this subsection, except where the context clearly indicates a different meaning. These
20 definitions are supplemental to the definitions in section 1-2 of this code. The definitions in this section shall
21 prevail in case of conflict.:

- 22 (1) "Container" means any cup, glass, can, bottle, carton or other vessel or receptacle of alcoholic beverage.
23 (2) "Open container" means any container which is open, which has been opened, which has its original seal
24 broken, punctured or altered so as to allow the consumption of its contents.
25 (3) "Parking lot" means any private or public area appurtenant to any nonresidential ~~and commercial use or~~
26 ~~establishments~~ used by the public for parking and pedestrian access to such uses and establishments,
27 including, but not limited to, drives, parking areas, sidewalks and walkways appurtenant thereto, and
28 any area wherein motor vehicles are parked by the public in conjunction with any nonresidential ~~or~~
29 commercial business, enterprise or office building use.

30 (b) *Violation.* It shall be a violation for any person to sell or consume any alcoholic beverage, or to possess any
31 ~~opened or unsealed~~ container ~~containing an alcoholic beverage,~~ on or in any publicly owned building, any
32 parking lot or in a park.

33 (c) *Exceptions.* This provision shall not be applicable to the sale or consumption of an alcoholic beverage, or
34 possession of an ~~alcoholic beverage in an~~ open container, in the following locations:

- 35 (1) As specifically authorized and approved by a special event permit issued by the city manager or designee;
36 (2) Locations specifically authorized by the vendor's state license;
37 (3) The public beach;
38 (4) On the waterways within the city limits;
39 (5) Passengers and their guests, on a bus, limousine, taxicab or other motor vehicle that is operated by duly-
40 licensed drivers in the course of conducting an ongoing, duly licensed and authorized business or

1 providing paid passenger transportation or service; provided that no open container ~~containing any~~
2 ~~alcoholic beverage~~ is in the possession of, or readily accessible to, the driver.

3 **Sec. 4-10. Unlawful acts in establishments.**

4 (a) It shall be unlawful for any ~~vendor of an person maintaining, owning or operating a commercial~~ establishment
5 ~~offering for sale dealing in located in the city at which~~ alcoholic beverages ~~are offered for sale~~ for consumption
6 on the premises to suffer or permit the following ~~on the premises~~:

7 (1) Any anatomically female person, ~~while on the premises of the commercial establishment, to expose to~~
8 ~~exposing to~~ the public view that area of the human female breast at or below the areola ~~thereof~~.

9 (2) Any anatomically female person, ~~while on the premises of the commercial establishment, to~~ employing
10 any device or covering which is intended to give the appearance of, or simulate, such portions of the
11 human female breast as described in subsection (a)(1) ~~of this section~~.

12 (3) Any person, ~~while on the premises of the commercial establishment, to expose~~ exposing to public view
13 ~~his or her their~~ genitals, pubic area, anus or anal cleft or anal cleavage.

14 (4) Any person, ~~while on the premises of the commercial establishment, to employ~~ employing any device or
15 covering which is intended to give the appearance of or simulate the genitals, pubic area, anus, anal cleft
16 or anal cleavage.

17 (b) It shall be unlawful for any anatomically female person, while on the premises of a ~~commercial~~ establishment
18 ~~dealing in alcoholic beverages located in the city at which alcoholic beverages are offered for sale~~ for
19 consumption on the premises, to expose to public view that area of the human female breast at or below the
20 areola thereof or to employ any device or covering which is intended to give the appearance or simulate such
21 areas of the female breast as described in this ~~subsection~~.

22 (c) It shall be unlawful for any person, while on the premises of a ~~commercial~~ establishment dealing in alcoholic
23 beverages located in the city at which alcoholic beverages are offered for sale for consumption on the
24 premises, to expose to public view ~~their his or her~~ genitals, pubic area, anus or anal cleft or anal cleavage or to
25 employ any device or covering which is intended to give the appearance of or simulate the genitals, pubic area,
26 anus or anal cleft or anal cleavage.

27 (d) For the purpose of enforcement, this section shall not apply to the breast or anal cleft and cleavage of a
28 customer exhibited by a bathing suit or other wearing apparel provided the areola and lower portion of the
29 female breast are not exposed.

30 **Sec. 4-11. Penalties.**

31 ~~(a) Violation of this article shall be punishable according to the procedures and penalties set forth in chapter~~
32 ~~14 of this code. Any person or persons, firm or corporation, or any agent thereof, who that violates any of the~~
33 ~~provisions of any section of this chapter shall be punished by a fine not exceeding \$500.00 or imprisonment not~~
34 ~~exceeding 60 days, or by both such fine and imprisonment.~~

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

39 40 **Secs. 4-12—4-30. Reserved.**

1 **ARTICLE II. LOCATIONAL RESTRICTIONS FOR ESTABLISHMENTS INVOLVING ON-**
2 **PREMISES CONSUMPTION**

3 **Sec. 4-31. Purpose and intent.**

4 It is the purpose of this article to establish reasonable standards to protect the community from potential
5 adverse impacts related to establishments primarily engaged in the sale of alcoholic beverages for on-premise
6 consumption. It is the intent of this article to provide reasonable separation and/or distance requirements between
7 such establishments, and between such establishments and community facilities, to avoid potential conflicts or
8 adverse impacts.

9 **Sec. 4-32. Enumerated.**

10 ~~The community development director, or his designee, may authorize the sale~~ Sale of alcoholic beverages for
11 consumption on-premises is subject to compliance with all zoning restrictions and the following locational criteria:

- 12 (1) No such use shall be located within 500 feet of any established elementary, middle or high school, child-
13 care center, public library, ~~churchplace of worship~~, public park, ~~or~~ public playground ~~excluding beach~~
14 ~~access points, or existing establishment whose primary function is the sale of alcoholic beverages for~~
15 ~~consumption on-premises ("existing establishment") unless a waiver-variance of said distance~~
16 ~~requirement is granted pursuant to section 4-36 18-76 by the City Council board of zoning appeals. This~~
17 ~~does not include beach access points.~~
- 18 (2) The distance of 500 feet shall be measured as the shortest distance between the lot on which the school,
19 child care center, public library, ~~churchplace of worship~~, public park ~~or~~ public playground, ~~or existing~~
20 ~~establishment~~ is located, and the lot on which the alcoholic beverages are to be sold, except that
21 establishments located in shopping centers shall be measured to the outer wall of the establishment.
- 22 ~~(3) No such use shall be located within 500 feet of any existing establishment whose primary function is the~~
23 ~~sale of alcoholic beverages for consumption on-premises.~~
- 24 ~~(4) The distance of 500 feet shall be measured as the shortest distance between the lot on which the existing~~
25 ~~establishment is located and the lot on which the alcoholic beverages are to be sold, except that~~
26 ~~establishments located in shopping centers shall be measured to the outer wall of the establishment.~~

27 The erection of any school, child care center, public library, ~~churchplace of worship~~, public park, or public playground
28 within 500 feet of an establishment which offers the sale of alcoholic beverages for consumption on-premises shall
29 not cause such establishment to become nonconforming.

30 **Sec. 4-33. Exemptions.**

31 The following uses shall be exempted from the distance limitations of section 4-32, but shall comply with all
32 other requirements of this article:

- 33 (1) Any restaurant with a state special food service alcoholic beverage retail license that requires deriving
34 that at least 51 percent of its gross revenue be from the sale of food and nonalcoholic beverages.
- 35 (2) Any motel and/or hotel with a special motel/hotel alcoholic beverage retail license, having 100 or more
36 guestrooms.
- 37 (3) Any private club, golf club, country club, civic or fraternal club may serve alcoholic beverages for
38 consumption on-premises when such service is incidental to the main use, and for the exclusive use of
39 the members, tenants and/or guests of the facility.

40 ~~(Ord. No. 02-12, § 3, 3-4-2002)~~

1 **Sec. 4-34. Required information.**

2 In addition to the application required by the department of business and professional regulation, division of
3 alcoholic beverages and tobacco, the applicant shall submit a site plan to the city showing the following:

- 4 (1) Dimensions of subject premises;
- 5 (2) All vehicular points of ingress and egress;
- 6 (3) Distance from any use identified in section 4-32 above; and
- 7 (4) Compliance with all requirements of the land development code including landscaping, off-street
8 parking, buffer areas, and location and size of all signs.

9 **Sec. 4-35. Expiration of zoning approval.**

10 The community development director's approval for the sale of alcoholic beverages for consumption on-
11 premises, granted pursuant to this article, shall expire after the following periods of time and shall thereafter
12 become null and void:

- 13 (1) In the case of an existing structure, zoning approval shall expire six months from the date of approval
14 unless, within that period of time, operation of the alcoholic beverage establishment has commenced.
15 For purposes of this section, operation shall be defined as the sale of alcoholic beverages in the normal
16 course of business.
- 17 (2) In the case of a new structure, zoning approval shall expire one year from the date of approval unless,
18 within that period of time, operation of the alcoholic beverage establishment has commenced. However,
19 if substantial construction is completed, the development services director may grant an extension for
20 up to six months.

21 **Sec. 4-36. Waiver-Variance of district distance requirements.**

22 (a) ~~The After a public hearing and recommendation by the planning board, the board of zoning appeals may city~~
23 ~~council is authorized to, by resolution, grant waiver of part grant a variance from or all of~~ the minimum
24 distance requirement set forth in section 4-32, ~~subsections (1) and (2), if it is demonstrated by the applicant~~
25 ~~and determined by the board of zoning appeals upon determining~~ that the site proposed for the sale and
26 consumption of alcoholic beverages is separated from an established school, child care center, public library,
27 ~~church~~ place of worship, public park, ~~or~~ public playground, or existing establishment by natural or manmade
28 boundaries, structures or other features or circumstances which offset or limit the necessity for such minimum
29 distance requirement.

30 (b) Variances under this section are subject to the procedures and requirements for variances set forth in section
31 30-65 of the land development code, provided that the standard for granting a variance in section 4-36(a) shall
32 apply in lieu of those in section 30-65(g)(3). ~~The board of zoning appeals decision to waive part or all of the~~
33 ~~distance requirement city council~~ shall consider the following factors:

- 34 (1) The nature and type of natural or manmade boundary, structure or other feature lying between the
35 proposed establishment and an existing school, child care center, public library, church, public park or
36 public playground which is determined by the board of zoning appeals to lessen the need for the total
37 500-foot distance requirement. Such boundary, structure or other feature may include, but not be
38 limited to, lakes, marshes, non developable wetlands, designated preserve areas, canals, and major
39 rights-of-way.
- 40 (2) The paths of vehicular and pedestrian traffic, which could be taken between the establishment and the
41 uses listed in this section ~~school, child, care center, public library, church, public park or public~~
42 ~~playground.~~

1 (3) The hours of operation and the noise and light which could potentially be generated from the premises
2 selling alcoholic beverages.

3 (4) Whether alcoholic beverages will be sold in conjunction with food or whether the establishment is
4 primarily engaged in the sale of alcoholic beverages as a primary use.

5 ~~(b) Further, after a public hearing and recommendation by the planning board, the board of zoning appeals may,
6 by resolution, grant waiver of part or all of the minimum distance requirement set forth in section 4-32,
7 subsections (3) and (4), if it is demonstrated by the applicant and determined by the board of zoning appeals
8 that the site proposed for the sale and consumption of alcoholic beverages is separated from another such
9 establishment by features or circumstances which offset or limit the necessity for such minimum distance
10 requirement. The board of zoning appeals decision to waive part or all of the distance requirement shall
11 consider the following factors:~~

12 ~~(1) The establishment is located within a shopping center containing a gross leasable floor area of at least 25,000
13 square feet.~~

14 ~~(2) The establishment fronts upon an arterial, collector or local collector street as shown on the "Existing 2000
15 Island Road Network", contained in the comprehensive plan.~~

16 ~~(3) The establishment can accommodate all required parking on-site.~~

17 ~~(4) The establishment is located in a commercial zoning district abutting the residential tourist (RT) zoning district,
18 if applicable.~~

19 ~~(c) Prior to consideration of such waiver by the planning board and the board of zoning appeals, the applicant
20 shall provide to the community development director a written application for waiver of the distance limitation
21 on an application form supplied by the community development director, including a legal description of all
22 applicable structures with a survey or boundary sketch to scale, and such other information which the
23 applicant can supply which would assist the planning board and the board of zoning appeals in their evaluation
24 pursuant to the factors set forth above.~~

25 ~~(d) Upon receipt of the application and the applicable fee, established by city council, public hearing dates shall
26 be scheduled before the planning board and board of zoning appeals for a determination on the proposed
27 waiver. The applicant shall notify, by certified mail, the owners, or representatives of the subject school,
28 childcare center, public library, church, public park, public playground, or other establishment(s) of the
29 application at least 15 days prior to the public hearings; and evidence of such notification shall be supplied to
30 the community development director.~~

31 **Sec. 4-37. Statement of gross receipts.**

32 Any owner or operator of an establishment exempted under section 4-33(1) shall upon written ~~demand~~
33 request of the ~~city manager~~ community development director, produce an affidavit attesting to the ~~make or cause to~~
34 be made under oath a statement itemizing what percentage of his ~~the establishment's~~ gross receipts are from the
35 sale of alcoholic beverages.

36 **Chapter 6 BUILDINGS AND BUILDING REGULATIONS**

37 **ARTICLE I. IN GENERAL**

38 ~~Sec. 6-1.~~ [Sec. 6-1 moved to new Article VII]

39 **Secs. 6-~~12~~—6-30. Reserved.**

ARTICLE II. CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS

Sec. 6-31. Title of article.

This article shall be known and may be cited as the "City of Marco Island Construction Board of Adjustment and Appeals Ordinance."

Sec. 6-32. 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. These definitions are supplemental to the definitions in section 1-2 of this code. The definitions in this section shall prevail in case of conflict.:

Board means the construction board of adjustment and appeals.

Building official means the authorized agent or employee of the city whose duty it is to enforce and interpret the construction codes of the city.

City attorney means the legal counsel to the council.

~~Construction board means the city construction board of adjustment and appeals.~~

Person means an individual, association, firm, partnership, corporation, or other legal entity recognized under the laws of the state.

Secretary of the board means the building official, who shall make a detailed record of all of the construction board's proceedings, which shall set forth the reasons for the construction board's decision, the vote of each member, the absence of a member and any failure of a member to vote.

Technical codes means those construction-related codes adopted by the city through article III of this chapter, and chapter 26, article II (floodplain management).

Variance means the ability of the construction board to vary the application of any provision of the technical codes to any particular case, when, in the opinion of the construction board, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of the technical codes or public interest.

Sec. 6-33. Penalties.

Violations of this article are punishable according to the penalties and procedures set forth in chapter 14 of this code.

~~(a) Pursuant to F.S. § 162.22, a person found to be in violation of this article may be charged a fine, not to exceed \$500.00, and may be sentenced to a definite term of imprisonment, not to exceed 60 days.~~

~~(b) Violations of this article may also be prosecuted before the code enforcement board.~~

Sec. 6-34. Findings; purpose of article.

The city council ~~does~~ hereby make the following findings:

- (1) It is the intent and purpose of this article to promote, protect and improve the health, safety and welfare of the citizens of the city, and to provide a forum for aggrieved parties, by authorizing the creation of a construction board of adjustment and appeals ("construction board"), with authority to hear appeals of decisions and interpretations of the building official and consider variances ~~offrom~~ from the technical codes ~~and chapter 26, article II (floodplain management).~~

1 (2) The purpose and function of ~~such the construction~~ board ~~of adjustment and appeals~~ is to provide an
2 equitable, expeditious, effective and inexpensive method ~~for deciding such to~~ appeals ~~the decisions and~~
3 ~~interpretation of the building official~~ and ~~to consider~~ variances ~~of the technical codes and chapter 26,~~
4 ~~article II (floodplain management).~~

5 (3) It is in the best interest of the citizens of the city to create ~~such at the construction~~ board ~~of adjustment~~
6 ~~and appeals.~~

7 **Sec. 6-35. Reserved ~~Applicability of article.~~**

8 ~~This article shall apply within the territorial limits of the city.~~

9 **~~Sec. 6-36. Membership; compensation of members; appointment and term of members.~~**

10 ~~(a) The council shall appoint one seven member sit as the construction board. All members of the construction~~
11 ~~board shall be permanent residents and electors of the city and shall serve without compensation. Members~~
12 ~~may be reimbursed for such travel, mileage and per diem expenses as may be authorized, in advance, by~~
13 ~~council.~~

14 ~~(b) The procedures to solicit and appoint members to the construction board shall be consistent with procedures~~
15 ~~found in section 2-203.~~

16 ~~(c) The appointment of members to the construction board shall be made on the basis of knowledge and~~
17 ~~experience in the technical codes, and should include, whenever possible, an architect, an engineer, two~~
18 ~~general contractors, two subcontractors, and a businessperson.~~

19 ~~(d) The initial terms of appointment for members shall be as follows:~~

20 ~~(1) Two members appointed for a term of one year.~~

21 ~~(2) Two members appointed for a term of two years.~~

22 ~~(3) Two members appointed for a term of three years.~~

23 ~~(4) One member appointed for a term of four years.~~

24 ~~(e) If any member's term expires during the pendency of any appeal or variance petition which has not reached~~
25 ~~conclusion by a final vote, such member's expired term shall be extended for the limited time and limited~~
26 ~~purpose of presiding over such particular appeal or variance petition until conclusion and final vote.~~

27 ~~(f) After initial appointments, all appointments shall be made for a term of four years. Reappointment to the~~
28 ~~construction board, attendance requirements, and vacancies shall be addressed in a manner consistent with~~
29 ~~procedures established by chapter 2, article IV.~~

30 ~~(g) Notwithstanding the provisions outlined in subsections (a)–(f) above, city council may, by resolution,~~
31 ~~designate itself as a body to serve as the city's construction board of adjustment and appeals, consistent with~~
32 ~~the powers and duties contained in this article.~~

33 **~~Sec. 6-37. Officers; voting; rules of procedure; staff support; reports.~~**

34 ~~(a) *Officers.* At the first meeting of the construction board, the members shall elect a chairman and vice chairman,~~
35 ~~who shall be voting members, from among the members of the construction board. The terms of the chairman~~
36 ~~and vice chairman shall be one year.~~

37 ~~(b) *Voting.* A simple majority of the construction board shall constitute a quorum. In varying any provision of those~~
38 ~~construction related codes adopted by the city through article III of this chapter (the technical codes) or~~
39 ~~chapter 26, article II (floodplain management), the affirmative vote of the majority present, but not less than~~
40 ~~three affirmative votes, shall be required. In modifying a decision of the building official, not less than four~~
41 ~~affirmative votes of the construction board shall be required.~~

1 ~~(c) *Rules of procedure.* The construction board shall establish rules and regulations for its own procedures, as it~~
2 ~~deems necessary to carry out the its duties of the construction board in accordance with the provisions and~~
3 ~~intent of this article. The construction board shall consult chapter 2, article IV for guidance in developing rules~~
4 ~~of procedure.~~

5 ~~(d) *Staff support.* The council shall provide such clerical and administrative personnel and legal services as may be~~
6 ~~reasonably required for the proper performance of the duties of the board.~~

7 (e) *Reports.* The construction board secretary (building official) shall provide to the council written quarterly
8 reports of the activities of the construction board, which report shall delineate the name of the
9 appeal/interpretation heard for the quarter, the date of hearing, and the resolution of the
10 appeal/interpretation. This paragraph shall not apply if the council serves as the construction board.

11 **Sec. 6-38. Composition and pPowers.**

12 (a) *Generally.* The city council shall serve as the ~~construction board, of adjustment and appeals which~~ shall have
13 the power to hear appeals of decisions and interpretations of the building official and consider variances of
14 construction-related from technical codes, as defined in section 6-32 adopted by the city through article III of
15 this chapter (technical codes) and chapter 26, article II (floodplain management).

16 (b) *Appeal of decisions of the building official.* The owner of a building, structure or service system, ~~or his duly~~
17 ~~authorized agent,~~ may appeal a decision of the building official to the ~~construction board~~ whenever any one
18 of the following conditions is claimed to exist:

19 (1) The building official rejected or refused to approve the proposed mode or manner of construction
20 ~~proposed to be followed~~ or materials to be used in the installation or alteration of a building, structure
21 or service system.

22 (2) The provisions of the technical codes ~~or chapter 26, article II (floodplain management)~~ do not apply to a
23 specific case.

24 (3) An equally good or more desirable form of installation can be employed in ~~any~~ specific case.

25 (4) The true intent and meaning of the technical codes, ~~chapter 26, article II (floodplain management), or~~
26 ~~any of the regulations thereunder~~ have been misconstrued or incorrectly interpreted.

27 (c) *Variances.*

28 (1) *Granting.* The ~~construction board, when so appealed to and after a hearing,~~ may approve a petition
29 requesting vary a variance from the application of any provision of those construction-related codes
30 ~~adopted by the city through in~~ article III of this chapter (technical codes) or chapter 26, article II
31 (floodplain management), to ~~any~~ particular ease property, when, ~~in its opinion,~~ following the conclusion
32 of a quasi-judicial public hearing, noticed in accordance with section 1-15 of this code, the board finds
33 that the enforcement thereof would do manifest injustice and would be contrary to the spirit and
34 purpose of the provision from which the variance is sought ~~article III of this chapter or chapter 26, article~~
35 ~~II,~~ or the public interest, and also finds all of the following:

36 a. Special conditions and circumstances exist which are peculiar to the building, structure or service
37 system involved and which are not applicable to others.

38 b. The special conditions and circumstances do not result from the action or inaction of the applicant.

39 c. Granting the variance requested will not confer on the applicant any special privilege that is denied
40 by the technical codes to other buildings, structures or service systems.

41 d. The variance granted is the minimum variance that will make possible the reasonable use of the
42 building, structure or service system.

43 e. The grant of the variance will be in harmony with the general intent and purpose of ~~those~~
44 construction-related the technical codes adopted by the city through article III of this chapter

(technical codes) or chapter 26, article II (floodplain management), and will not be detrimental to the public health, safety and general welfare.

- (2) *Conditions.* In granting the variance, the ~~construction~~ board may prescribe a reasonable time limit ~~within which the action for which the variance is required shall be for the proposed improvement to be commenced,~~ or completed or both. In addition, the ~~construction~~ board may prescribe appropriate conditions and safeguards in conformity with ~~the~~ ~~those construction-related~~ technical codes adopted by the city through article III of this chapter (technical codes) or chapter 26, article II (floodplain management). Violation of the conditions of a variance shall be deemed a violation of this ~~article~~ chapter.

9 **Sec. 6-39. Fees.**

10 The city council shall establish, by resolution, a schedule of fees for the filing of appeals, ~~and~~ variances under
11 this article and interpretations before the construction board of adjustments and appeals. The city council may
12 change, delete, or add to the listed fees by resolution.

13 **Sec. 6-40. ~~Notice of a~~ Appeal procedure.**

- 14 (a) ~~Appeals shall follow the procedure in section 1-15 of this code. notice of appeal under this article shall be filed~~
15 ~~with the City Clerk on the applicable city application form with all requisite materials on the form in writing and~~
16 ~~filed within 30 calendar days after the decision is rendered by the building official. Appeals shall be in a form~~
17 ~~acceptable to the building official.~~
- 18 ~~(b) The construction board shall meet as necessary at the call of the chairmanperson. The chairmanperson shall~~
19 ~~call for a meeting within 30 calendar days after a notice of appeal has been received and found to be in an~~
20 ~~acceptable form by the building official.~~
- 21 ~~(c) The building official shall be responsible for promptly notifying the applicant, by certified mail, of the date,~~
22 ~~time and location of the meeting at which the appeal will be heard. The building official will prepare an agenda~~
23 ~~and a report summarizing the appeal and all pertinent support material. The agenda and staff report is to be~~
24 ~~made available to construction board members and the applicant no later than seven days prior to the meeting~~
25 ~~date. Applicants who elect to prepare and provide a written report should deliver such report at least ten days~~
26 ~~prior to the meeting date.~~
- 27 ~~(d) The building official is responsible for ensuring that the meeting is sufficiently noticed in a newspaper of~~
28 ~~general circulation at least 14 days prior to the meeting date, and further that notice of the meeting is posted~~
29 ~~at the office of the building official and at city hall.~~
- 30 (e) In the case of a building, structure or service system which, in the opinion of the building official, is unsafe,
31 unsanitary or dangerous, the building official's ~~may, in his~~ order, may shall reduce the length of the appeal
32 period to ten calendar days ~~limit the time for such appeals to a shorter period.~~

33 **~~Sec. 6-41. Decisions.~~**

- 34 ~~(a) The construction board of adjustment and appeals shall, in every case, reach a decision without unreasonable~~
35 ~~or unnecessary delay. Each decision of the construction board shall also include the reasons for the decision.~~
36 ~~If a decision of the construction board reverses or modifies a refusal, order, or disallowance of the building~~
37 ~~official, or varies the application of any provision of the technical codes, the building official shall immediately~~
38 ~~take action in accordance with such decision. Every decision shall be promptly filed in writing in the office of~~
39 ~~the building official and shall be open to public inspection. A certified copy of the decision shall be sent by mail~~
40 ~~or otherwise to the applicant and a copy shall be kept publicly posted in the office of the building official for~~
41 ~~two weeks after filing. Every decision of the construction board shall be final.~~

1 ~~(b) The building official shall act as secretary of the construction board and shall promptly make a detailed record~~
2 ~~of all of its proceedings, which shall set forth the reasons for its decision, the vote of each member, the absence~~
3 ~~of a member and any failure of a member to vote.~~

4 ~~**Sec. 6-42. Remedies for aggrieved parties.**~~

5 ~~Every decision of the construction board of adjustment and appeals shall be final, subject, however, to such~~
6 ~~remedy as any aggrieved party might have at law or in equity.~~

7 **Secs. 6-423—6-70. Reserved.**

8 **ARTICLE III. BUILDING CONSTRUCTION CODE**

9 **DIVISION 1. RESERVED**

10 **Secs. 6-71—6-80. Reserved.**

11 **DIVISION 2. SEAWALLS AND REVETMENTS**

12 **Sec. 6-81. Applicability.**

13 This division applies to all seawalls on salt water bodies. This division shall not apply to seawalls surrounding
14 fresh water bodies.

15 **Sec. 6-82. Definitions.**

16 As used in this division, the following words shall have the following meanings. These definitions are
17 supplemental to the definitions in section 1-2 of this code. The definitions in this section shall prevail in case of
18 conflict.:

19 *Anchor.* The buried portion of the tieback rod that is typically a reinforced concrete block, which engages the
20 soil to resist the pull on the tieback rod, also known as a deadman.

21 *Batter.* The angle from plumb (vertical) deliberately constructed for a bearing pile.

22 *Concrete cap.* The structural element on top of the seawall panels.

23 ~~*City.* The City of Marco Island, Collier County, Florida.~~

24 *Exposed height.* The distance measured from the top of the toe-berm to the top of the seawall cap.

25 *Failed seawall or revetment.* A seawall or revetment that has failed structurally for purposes of this division is
26 one that has collapsed or no longer functions to stabilize the shoreline.

27 *Filter fabric.* A geosynthetic fabric manufactured specifically as a filter to inhibit soil movement through the
28 fabric while allowing water to move through it. The fabric shall comply with Florida Department of Transportation
29 specification for woven fabric specifically used for shore protection and filter applications.

30 *French drain.* Stone wrapped with filter fabric to direct water to seawall weep holes to reduce hydrostatic
31 pressure on the seawall.

1 *Minor repairs.* Those repairs that do not include work on existing reinforcing steel or tiebacks, epoxy injection
2 of concrete cracks, or replacement of seawall components. Examples of minor repairs include exterior coatings and
3 repair of concrete spalling that does not have exposed reinforcing steel.

4 *N.A.V.D.* North American Vertical Datum of 1988.

5 *Pre-construction depth.* The depth profile of the waterway in front of and to either side of the seawall requiring
6 repairs prior to initiation of construction. Impact from soil migration into the waterway from the seawall property
7 does not affect pre-construction depth.

8 *Return wall.* The portion of a seawall that is parallel to and abutting the adjacent property line. The wall
9 provides anchorage and stability to the seawall and provides soil containment.

10 *Revetment.* A sloping structure that serves to separate real property and/or improvements thereon from any
11 natural or manmade body of water.

12 *Riprap.* Stone placed on filter fabric to aid in stabilizing soil.

13 *Seawall.* Any solid vertical structure, which serves to separate landward real property and/or any
14 improvements thereon from any natural or manmade body of water.

15 *Sheet pile.* Preformed structural element providing vertical stability and separation of soil from an adjacent
16 waterway.

17 *Tieback system.* The structural system installed to laterally support the seawall. This system typically consists
18 of a steel rod with one end embedded into the cap and a buried concrete anchor attached to the other end of the
19 rod. However, it could be another assembly performing the same function such as a screw anchor.

20 *T-pile seawall.* Seawall consisting of specially formed support piles that support sheet piles horizontally with a
21 concrete cap and tieback at each pile.

22 *Technical Specification.* Construction regulations for seawalls and revetments adopted by resolution by the
23 city council.

24 *Tieback rod.* The rod connecting the cap to the anchor; part of the tieback system.

25 *Toe berm.* Soil on waterward side of seawall, typically underwater.

26 *Turbidity barrier.* A floating geotextile barrier that confines turbid water to the immediate construction area
27 in accordance with state law.

28 *Waler/wale.* A horizontal structural element laterally supporting sheet piles. A concrete cap typically performs
29 this function, but a wale can be positioned vertically anywhere along the height of the sheet piles.

30 *Waterward face.* For purposes of subsection 6-85(5)b., the measurement shall be from the seaward face of
31 the existing seawall panel to the seaward face of the restored seawall panel; for purposes of measurements related
32 to dock protrusion and to required yards, if a wall in front of an existing wall is used, the waterward face shall be
33 synonymous with the wet face, and shall be measured from the face of the existing (encapsulated) face.

34 *Weep hole.* A hole through a sheet pile to allow water from behind the sheet pile to drain through the wall
35 without allowing loss of soil.

36 (Ord. No. 06-18, § 3, 12-4-2006; Ord. No. 10-02, § 2, 3-15-2010; Ord. No. 11-06, § 2, 6-20-2011; Ord. No. 14-09, § 2,
37 9-22-2014)

38 **Sec. 6-83. Failed seawall or revetment declared to be unlawful and a public nuisance.**

39 It is hereby declared unlawful and a public nuisance for any ~~Marco Island~~ property owner to allow, or fail to
40 repair or reconstruct, a failed seawall or revetment on the owner's property. Within 60 days of notification from the
41 city of a failed seawall or revetment ~~by the City of Marco Island~~, the property owner ~~or his representative~~ shall
42 submit a complete building permit application to the building services division, or otherwise provide proof of

1 contract with a licensed Florida engineer, for repair or replacement of ~~the a~~ failed seawall or revetment. Property
2 owners who disagree with the ~~city's~~ determination ~~of the City of Marco Island~~ that a seawall or revetment has failed,
3 may provide, ~~within 60 days,~~ an independent inspection report ~~within 60 days of notification, which shall be~~
4 ~~prepared completed and certified~~ by a licensed Florida engineer, describing the condition of the seawall or
5 revetment.

6 **Sec. 6-84. ~~Other enforcement remedies and penalties Reserved.~~**

7 ~~Violation of the provisions of this division, or failure to comply with any of the provisions of this division shall~~
8 ~~be subject to those penalties set forth in section 1-14 of this Code. The city may take any other lawful action in any~~
9 ~~court of competent jurisdiction as is necessary to prevent or remedy any failure or refusal to comply with any of the~~
10 ~~provisions of this division. Nothing in this section shall be construed to prohibit the city from prosecuting any~~
11 ~~violation of this division by means of a code enforcement board established pursuant to the authority under F.S. ch.~~
12 ~~162, and chapter 14, article II of this Code. All remedies and penalties provided for in this division shall be cumulative~~
13 ~~and independently available to the city.~~

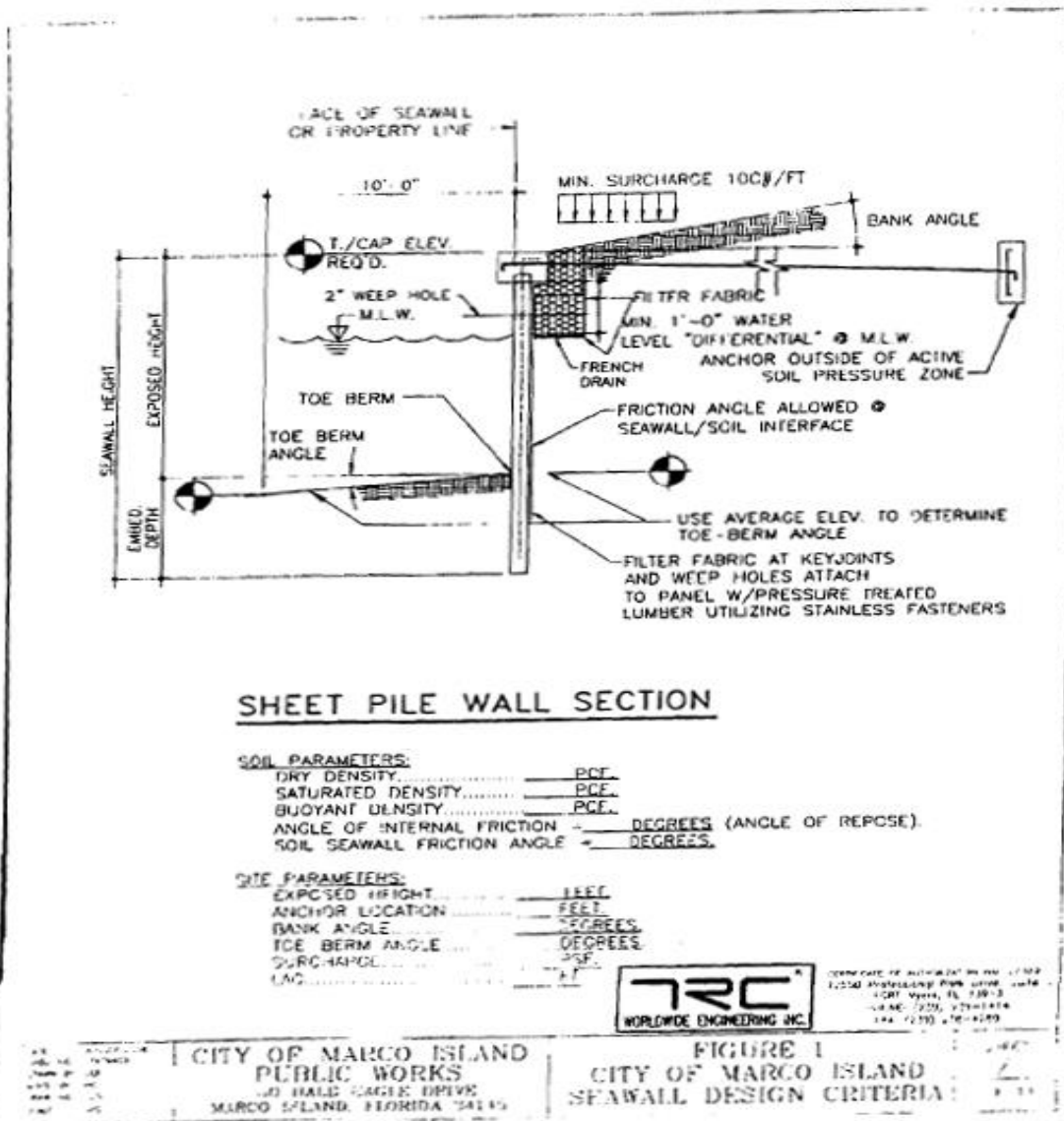
14 **Sec. 6-85. Technical specification for seawalls and revetments.**

15 The city shall adopt ~~by a~~ resolution ~~establishing~~ the technical specifications ~~that establishes and~~ minimum
16 performance based standards for seawall and revetment construction and repair. Site-specific designs and
17 specifications are required and shall be appropriate for conditions at each location and construction materials
18 employed. All seawalls and revetments constructed, reconstructed, repaired, or altered in the city after the effective
19 date of this division shall meet or exceed this technical specification as follows:

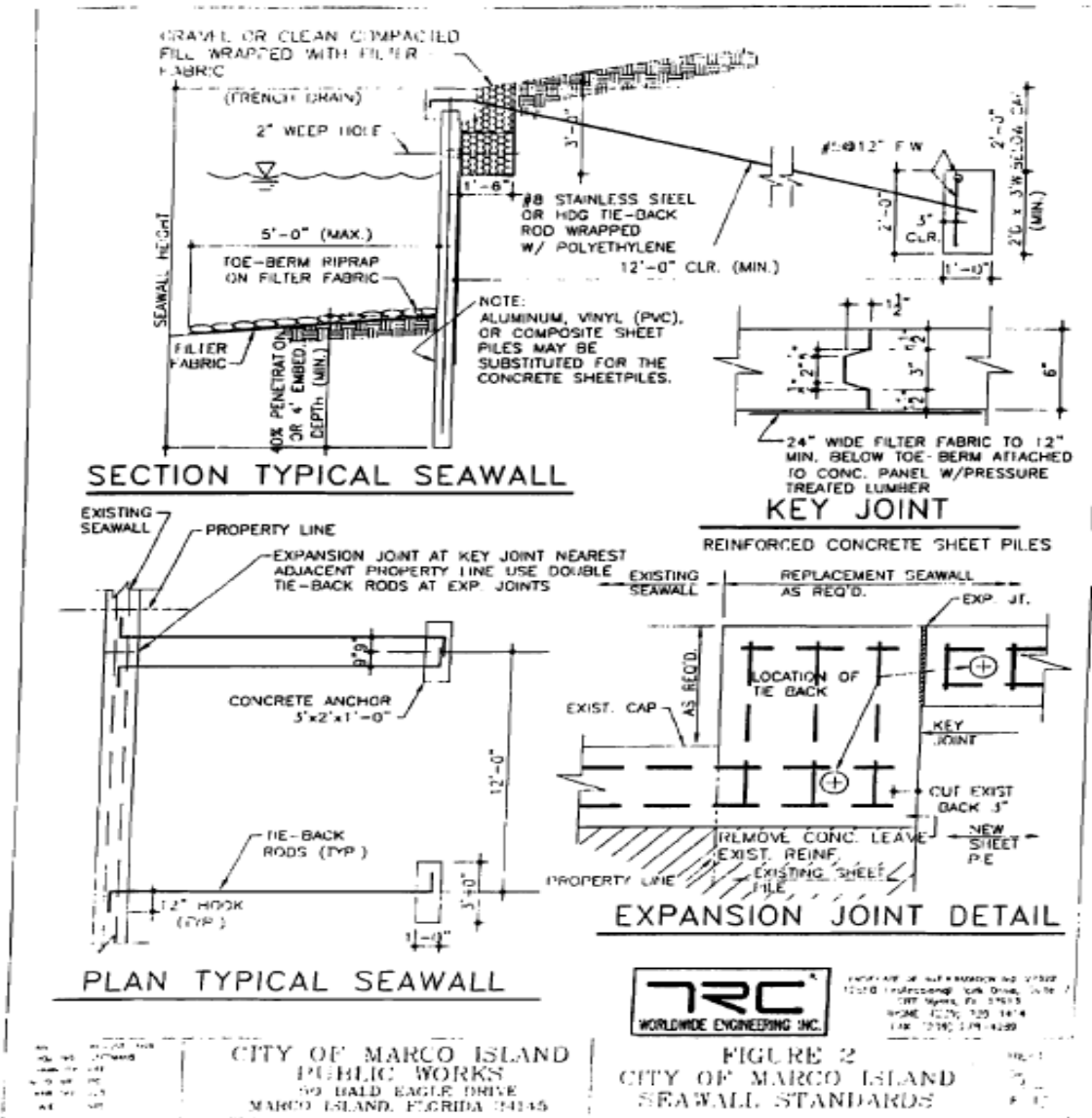
- 20 (1) Minor repairs to the seawall or revetment that do not require physical alteration to the existing structural
21 support system are exempt from the technical specification.
- 22 (2) Major repairs to the seawall or revetment that requires replacement of any portion of the structural
23 support system, shall comply with all applicable ~~provisions of the technical~~ specifications for that portion
24 of the seawall or revetment. Repairs shall restore the original integrity of the seawall or revetment.
- 25 (3) Reconstruction of any seawall or revetment requiring complete reinstallation of the sheet pile portion
26 of the structural support system, or any new seawall or revetment section installed adjacent to or
27 independent from any existing seawall or revetment shall comply with all applicable ~~provisions of the~~
28 ~~technical~~ specifications for that portion of the seawall or revetment.
- 29 (4) Seawalls shall be placed so that the waterward face of the wall is coincidental with the platted property
30 or bulkhead line, if one exists, or at the intersection of the mean high water line with the existing
31 shoreline. Upon specific request to the city, an administrative variance to the above may be approved
32 by the city for seawalls that were originally constructed with an intentional offset from the property line,
33 provided the offset shall not be increased.
- 34 (5) The placing of a new seawall waterward (in front of) of an existing seawall is permitted in ~~an~~ artificially
35 created waterway such as a manmade canal/basin or in a natural or man-altered waterbody in
36 accordance with ~~Rule 62-330.051 and any other applicable state requirements 40E-4.051(4)(a), (b), and~~
37 ~~(c) of Florida Administrative Code (F.A.C.),~~ pursuant to the following conditions:
 - 38 a. A Florida registered professional engineer certifies the new seawall design.
 - 39 b. The new seawall does not extend more ~~then than~~ 18 inches from the waterward face of the existing
40 vertical seawall location.
 - 41 c. The new seawall is placed vertically plumb.
 - 42 d. Placing a seawall in front of an existing seawall shall only be permitted once.
 - 43 e. Existing seawall sections that interfere with new seawall location shall be removed.

- 1 f. The new seawall shall include an adequate "closure" at each property line.
- 2 (6) The placing of a new seawall waterward (in front of) of an existing seawall where the seawall is located
3 on sovereign submerged land (Barfield Bay) may qualify for a consent by rule (18-21.005(l)(b), F.A.C.) or
4 a letter of consent (18-21.005(l)(c), F.A.C.) if it meets the regulatory exemption criteria listed in these
5 rules. All seawalls shall comply with state and federal permitting requirements.
- 6 (7) The top of cap elevation for all replacement and new seawalls and top elevation for all other revetments
7 shall be equal to or greater than 3.2 feet N.A.V.D. but not exceeding 4.2 feet N.A.V.D. If the top of a
8 seawall cap is constructed at an elevation differing from the adjacent property's ~~owner~~ top of cap
9 elevation by greater than one foot, then a return wall is required to sufficiently provide for the break in
10 grade at the property line.
- 11 (8) The city manager ~~or his designee~~ may approve after-the-fact height encroachments of up to three inches
12 for seawall caps for which a certificate of completion or a final development order has not been granted.
13 After-the-fact encroachments are subject to the following criteria:
- 14 a. A survey must be prepared and certified by a Florida licensed registered engineer or surveyor
15 identifying the exact location and size of the encroachment;
- 16 b. A statement of how and when the encroachment was created;
- 17 c. A statement of current ownership and ownership at the time the encroachment was created;
- 18 d. A letter of no objection from each adjacent property owner;
- 19 e. Any other factors which may show the encroachment was not intentionally created; and
- 20 f. Payment of any applicable fees imposed by the city council.
- 21 (9) A property owner desiring shoreline protection may request permission from the city to construct a
22 seawall or revetment. In general, revetments would be constructed adjoining natural bodies of water (if
23 allowed by the State of Florida), and seawalls adjoining manmade channels, or canals.
- 24 (10) A building permit is required for all seawall and revetment work. The building and planning divisions city
25 shall review the plans and specifications to determine compliance with the minimum requirements set
26 forth herein.
- 27 a. For minor repairs only, with a value of less ~~that than~~ \$2,500.00, the application for permit shall
28 include a drawing prepared by a licensed contractor with the legal description of the property
29 signed by the owner or contractor as owner's representative.
- 30 b. For all other seawall and revetment repair, alteration, reconstruction, or replacement, the
31 application for permit shall include two copies of scaled plans and specifications signed and sealed
32 by a professional engineer registered in the State of Florida including the legal description of the
33 property.
- 34 c. Seawall construction shall be ~~subject to inspections inspected~~ by the city ~~manager or his designee~~
35 ~~or the city manager or may accept inspections~~ by a licensed Florida professional engineer in lieu of
36 city staff, at the discretion of the building official, for the purpose of determining conformance of
37 seawall construction with the permitted plans and this division. A schedule of quality control and
38 inspections is given in the technical specification.
- 39 d. ~~Note there are State of Florida environmental regulations (F.A.C. ch. 40E-4) governing seawall and~~
40 ~~revetment work including exemptions to the state permit process. It remains the responsibility of~~
41 ~~the~~ The property owner where seawall and revetment work is to be performed is responsible for
42 complying with to comply with all state and federal regulations governing the work, including -
43 Additionally, the property owner shall comply with state and federal regulations concerning
44 vegetation affected by the work, including the disturbance and restoration of mangroves.

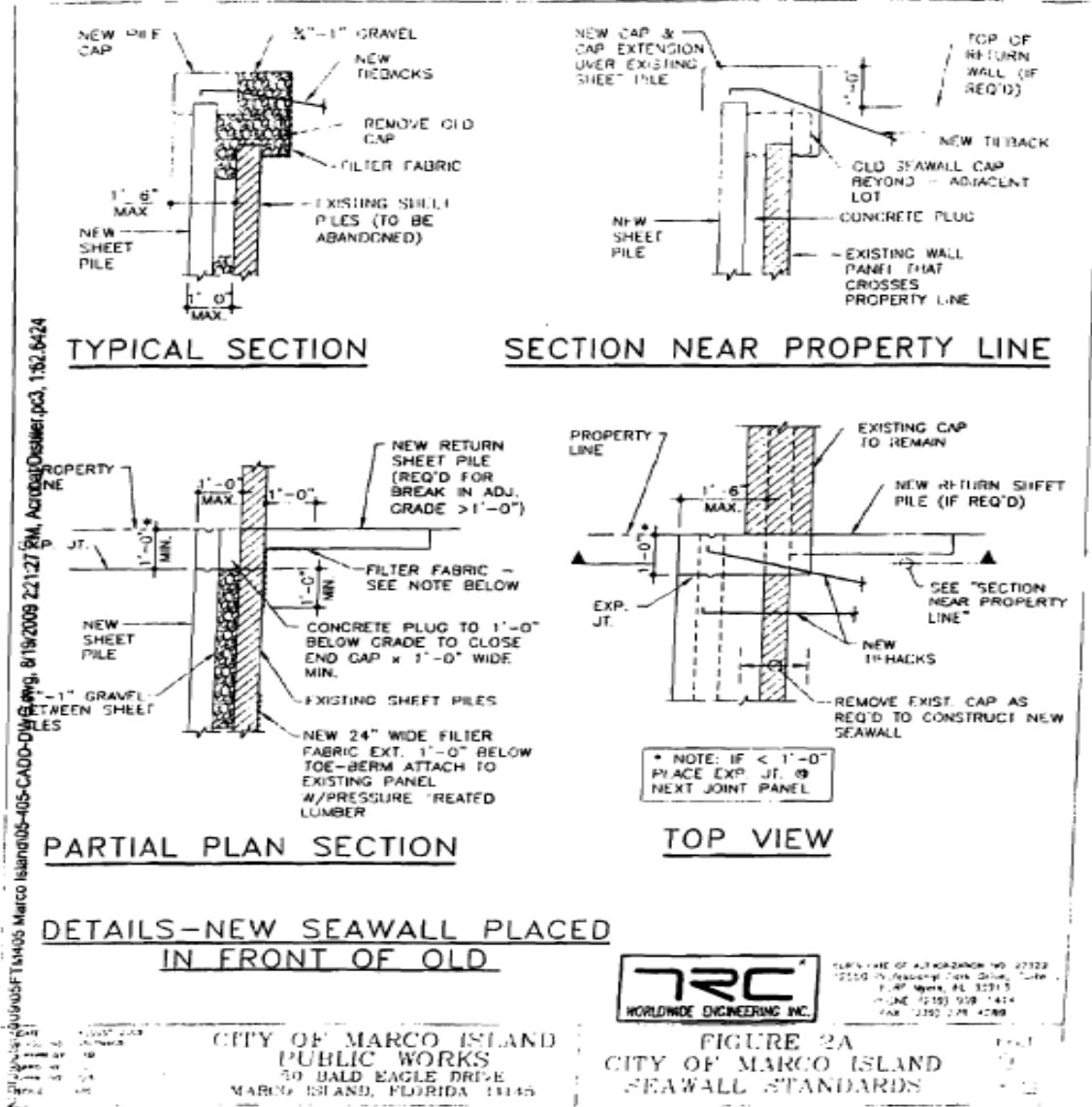
- 1 (11) Existing seawall construction does not coordinate with location of perpendicular platted property lines
 2 throughout the city. Accordingly, a burden exists on the property owners to cooperate during seawall
 3 repair or replacement. If the permitted seawall or revetment repair or replacement would require entry
 4 onto neighboring properties to properly locate and construct the seawall expansion, joint tie-in or return
 5 wall, the owner seeking the repair or replacement should seek permission from the neighboring property
 6 owner. If said neighbor owner consents to entry, a temporary construction easement or license should
 7 be obtained of approximately six feet by 17 feet adjacent to the seawall and common boundary to
 8 accommodate the construction. The property owner undertaking the repairs shall be responsible for
 9 restoring the neighboring property to pre-work condition prior to receipt of a certificate of completion.
 10 These repairs shall be completed prior to final inspection. Depending on job site conditions, or if the
 11 adjoining property owner does not consent to entry, the The seawall to be replaced or repaired shall
 12 include a return wall if the adjoining property owner does not consent to entry or if the building official
 13 determines that job site conditions warrant a return wall.
- 14 (12) Seawalls shall include adequate provision for pipe penetrations through the seawall as required by the
 15 city. The seawall design details for such penetrations shall be provided as part of the engineered design
 16 seawall plans for building permit.



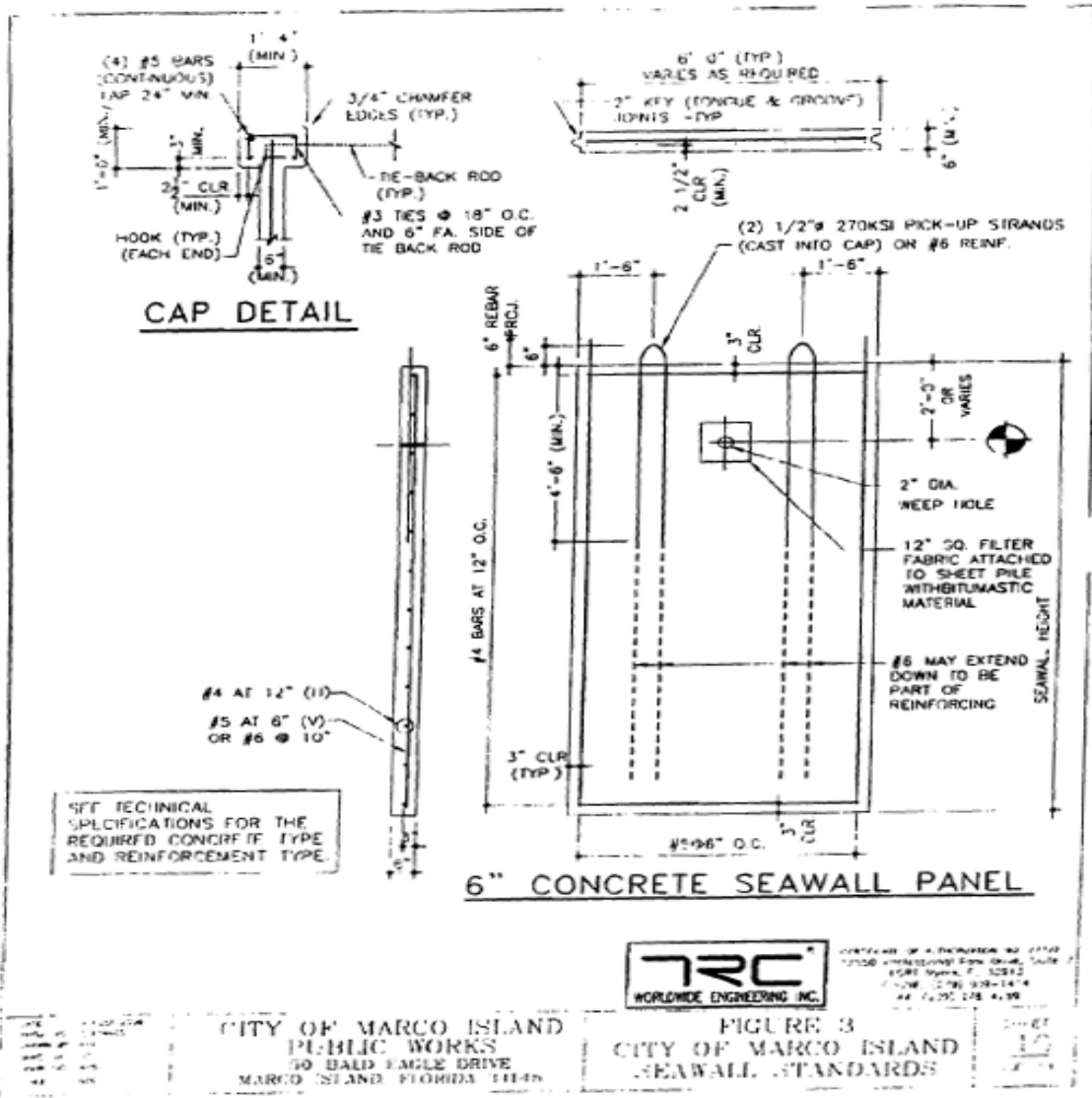
1 **FIGURE 1**
2



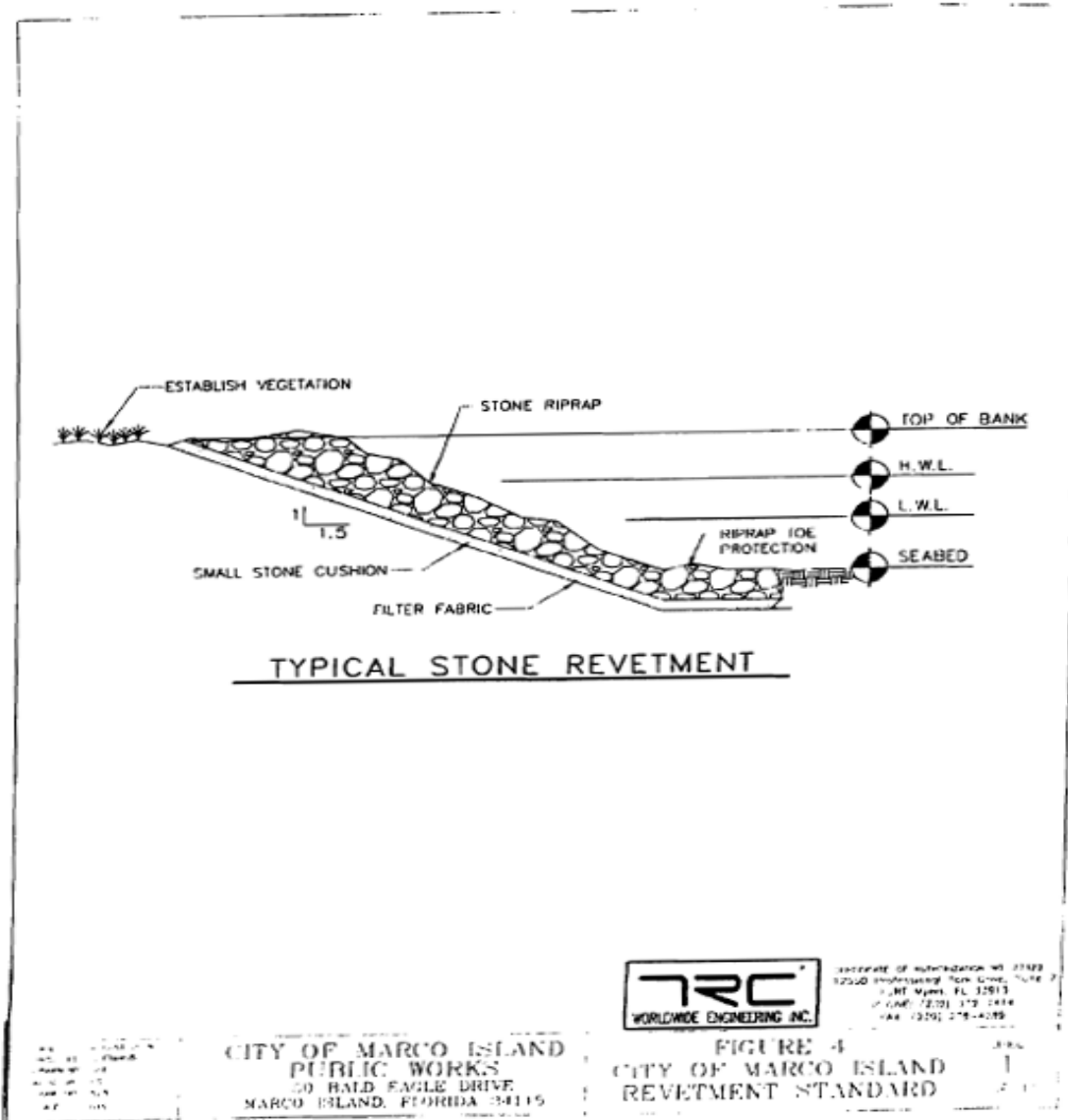
3
4 **FIGURE 2**
5



1
 2 **FIGURE 2A**
 3



- 1
- 2 **FIGURE 3**
- 3



1
2 **FIGURE 4**
3

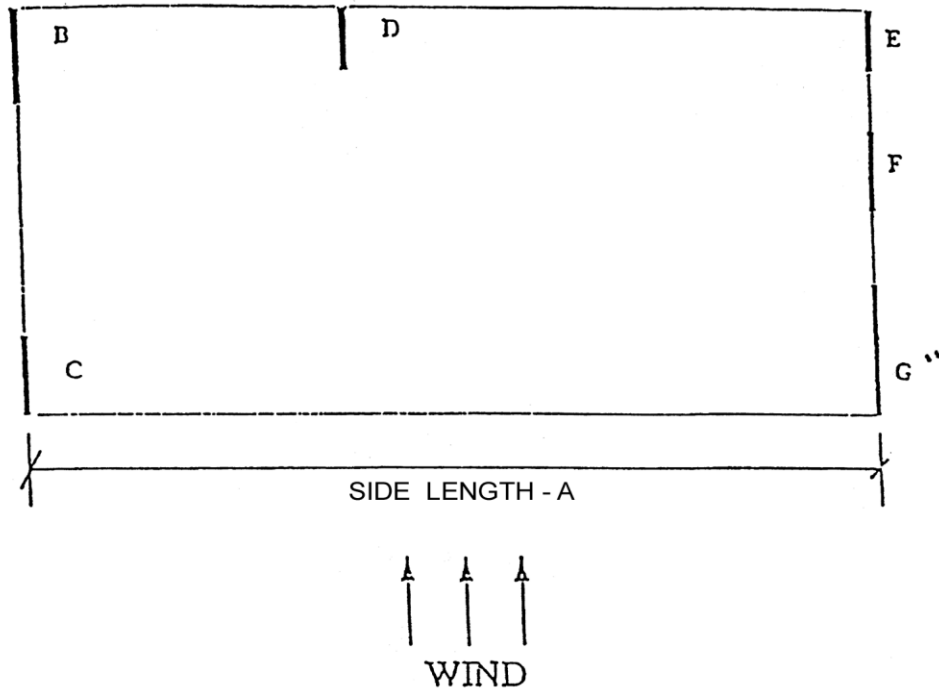
4 **Sec. 6-86. Other restrictions.**

5 It shall be unlawful to place an in-ground swimming pool or retaining wall waterward of seawall anchors or
6 within 15 feet of an existing seawall. Property owners are cautioned not to plant trees near the seawall because of
7 the possibility of damage to the wall by the root system.

8 **Sec. 6-87. Manufacture of precast seawall panels on vacant lots.**

9 Manufacture of seawalls and marine construction activities may be undertaken subject to all applicable rules
10 in [this code](#) ~~the Code of Ordinances~~, and subject to the specific requirements of ~~Code~~ section 30-793 ([construction](#)
11 [temporary use permit](#)).

1 Secs. 6-88—6-110. Reserved.



$$A \leq B+C+D+E+F+G$$

THE SUM TOTAL LENGTHS OF SHEARWALLS IN ANY DIRECTION SHALL BE EQUAL OR GREATER THAN THE LENGTH OF THE PERPENDICULAR SIDE LENGTH OF THE STRUCTURE

NOTES: (1) ALL DIRECTIONS SHALL BE CHECKED FOR SHEAR WALL REQUIREMENTS
(2) RECTANGULAR ELEMENTS OF NONRECTANGULAR BUILDINGS SHALL BE CONSIDERED SEPARATE BUILDINGS FOR DETERMINING SHEARWALLS. DRAG STRUTS MAY BE USED AT ADJOINING BUILDING SECTIONS TO MEET SHEAR-WALL REQUIREMENTS, IF CONNECTIONS FOR HORIZONTAL LOADS CAN BE MET.

2

3

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Exhibit 1

5

EXHIBIT 2

6

WOOD CONSTRUCTION SHEAR WALL REQUIREMENTS

7

Wind bracing (shear walls) shall be provided when frame construction (type VI) is used. The following standards may be used provided the structure is limited to a one-story building, has a roof pitch 6:12 or less and the ceiling height, at the perimeter of the wall, is ten feet or less. If the structure exceeds these limits, the construction documents shall be certified by an architect or a structural engineer.

11

SHEAR WALL DEFINITION

12

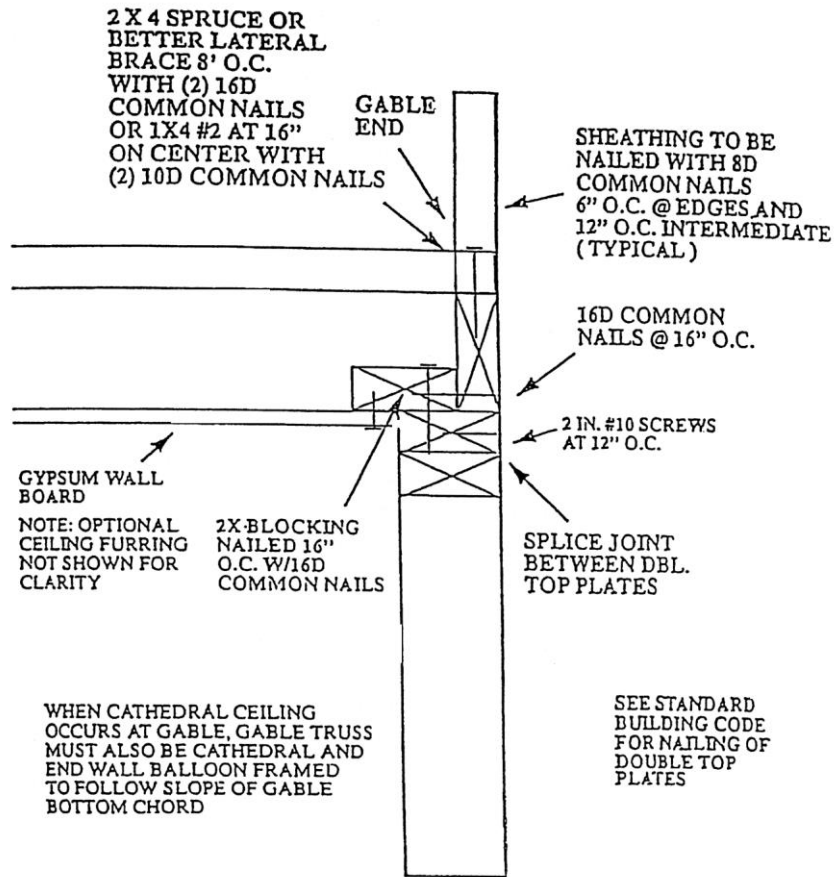
A shear wall shall:

13

- (a) Be no less than 4'0" wide and shall extend from floor to ceiling.

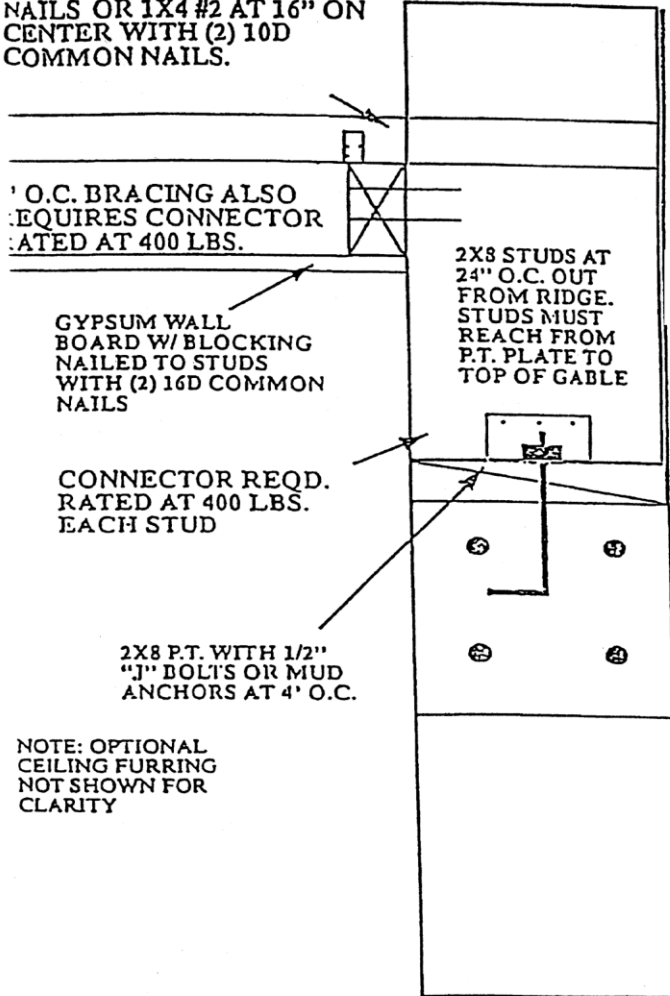
- 1 (b) Be constructed of 2" x 4", 16" o.c. and bolted to thickened slab or foundation wall with 1/2" round bolts
- 2 48" o.c. or minimum two bolts.
- 3 (c) Consist of 15/32" 4-ply CDX plywood or 15/32" OSB sheathing on one face of the shear wall and nailed
- 4 in accordance with section 1705.1. Solid 2' x 4' backing at all edges is required.
- 5 (d) Be firmly anchored to floor system, roof system and the intersecting side walls.
- 6 (e) Be provided and analyzed for wind loads in all directions using the following formula.
- 7 (f) The sum total lengths of shear walls in all directions shall be equal to or greater than the length of the
- 8 perpendicular side length of the structure.

9 If the structure exceeds any of these limitations, the shear walls, roof diaphragm, and all associated connection
 10 details shall be designed and certified by an architect or an engineer.



11
 12 Exhibit 3
 13

2. SPRUCE OR BETTER LATERAL
BRACE 8' O.C. WITH (2) 16D COMMON
NAILS OR 1X4 #2 AT 16" ON
CENTER WITH (2) 10D
COMMON NAILS.



SHEATHING TO BE
NAILED WITH 8D
COMMON NAILS
6" O.C. @ EDGES AND
12" O.C. INTERMEDIATE
(TYPICAL)

8' O.C. BRACING ALSO
REQUIRES CONNECTOR
RATED AT 400 LBS.

GYPSUM WALL
BOARD W/ BLOCKING
NAILED TO STUDS
WITH (2) 16D COMMON
NAILS

2X8 STUDS AT
24" O.C. OUT
FROM RIDGE.
STUDS MUST
REACH FROM
P.T. PLATE TO
TOP OF GABLE

CONNECTOR REQD.
RATED AT 400 LBS.
EACH STUD

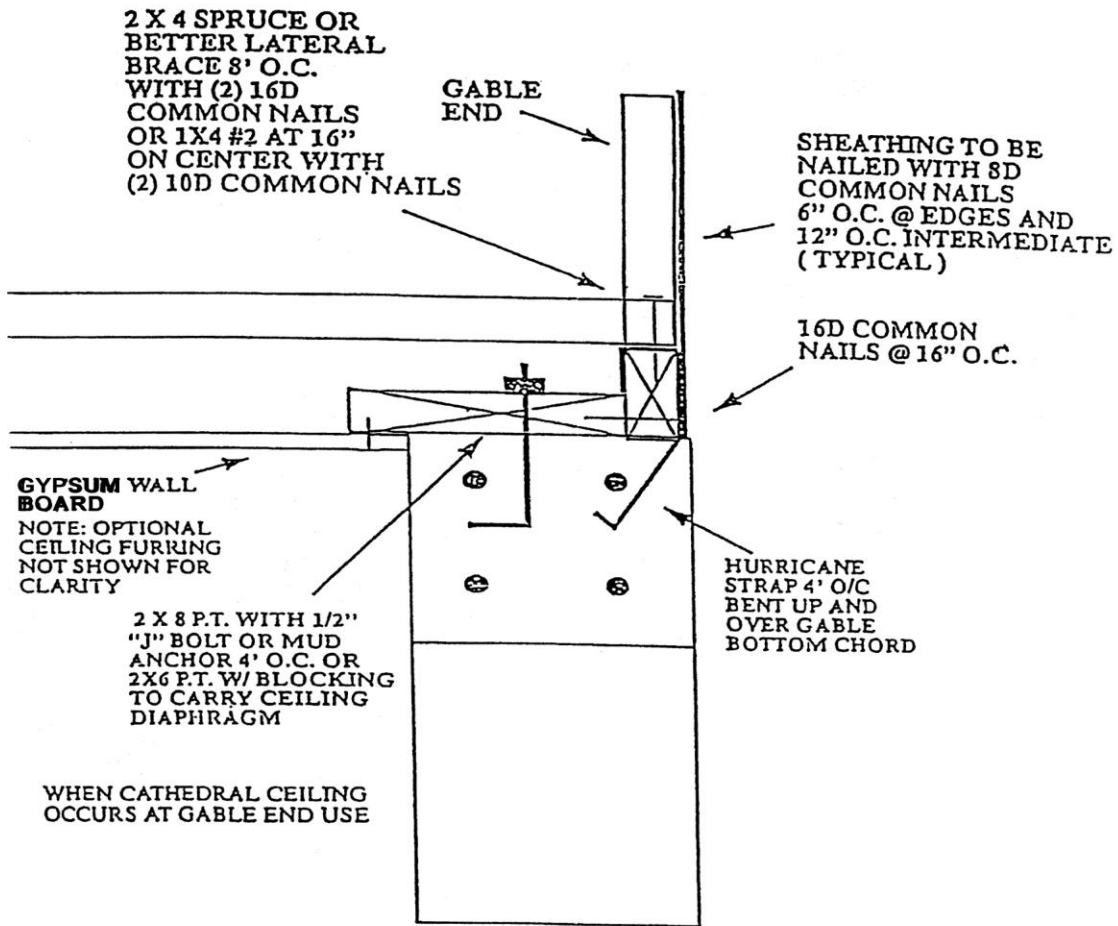
2X8 P.T. WITH 1/2"
"J" BOLT'S OR MUD
ANCHORS AT 4' O.C.

NOTE: OPTIONAL
CEILING FURRING
NOT SHOWN FOR
CLARITY

NOTE: THIS INSTALLATION IS IN ADDITION TO BRACING
REQUIREMENTS OF TRUSS MANUFACTURER OR T.P.I. 85

- 1
- 2
- 3

Exhibit 4



NOTE: THIS INSTALLATION IS IN ADDITION TO BRACING REQUIREMENTS OF TRUSS MANUFACTURER OR T.P.I. 85

1
2
3

Exhibit 5

2 X 4 SPRUCE OR BETTER LATERAL
BRACE 8' O.C. WITH (2) 16D COMMON
NAILS OR 1X4 #2 AT 16" ON
CENTER WITH (2) 10D
COMMON NAILS.

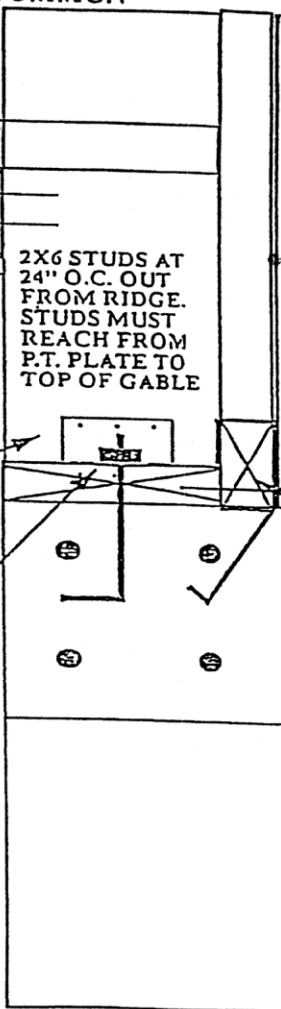
1' O.C. BRACING ALSO
REQUIRES CONNECTOR
RATED AT 400 LBS.

GYPSUM WALL
BOARD W/ BLOCKING
NAILED TO STUDS
WITH (2) 16D COMMON
NAILS

CONNECTOR REQD.
RATED AT 400 LBS.
EACH STUD

2X6 P.T. WITH 1/2"
"J" BOLTS OR MUD
ANCHORS AT 4' O.C.

NOTE: OPTIONAL
CEILING FURRING
NOT SHOWN FOR
CLARITY



GABLE
END TRUSS

SHEATHING TO BE
NAILED WITH 8D
COMMON NAILS
6" O.C. @ EDGES AND
12" O.C. INTERMEDIATE
(TYPICAL)

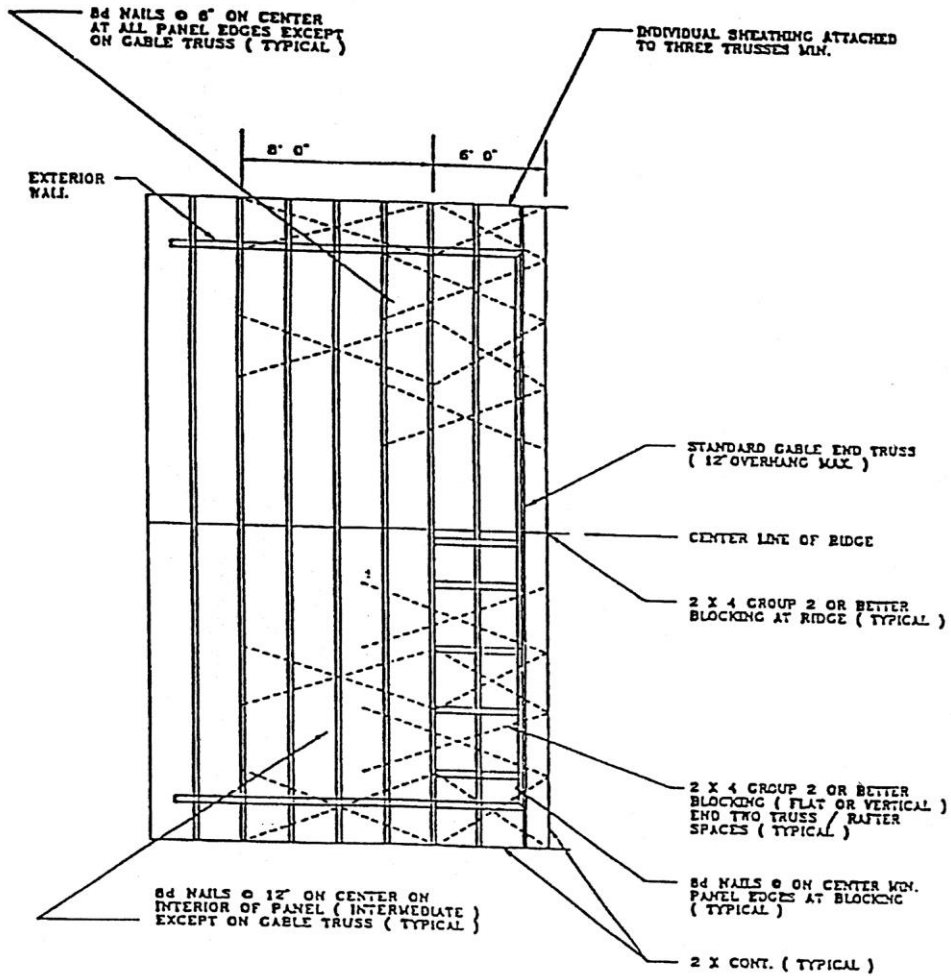
16D COMMON
NAILS @ 16" O.C.
TO HOLD GABLE
TO P.T. PLATE AND
2X6 STUDS TO GABLE
END VERTICALS

HURRICANE
STRAP 4' O/C
BENT UP AND
OVER GABLE
BOTTOM CHORD

NOTE: THIS INSTALLATION IS IN ADDITION TO BRACING
REQUIREMENTS OF TRUSS MANUFACTURER OR T.P.I. 85

- 1
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Exhibit 6

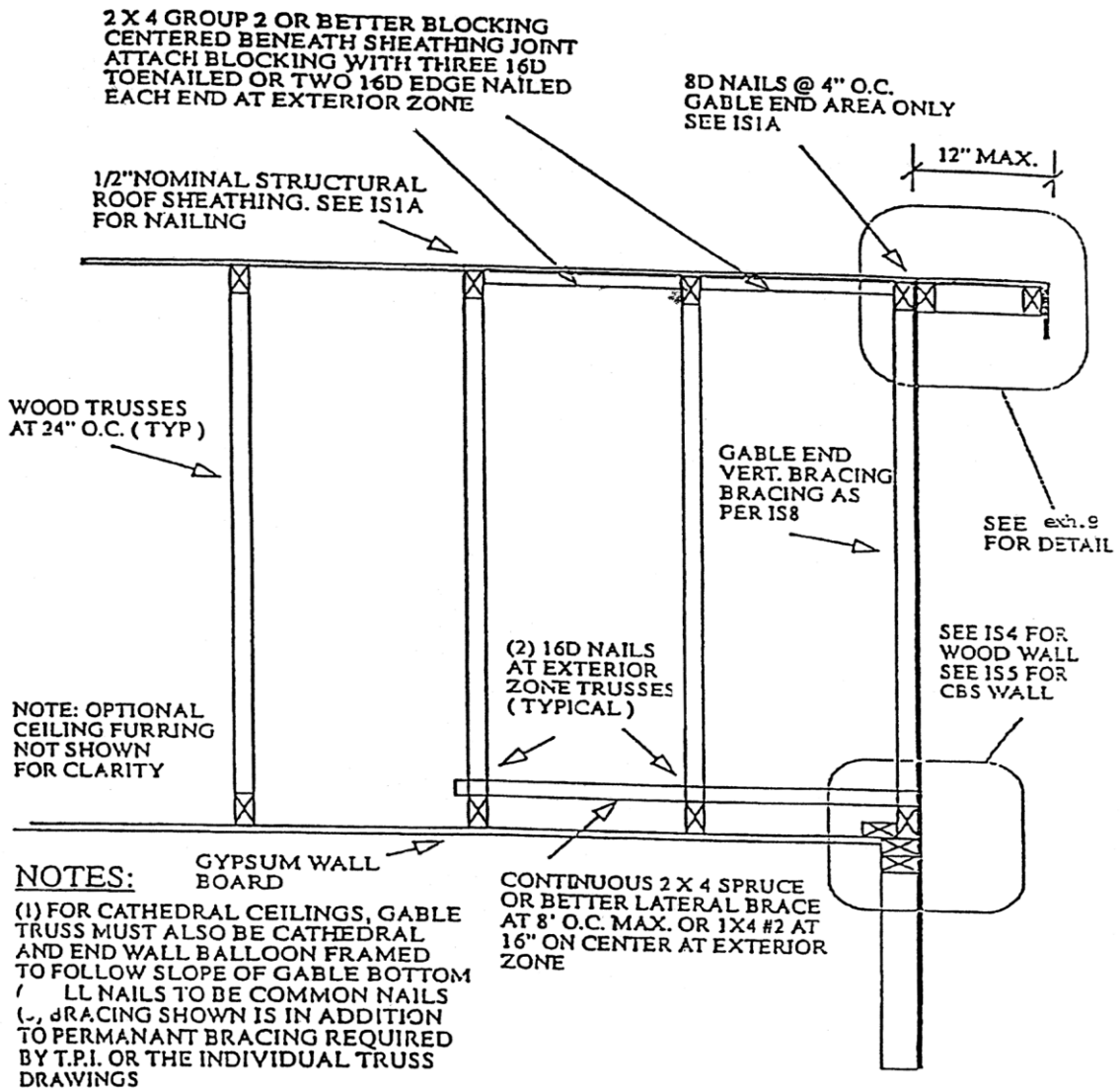


NOTE :

1. ALL NAILS TO BE COMMON NAILS MIN.
2. IF BUILDING WIDTH EXCEEDS 40' 0" FEET OR HEIGHT IS MORE THAN TWO STORIES 10d INSTEAD OF 8d FOR ATTACHMENT OF ROOF SHEATHING.

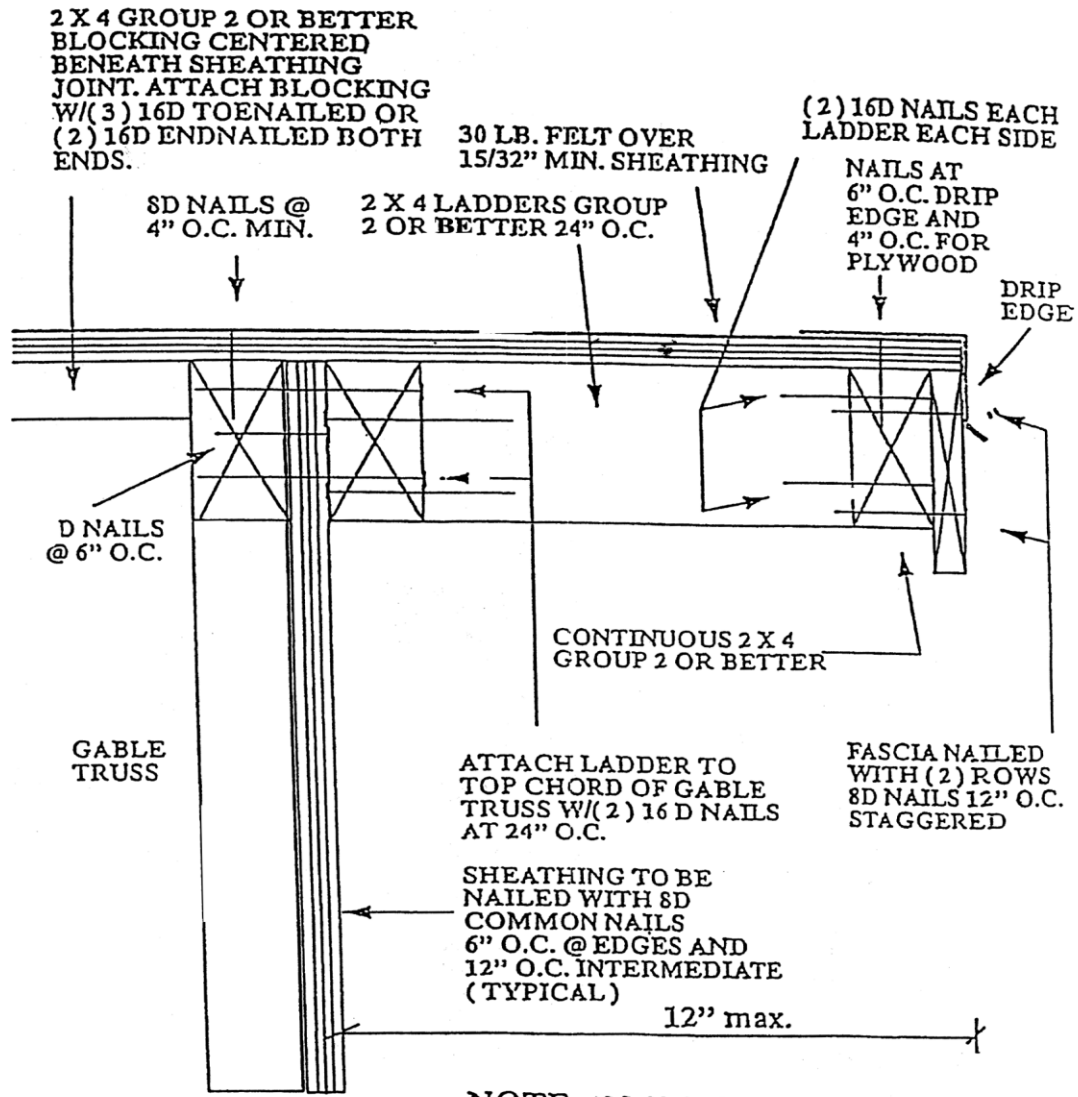
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Exhibit 7



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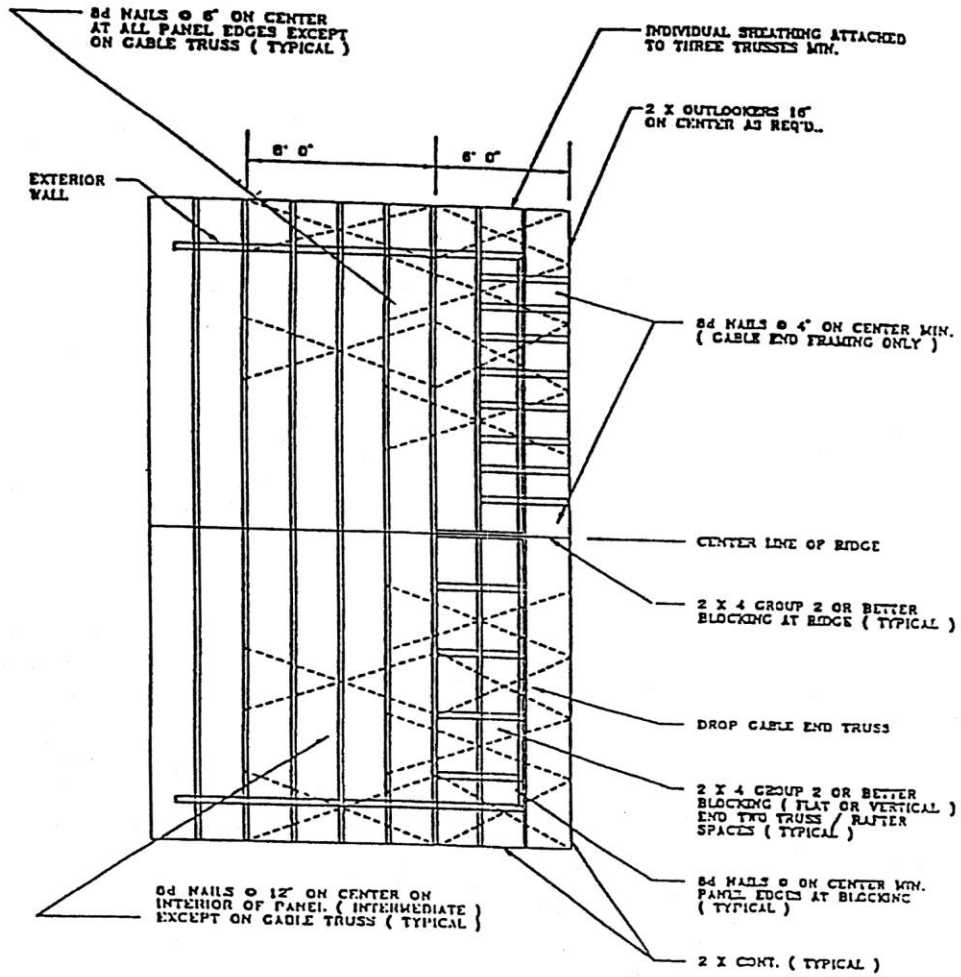
Exhibit 8



NOTE: ALL NAILS TO BE
COMMON NAILS MINIMUM

Exhibit 9

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NOTE :

1. ALL NAILS TO BE COMMON NAILS MIN.
2. IF BUILDING WIDTH EXCEEDS 40' 0" FEET OR HEIGHT IS MORE THAN TWO STORIES 10d INSTEAD OF 8d FOR ATTACHMENT OF ROOF SHEATHING.

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Exhibit 10

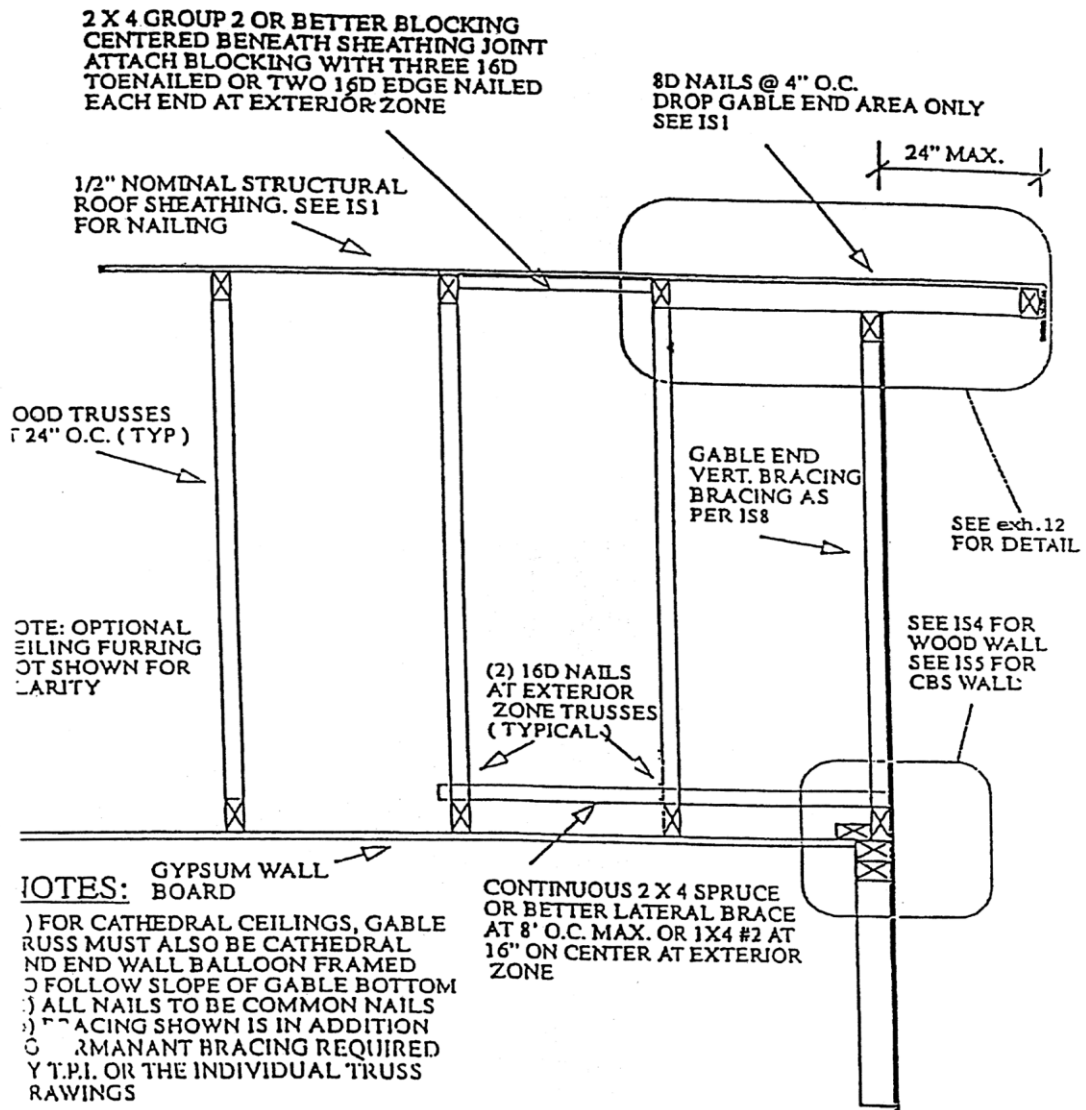
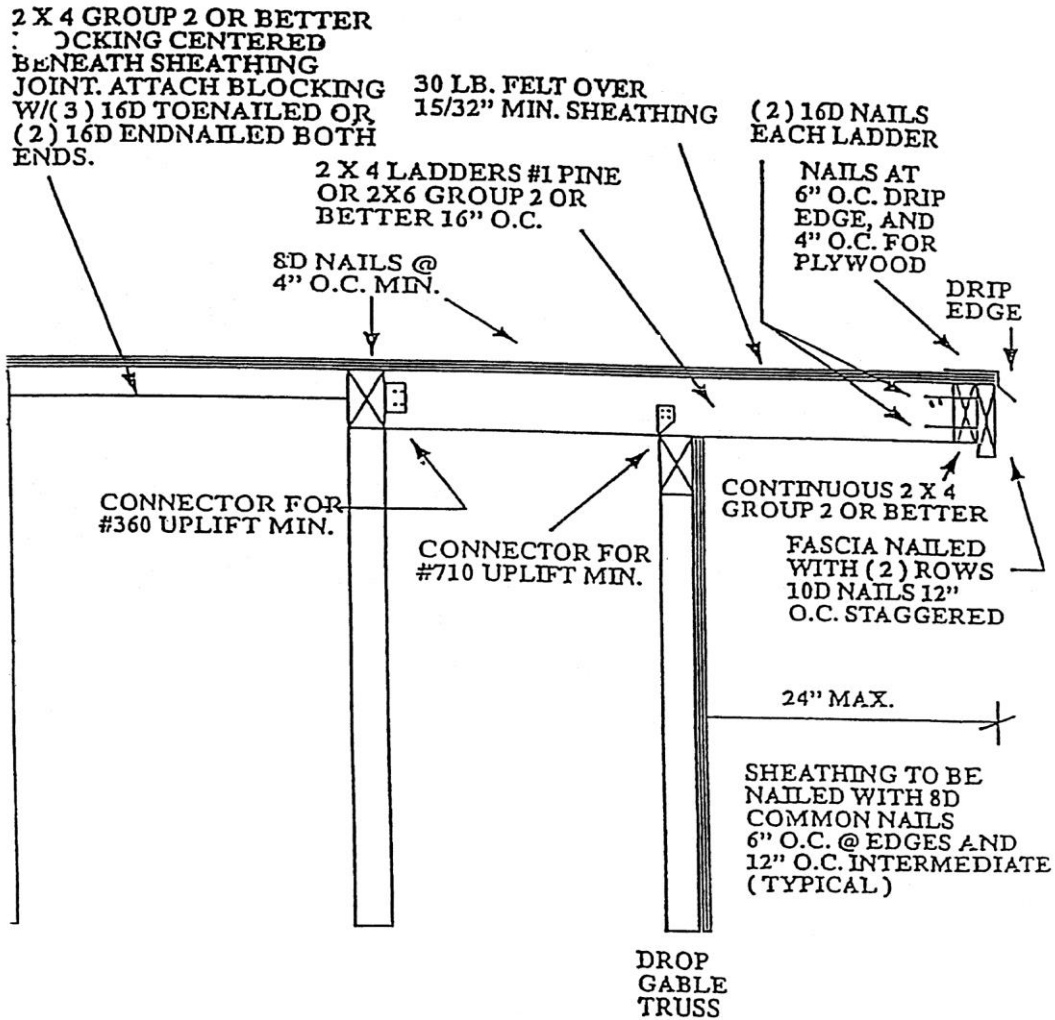


Exhibit 11

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NOTE: ALL NAILS TO BE
 COMMON NAILS MINIMUM

Exhibit 12

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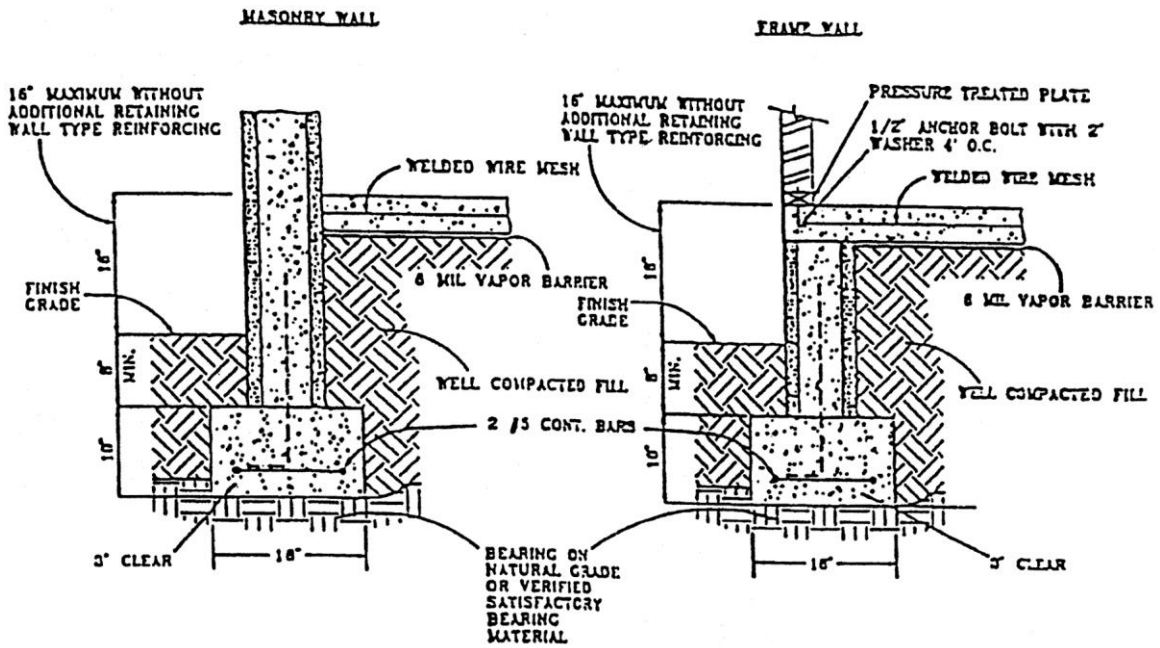


Exhibit 13

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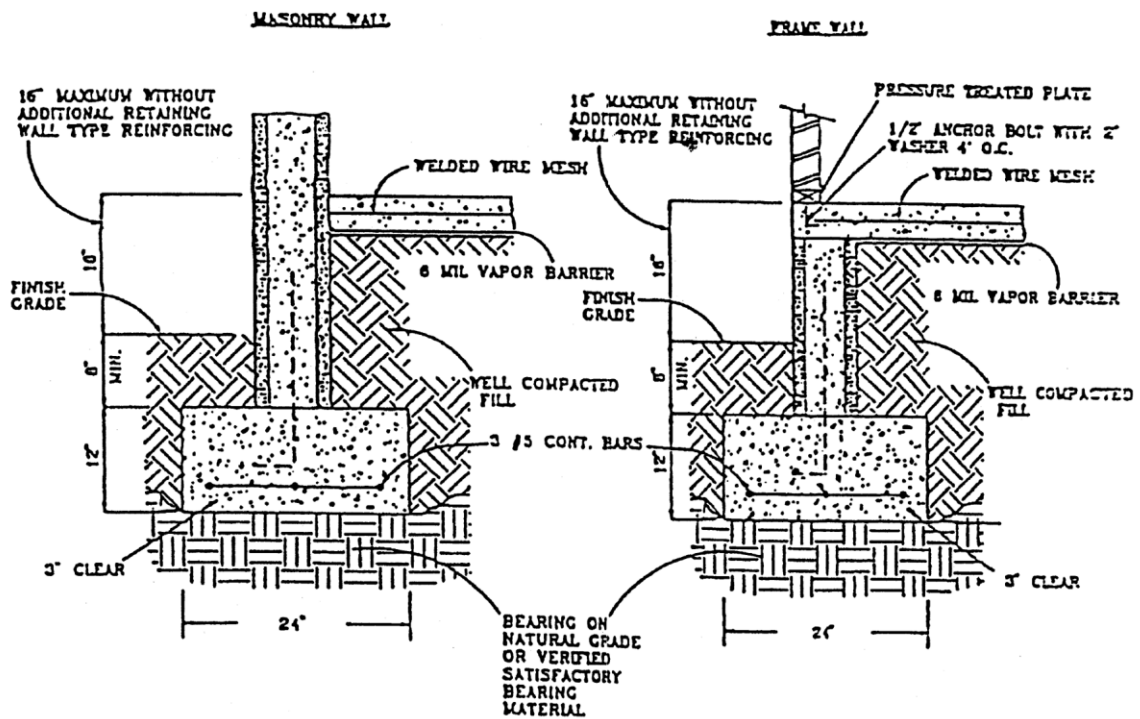
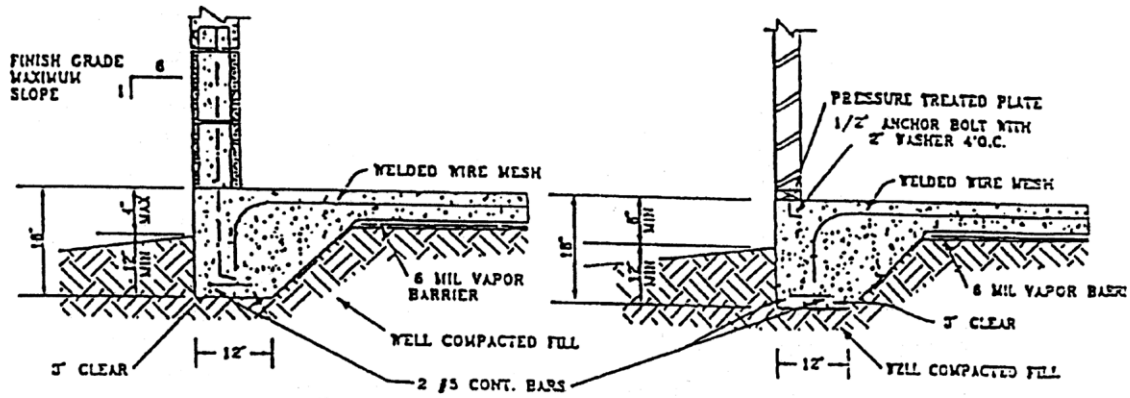


Exhibit 14

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MASONRY WALL

FRONT WALL



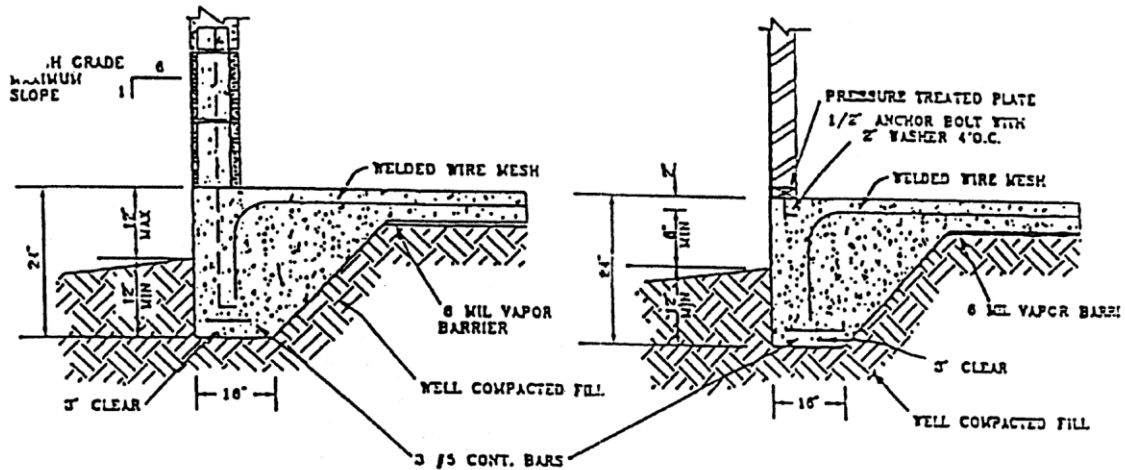
- 1) THE BOTTOM OF FOUNDATIONS SHALL EXTEND NO LESS THAN 12 INCHES BELOW FINISH GRADE.
- 2) ALL WOOD FRAMING AND SHEATHING LESS THAN 8 INCHES FROM EXPOSED EARTH SHALL BE PRESSURE TREATED WOOD.
- 3) CLEARANCE BETWEEN WOOD SIDING AND EARTH SHALL NOT BE LESS THAN 6 INCHES.

Exhibit 15

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2
3

MASONRY WALL

FRONT WALL



- 1) THE BOTTOM OF FOUNDATIONS SHALL EXTEND NO LESS THAN 12 INCHES BELOW FINISH GRADE.
- 2) ALL WOOD FRAMING AND SHEATHING LESS THAN 8 INCHES FROM EXPOSED EARTH SHALL BE PRESSURE TREATED WOOD.
- 3) CLEARANCE BETWEEN WOOD SIDING AND EARTH SHALL NOT BE LESS THAN 6 INCHES.

Exhibit 16

4
5
6

	8'	9'	10'	11'	12'	13'	14'	15'
8'	A	A	A	B	B	B	B	B
10'	A	B	B	B	B	B	B	
12'	B	B	B	B	B	B		
14'	B	B	B	B	B	B		
16'	B	B	B	B	B			
18'	B	B	B	B				
20'	B	B	B	B				
22'	B	B	B	B				
24'	B	B	B					
26'	B	B	B					
28'	B	B	B					
30'	B	B						

ROOF SPAN (FEET)

- (1) ALL TIES MUST BE FULLY ANCHORED AT TOP
- (2) CALCULATIONS ARE BASED ON SINGLE SPAN, UNIFORMLY LOADED BEAM
- (3) SPAN BASED ON CLOSED BUILDING ENVELOPE
- (4) CONCRETE SHALL BE A MINIMUM 3000 PSI IN 28 DAYS
- (5) REINFORCING STEEL SHALL HAVE A MINIMUM Fy OF 60 KSI

BEAM	TOP REINFORCING	BOTTOM REINFORCING	TIES
A	(2) #5 BARS	(2) #5 BARS	HANGER/CHAIRS FOR SUPPORT
B	(2) #5 BARS	(2) #5 BARS	#3 AT 4" O.C. see_exh. 21

CONCRETE TIE BEAM SCHEDULE: 8"x10"

1
2
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Exhibit 17

	8'	9'	10'	11'	12'	13'	14'	15'	16'	17'	18'	19'
8'	C	C	C	D	D	D	D	D	D	D	E	E
10'	C	C	C	D	D	D	D	D	D	E	E	
12'	C	C	D	D	D	D	D	D	E	E		
14'	C	D	D	D	D	D	D	D	E			
16'	D	D	D	D	D	D	D	E				
18'	D	D	D	D	D	D	E	E				
20'	D	D	D	D	D	E	E					
22'	D	D	D	D	D	E						
24'	D	D	D	D	D	E						
26'	D	D	D	D	E	E						
28'	D	D	D	D	E							
30'	D	D	D	D	E							
32'	D	D	D	E	E							
34'	D	D	D	E								
36'	D	D	D	E								
38'	D	D	D	E								
40'	D	D	E									
42'	D	D	E									
44'	D	D	E									
46'	D	D	E									

- (1) ALL TIES MUST BE FULLY ANCHORED AT TOP
- (2) CALCULATIONS ARE BASED ON SINGLE SPAN, UNIFORMLY LOADED BEAM
- (3) SPAN BASED ON CLOSED BUILDING ENVELOPE
- (4) CONCRETE SHALL BE A MINIMUM 3000 PSI IN 28 DAYS
- (5) REINFORCING STEEL SHALL HAVE A MINIMUM Fy OF 60 KSI

BEAM	TOP REINFORCING	BOTTOM REINFORCING	TIES
C	(2) #5 BARS	(2) #5 BARS	HANGER/CHAIRS FOR SUPPORT
D	(2) #5 BARS	(2) #5 BARS	#3 AT 5" O.C. SEE EHH. 21
E	(2) #5 BARS	(2) #6 BARS	#3 AT 5" O.C. SEE

CONCRETE TIE BEAM SCHEDULE: 8"x12"

1
2
3

Exhibit 18

	8'	9'	10'	11'	12'	13'	14'	15'	16'	17'	18'	19'	20'	
KOUJI SPAN (FULL)	8'	F	F	F	F	F	F	F	G	G	G	G	G	
	10'	F	F	F	F	F	F	F	G	G	G	G	H	
	12'	F	F	F	F	F	G	G	G	G	G	H	H	
	14'	F	F	F	G	G	G	G	G	H	H	H	H	
	16'	F	F	F	G	G	G	G	G	H	H	H	H	
	18'	F	F	F	G	G	G	G	G	H	H	H	I	
	20'	F	F	G	G	G	G	G	G	H	H	H	I	I
	22'	F	G	G	G	G	G	G	G	H	H	H	I	
	24'	F	G	G	G	G	G	G	H	H	H	I		
	26'	G	G	G	G	G	G	G	H	H	H	I		
	28'	G	G	G	G	G	G	H	H	H	I			
	30'	G	G	G	G	G	G	H	H	H	I			
	32'	G	G	G	G	G	G	H	H	I				
	34'	G	G	G	G	G	H	H	H	I				
	36'	G	G	G	G	G	H	H	H	I				
	38'	G	G	G	G	G	H	H	I					
	40'	G	G	G	G	H	H	H	I					
	42'	G	G	G	G	H	H	I						
	44'	G	G	G	G	H	H	I						
	46'	G	G	G	G	H	H	I						

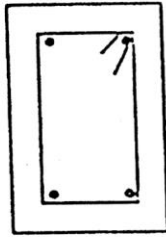
- (1) ALL TIES MUST BE FULLY ANCHORED AT TOP
- (2) CALCULATIONS ARE BASED ON SINGLE SPAN, UNIFORMLY LOADED BEAM
- (3) SPAN BASED ON CLOSED BUILDING ENVELOPE
- (4) CONCRETE SHALL BE A MINIMUM 3000 PSI IN 28 DAYS
- (5) REINFORCING STEEL SHALL HAVE A MINIMUM Fy OF 60 KSI

BEAM	TOP REINFORCING	BOTTOM REINFORCING	TIES
F	(2) #5 BARS	(2) #5 BARS	HANGERS/CHAIRS FOR SUPPORT
G	(2) #5 BARS	(2) #5 BARS	#3 AT 7" O.C. SEE EXH. 21
H	(2) #5 BARS	(2) #6 BARS	#3 AT 7" O.C. SEE
I	(2) #5 BARS	(2) #7 BARS	#3 AT 7" O.C. SEE

CONCRETE TIE BEAM SCHEDULE: 8"x16"

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Exhibit 19



#3 TIES WHERE
REQUIRED, SEE
16" BEAM SCHEDULE.
TIES CLOSED AND
ANCHORED AT TOP.



#3 TIES WHERE
REQUIRED, SEE
16" BEAM SCHEDULE.
TIES CLOSED AND
ANCHORED AT TOP.

8"X18" TIE BEAM

8"X20" TIE BEAM

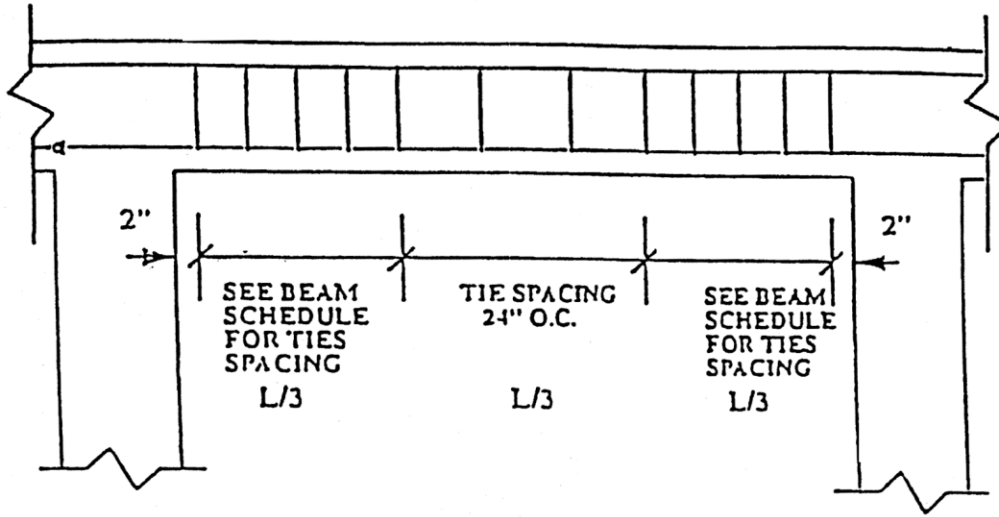
MAINTAIN 1 AND 1/2 INCH CLEAR COVER ON ALL SIDES TO TIES

CALCULATIONS ARE BASED ON SINGLE SPAN, UNIFORMLY
LOADED BEAM.
BEAM SPANS ARE BASED ON CLOSED BUILDING ENVELOPE
CONCRETE SHALL BE A MINIMUM 3000 PSI IN 28 DAYS
REINFORCING STEEL SHALL HAVE A MINIMUM Fy OF 60 KSI

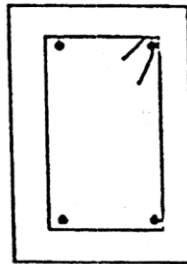
Exhibit 20

EXHIBIT 21
TYPICAL TIE SPACING

1
2
3
4
5



MAINTAIN 1 AND 1/2 INCH CLEAR COVER ON ALL SIDES TO TIES



#3 TIES WHERE REQUIRED, SEE SCHEDULE. TIES CLOSED AND ANCHORED AT TOP.

CALCULATIONS ARE BASED ON SINGLE SPAN, UNIFORMLY LOADED BEAM.
 BEAM SPANS ARE BASED ON CLOSED BUILDING ENVELOPE
 CONCRETE SHALL BE A MINIMUM 3000 PSI IN 28 DAYS
 REINFORCING STEEL SHALL HAVE A MINIMUM Fy OF 60 KSI

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Exhibit 21

ARTICLE IV. ADMINISTRATIVE CONSTRUCTION CODE

Sec. 6-111. Administration chapter of Florida Building Code adopted; amendments.

- (a) *Adoption.* There is hereby adopted by reference, Chapter 1, Administration, of the Florida Building Code, 78th Edition (2023~~0~~), as the administrative provisions of the Florida Building Code, enforced by the City of Marco Island.
- (b) *Amendment.* That Chapter 1, Administration of the Florida Building Code, 87th edition (202~~0~~3), is adopted in this section and is hereby amended by local amendment to read as follows:

**CHAPTER 1
ADMINISTRATION**

1 **SECTION 100**
2 **PURPOSE**

3 *100.1 Purpose.* The purpose of this Ordinance is to establish and adopt a single ordinance uniformly addressing the
4 non-technical and administrative requirements for the Florida Building Code, 7th Edition (2020), and any
5 supplements, additions and or deletions, approved by the Department of Community Affairs, the Department of
6 Business and Professional Regulation, the National Electric Code, 2017 edition, Florida Fire Prevention Code, current
7 edition, and all other adopted technical codes and ordinances not superseded by the Florida Building Code.

8 *100.1.1* Marco Island Administrative Construction Code shall constitute and be known and cited as the Marco
9 Island Administrative Construction Code ("ACC") hereinafter referred to as the "ACC."

10 **CHAPTER 1**
11 **SCOPE AND ADMINISTRATION**
12 **PART 1—SCOPE AND APPLICATION**

13 **SECTION 101**
14 **GENERAL**

15 *[A] 101.1 Title.* These regulations shall be known as the Florida Building Code, hereinafter referred to as "this
16 code."

17 *[A] 101.2 Scope.* The provisions of this code shall apply to the construction, alteration, relocation, enlargement,
18 replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every
19 building or structure or any appurtenances connected or attached to such buildings or structures.

20 *Exceptions:*

- 21 1. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more
22 than three stories above grade plane in height with a separate means of egress, and their accessory
23 structures not more than three stories above grade plane in height, shall comply with the Florida
24 Building Code, Residential.
- 25 2. Code requirements that address snow loads and earthquake protection are pervasive; they are left in
26 place but shall not be utilized or enforced because Florida has no snow load or earthquake threat.

27 *[A] 101.2.1 Appendices.* Provisions in the appendices shall not apply unless specifically adopted.

28 *101.2.2* Florida Building Code, Residential Construction standards or practices which are not covered by
29 Florida Building Code, Residential volume shall be in accordance with the provisions of Florida Building Code,
30 Building.

31 *[A] 101.3 Intent.* The purpose of this code is to establish the minimum requirements to provide a reasonable level
32 of safety, public health and general welfare through structural strength, means of egress facilities, stability,
33 sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other
34 hazards attributed to the built environment and to provide a reasonable level of safety to fire fighters and
35 emergency responders during emergency operations.

36 *101.3.1 Quality control.* Quality control of materials and workmanship is not within the purview of this code
37 except as it relates to the purposes stated herein.

38 *101.3.2 Warranty and Liability.* The permitting, plan review or inspection of any building, system or plan by
39 this jurisdiction, under the requirements of this code, shall not be construed in any court as a warranty of the
40 physical condition of such building, system or plan or their adequacy. This jurisdiction shall not be liable in
41 tort for damages or hazardous or illegal condition or inadequacy in such building, system or plan, nor for any
42 failure of any component of such, which may occur subsequent to such inspection or permitting.

1 [A] 101.4 Referenced codes. The other codes listed in Sections 101.4.1 through 101.4.9 and referenced elsewhere
2 in this code shall be considered part of the requirements of this code to the prescribed extent of each such
3 reference.

4 [A] 101.4.1 Gas. The provisions of the Florida Building Code, Fuel Gas shall apply to the installation of gas
5 piping from the point of delivery, gas appliances and related accessories as covered in this code. These
6 requirements apply to gas piping systems extending from the point of delivery to the inlet connections of
7 appliances and the installation and operation of residential and commercial gas appliances and related
8 accessories.

9 [A] 101.4.2 Mechanical. The provisions of the Florida Building Code, Mechanical shall apply to the
10 installation, alterations, repairs and replacement of mechanical systems, including equipment, appliances,
11 fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air-conditioning and
12 refrigeration systems, incinerators and other energy related systems.

13 [A] 101.4.3 Plumbing. The provisions of the Florida Building Code, Plumbing shall apply to the installation,
14 alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings
15 and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas
16 system.

17 [A] 101.4.4 Property maintenance. The provisions of the International Property Maintenance Code shall apply
18 to existing structures and premises; equipment and facilities; light, ventilation, space heating, sanitation, life
19 and fire safety hazards; responsibilities of owners, operators and occupants; and occupancy of existing
20 premises and structures.

21 [A] 101.4.5 Fire prevention. For provisions related to fire prevention, refer to the Florida Fire Prevention
22 Code. The Florida Fire Prevention Code shall apply to matters affecting or relating to structures, processes
23 and premises from the hazard of fire and explosion arising from the storage, handling or use of structures,
24 materials or devices; from conditions hazardous to life, property or public welfare in the occupancy of
25 structures or premises; and from the construction, extension, repair, alteration or removal of fire
26 suppression, automatic sprinkler systems and alarm systems or fire hazards in the structure or on the
27 premises from occupancy or operation.

28 [A] 101.4.6 Energy. The provisions of the Florida Building Code, Energy Conservation shall apply to all matters
29 governing the design and construction of buildings for energy efficiency.

30 [A] 101.4.7 Existing buildings. The provisions of the Florida Building Code, Existing Building shall apply to
31 matters governing the repair, alteration, change of occupancy, addition to and relocation of existing
32 buildings.

33 101.4.8 Accessibility. For provisions related to accessibility, refer to the Florida Building Code, Accessibility.

34 101.4.9 Manufactured buildings. For additional administrative and special code requirements, see Section
35 458, Florida Building Code, Building, and Rule 61-41 F.A.C.

36 **SECTION 102**
37 **APPLICABILITY**

38 [A] 102.1 General. Where there is a conflict between a general requirement and a specific requirement, the
39 specific requirement shall be applicable. Where, in any specific case, different sections of this code specify
40 different materials, methods of construction or other requirements, the most restrictive shall govern.

41 102.1.1 The Florida Building Code does not apply to, and no code enforcement action shall be brought with
42 respect to, zoning requirements, land use requirements and owner specifications or programmatic
43 requirements which do not pertain to and govern the design, construction, erection, alteration, modification,
44 repair or demolition of public or private buildings, structures or facilities or to programmatic requirements
45 that do not pertain to enforcement of the Florida Building Code. Additionally, a local code enforcement
46 agency may not administer or enforce the Florida Building Code, Building to prevent the siting of any publicly

1 owned facility, including, but not limited to, correctional facilities, juvenile justice facilities, or state
2 universities, community colleges, or public education facilities, as provided by law.

3 *102.2 Building.* The provisions of the Florida Building Code shall apply to the construction, erection, alteration,
4 modification, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every
5 public and private building, structure or facility or floating residential structure, or any appurtenances connected
6 or attached to such buildings, structures or facilities. Additions, alterations, repairs and changes of use or
7 occupancy group in all buildings and structures shall comply with the provisions provided in the Florida Building
8 Code, Existing Building. The following buildings, structures and facilities are exempt from the Florida Building Code
9 as provided by law, and any further exemptions shall be as determined by the legislature and provided by law:

- 10 (a) Building and structures specifically regulated and preempted by the federal government.
- 11 (b) Railroads and ancillary facilities associated with the railroad.
- 12 (c) Nonresidential farm buildings on farms.
- 13 (d) Temporary buildings or sheds used exclusively for construction purposes.
- 14 (e) Mobile or modular structures used as temporary offices, except that the provisions of Part II (Sections
15 553.501—553.513, Florida Statutes) relating to accessibility by persons with disabilities shall apply to
16 such mobile or modular structures. Permits shall be required for structural support and tie-down,
17 electric supply and all other such utility connections to such mobile or modular structures as required
18 by this jurisdiction.
- 19 (f) Those structures or facilities of electric utilities, as defined in Section 366.02, Florida Statutes, which
20 are directly involved in the generation, transmission, or distribution of electricity.
- 21 (g) Temporary sets, assemblies, or structures used in commercial motion picture or television production,
22 or any sound-recording equipment used in such production, on or off the premises.
- 23 (h) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As
24 used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof
25 of palm or palmetto or other traditional materials, and that does not incorporate any electrical,
26 plumbing, or other nonwood features.
- 27 (i) Family mausoleums not exceeding 250 square feet (23 m²) in area which are prefabricated and
28 assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed
29 of granite, marble, or reinforced concrete.
- 30 (j) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional
31 system.
- 32 (k) A building or structure having less than 1,000 square feet (93 m²) which is constructed and owned by a
33 natural person for hunting and which is repaired or reconstructed to the same dimension and
34 condition as existed on January 1, 2011, if the building or structure:
 - 35 1. Is not rented or leased or used as a principal residence;
 - 36 2. Is not located within the 100-year flood plain according to the Federal Emergency Management
37 Agency's current Flood Insurance Rate Map; and
 - 38 3. Is not connected to an off-site electric power or water supply.

39 *102.2.1* In addition to the requirements of Sections 553.79 and 553.80, Florida Statutes, facilities subject to
40 the provisions of Chapter 395, Florida Statutes, and Part II of Chapter 400, Florida Statutes, shall have facility
41 plans reviewed and construction surveyed by the state agency authorized to do so under the requirements
42 of Chapter 395, Florida Statutes, and Part II of Chapter 400, Florida Statutes, and the certification
43 requirements of the federal government.

1 102.2.2 Residential buildings or structures moved into or within a county or municipality shall not be
2 required to be brought into compliance with the state minimum building code in force at the time the
3 building or structure is moved, provided:

- 4 1. The building or structure is structurally sound and in occupiable condition for its intended use;
- 5 2. The occupancy use classification for the building or structure is not changed as a result of the move;
- 6 3. The building is not substantially remodeled;
- 7 4. Current fire code requirements for ingress and egress are met;
- 8 5. Electrical, gas and plumbing systems meet the codes in force at the time of construction and are
9 operational and safe for reconnection; and
- 10 6. Foundation plans are sealed by a professional engineer or architect licensed to practice in this state,
11 if required by the Florida Building Code, Building for all residential buildings or structures of the same
12 occupancy class.

13 102.2.3 The building official shall apply the same standard to a moved residential building or structure as that
14 applied to the remodeling of any comparable residential building or structure to determine whether the
15 moved structure is substantially remodeled. The cost of the foundation on which the moved building or
16 structure is placed shall not be included in the cost of remodeling for purposes of determining whether a
17 moved building or structure has been substantially remodeled.

18 102.2.4 This section does not apply to the jurisdiction and authority of the Department of Agriculture and
19 Consumer Services to inspect amusement rides or the Department of Financial Services to inspect state-
20 owned buildings and boilers.

21 102.2.5 Each enforcement district shall be governed by a board, the composition of which shall be
22 determined by the affected localities.

- 23 1. At its own option, each enforcement district or local enforcement agency may adopt rules
24 granting to the owner of a single-family residence one or more exemptions from the Florida
25 Building Code relating to:
 - 26 a. Addition, alteration, or repairs performed by the property owner upon his or her own
27 property, provided any addition or alteration shall not exceed 1,000 square feet (93 m²) or
28 the square footage of the primary structure, whichever is less.
 - 29 b. Addition, alteration, or repairs by a nonowner within a specific cost limitation set by rule,
30 provided the total cost shall not exceed \$5,000 within any 12-month period.
 - 31 c. Building and inspection fees.
- 32 2. However, the exemptions under subparagraph 1 do not apply to single-family residences that are
33 located in mapped flood hazard areas, as defined in the code, unless the enforcement district or
34 local enforcement agency has determined that the work, which is otherwise exempt, does not
35 constitute a substantial improvement, including the repair of substantial damage, of such single-
36 family residences.
- 37 3. Each code exemption, as defined in sub-subparagraphs 1a, 1b, and 1c shall be certified to the
38 local board 10 days prior to implementation and shall only be effective in the territorial
39 jurisdiction of the enforcement district or local enforcement agency implementing it.

40 102.2.6 This section does not apply to swings and other playground equipment accessory to a one- or two-
41 family dwelling.

42 *Exception:* Electrical service to such playground equipment shall be in accordance with Chapter 27 of
43 this code.

1 [A] 102.3 *Application of references.* References to chapter or section numbers, or to provisions not specifically
2 identified by number, shall be construed to refer to such chapter, section or provision of this code.

3 [A] 102.4 *Referenced codes and standards.* The codes and standards referenced in this code shall be considered
4 part of the requirements of this code to the prescribed extent of each such reference and as further regulated in
5 Sections 102.4.1 and 102.4.2.

6 [A] 102.4.1 *Conflicts.* Where conflicts occur between provisions of this code and referenced codes and
7 standards, the provisions of this code shall apply.

8 [A] 102.4.2 *Provisions in referenced codes and standards.* Where the extent of the reference to a referenced
9 code or standard includes subject matter that is within the scope of this code or the Florida Codes listed in
10 Section 101.4, the provisions of this code or the Florida Codes listed in Section 101.4, as applicable, shall take
11 precedence over the provisions in the referenced code or standard.

12 [A] 102.5 *Partial invalidity.* In the event that any part or provision of this code is held to be illegal or void, this shall
13 not have the effect of making void or illegal any of the other parts or provisions.

14 [A] 102.6 *Existing structures.* The legal occupancy of any structure existing on the date of adoption of this code
15 shall be permitted to continue without change, except as otherwise specifically provided in this code, the Florida
16 Building Code, Existing Building, International Property Maintenance Code or the Florida Fire Prevention Code.

17 [A] 102.6.1 *Buildings not previously occupied.* A building or portion of a building that has not been previously
18 occupied or used for its intended purpose in accordance with the laws in existence at the time of its
19 completion shall comply with the provisions of the Florida Building Code, Building or Florida Building Code,
20 Residential, as applicable, for new construction or with any current permit for such occupancy.

21 [A] 102.6.2 *Buildings previously occupied.* The legal occupancy of any building existing on the date of
22 adoption of this code shall be permitted to continue without change, except as otherwise specifically
23 provided in this code, the Florida Fire Prevention Code, International Property Maintenance Code or as is
24 deemed necessary by the building official for the general safety and welfare of the occupants and the public.

25 *102.7 Relocation of manufactured buildings.*

26 (1) Relocation of an existing manufactured building does not constitute an alteration.

27 (2) A relocated building shall comply with wind speed requirements of the new location, using the
28 appropriate wind speed map. If the existing building was manufactured in compliance with the
29 Standard Building Code (prior to March 1, 2002), the wind speed map of the Standard Building Code
30 shall be applicable. If the existing building was manufactured in compliance with the Florida Building
31 Code (after March 1, 2002), the wind speed map of the Florida Building Code shall be applicable.

32 (3) A relocated building shall comply with the flood hazard area requirements of the new location, if
33 applicable.

34 *102.8 Existing mechanical equipment.* An agency or local government may not require that existing mechanical
35 equipment located on or above the surface of a roof be installed in compliance with the requirements of the
36 Florida Building Code except during reroofing when the equipment is being replaced or moved and is not in
37 compliance with the provisions of the Florida Building Code relating to roof-mounted mechanical units.

38 *102.9 Words defined.*

39 *Appraised value.* For the purpose of this section, appraised value is defined as either (1) one hundred and
40 twenty (120) percent of the assessed value of the structure as indicated by the County Property Appraiser's
41 Office or (2) the value as indicated in a certified appraisal from a certified appraiser.

42 *Assessed value.* The value of real property and improvements thereon as established by the County Property
43 Appraiser.

1 *Basic Wind Speed Line.* The basic wind speed for the jurisdiction shall be as required by the windspeed maps
2 in Section 1609 of the Florida Building Code, 7th Edition (2020):

3 Risk Category I: 155 mph

4 Risk Category II (Single Family Home): 170 mph

5 Risk Category III: 185 mph

6 Risk Category IV: 190 mph

7 *Board.* The City Board of Adjustment and Appeals, unless otherwise specifically stated.

8 *Building shell.* The structural components that completely enclose a building, including, but not limited to,
9 the foundation, structural frame, floor slabs, exterior walls and roof system.

10 *Building system.* A functionally related group of elements, components and/or equipment, such as the
11 electrical, plumbing and mechanical systems of a building.

12 *Certificate of occupancy (C.O.).* An official document evidencing that a building satisfies the requirements of
13 the jurisdiction for the occupancy of a building.

14 *Certificate of Completion (C. of C.).* An official document evidencing that a building satisfies the requirements
15 of the jurisdiction for the completion of a building, or component of a building or an accessory structure.

16 *Code.* The Florida Building Code, or the Code of Ordinances, as the context may require.

17 *Demolition.* The act of razing, dismantling or removal of a building or structure, or portion thereof.

18 *Department or department.* The Department of Building Safety.

19 *Examination.* An exam prepared, proctored and graded by a recognized testing agency unless otherwise
20 implied in context or specifically stated otherwise.

21 *Inspection warrant.* A court order authorizing the official or his designee to perform an inspection of a
22 particular property named in the warrant.

23 *Intensification of use.* An increase in capacity or number of units of a residential or commercial building.

24 *NGVD—National Geodetic Vertical Datum of 1929 (NGVD 29).* A system of measurement used by surveyors
25 and engineers, the basis for relating ground and flood elevations. It has been replaced by the North American
26 Vertical Datum of 1988 (NAVD 88).

27 *NAVD—North American Vertical Datum of 1988 (NAVD 88).* A revised system of measurement used by
28 surveyors and engineers, the basis for relating ground and flood elevations. It is also based on satellite
29 systems that account for differences in gravitational forces in different areas. Note: NGVD + 1.3 ft = NAVD

30 *Permit card or placard.* A document issued by the jurisdiction evidencing the issuance of a permit and
31 recording of inspections.

32 **PART 2—ADMINISTRATION AND ENFORCEMENT**

33 **SECTION 103**

34 **DEPARTMENT OF BUILDING SAFETY**

35 RESERVED

36 **SECTION 104**

37 **DUTIES AND POWERS OF BUILDING OFFICIAL**

38 *[A] 104.1 General.* Reserved

39 *[A] 104.2 Applications and permits.* Reserved

1 *104.2.1 Determination of substantially improved or substantially damaged existing buildings and structures in*
2 *flood hazard areas.* Reserved

3 *[A] 104.3 Notices and orders.* Reserved

4 *[A] 104.4 Inspections.* Reserved

5 *[A] 104.5 Identification.* Reserved

6 *[A] 104.6 Right of entry.* Reserved

7 *[A] 104.7 Department records.* The building official shall keep official records of applications received, permits and
8 certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be
9 retained in the official records for the period required for retention of public records per FS 119.

10 *104.8 Liability.* The building official, member of the board of appeals or employee charged with the enforcement of
11 this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required
12 by this code or other pertinent law or ordinance, shall not thereby be civilly or criminally rendered liable personally
13 and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act
14 or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or
15 employee because of an act performed by that officer or employee in the lawful discharge of duties and under the
16 provisions of this code shall be defended by legal representative of the jurisdiction until the final termination of
17 the proceedings. The building official or any subordinate shall not be liable for cost in any action, suit or
18 proceeding that is instituted in pursuance of the provisions of this code.

19 *[A] 104.8.1 Legal defense.* Any suit or criminal complaint instituted against an officer or employee because of
20 an act performed by that officer or employee in the lawful discharge of duties and under the provisions of
21 this code shall be defended by legal representatives of the jurisdiction until the final termination of the
22 proceedings. The building official or any subordinate shall not be liable for cost in any action, suit or
23 proceeding that is instituted in pursuance of the provisions of this code.

24 *[A] 104.9 Approved materials and equipment.* Materials, equipment and devices approved by the building official
25 shall be constructed and installed in accordance with such approval.

26 *[A] 104.9.1 Used materials and equipment.* The use of used materials that meet the requirements of this
27 code for new materials is permitted. Used equipment and devices shall not be reused unless approved by the
28 building official.

29 *[A] 104.10 Modifications.* Reserved

30 *[A] 104.11 Alternative materials, design and methods of construction and equipment.* The provisions of this code
31 are not intended to prevent the installation of any material or to prohibit any design or method of construction not
32 specifically prescribed by this code, provided that any such alternative has been approved. An alternative material,
33 design or method of construction shall be approved where the building official finds that the proposed design is
34 satisfactory and complies with the intent of the provisions of this code, and that the material, method or work
35 offered is, for the purpose intended, not less than the equivalent of that prescribed in this code in quality,
36 strength, effectiveness, fire resistance, durability and safety. Where the alternative material, design or method of
37 construction is not approved, the building official shall respond in writing, stating the reasons why the alternative
38 was not approved.

39 *[A] 104.11.1 Research reports.* Supporting data, where necessary to assist in the approval of materials or
40 assemblies not specifically provided for in this code, shall consist of valid research reports from approved
41 sources.

42 *[A] 104.11.2 Tests.* Whenever there is insufficient evidence of compliance with the provisions of this code, or
43 evidence that a material or method does not conform to the requirements of this code, or in order to
44 substantiate claims for alternative materials or methods, the building official shall have the authority to
45 require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be
46 as specified in this code or by other recognized test standards. In the absence of recognized and accepted

1 test methods, the building official shall approve the testing procedures. Tests shall be performed by an
2 approved agency. Reports of such tests shall be retained by the building official for the period required for
3 retention of public records.

4 **SECTION 105**
5 **PERMITS**

6 *[A] 105.1 Required.* Any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move,
7 demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove,
8 convert or replace any impact-resistant coverings, electrical, gas, mechanical or plumbing system, the installation
9 of which is regulated by this code, or to cause any such work to be performed, shall first make application to the
10 building official and obtain the required permit.

11 *[A] 105.1.1 Annual facility permit.* In lieu of an individual permit for each alteration to an existing electrical,
12 gas, mechanical, plumbing or interior nonstructural office system(s), the building official is authorized to
13 issue an annual permit for any occupancy to facilitate routine or emergency service, repair, refurbishing,
14 minor renovations of service systems or manufacturing equipment installations/relocations. The building
15 official shall be notified of major changes and shall retain the right to make inspections at the facility site as
16 deemed necessary. An annual facility permit shall be assessed with an annual fee and shall be valid for one
17 year from date of issuance. A separate permit shall be obtained for each facility and for each construction
18 trade, as applicable. The permit application shall contain a general description of the parameters of work
19 intended to be performed during the year.

20 *[A] 105.1.2 Annual Facility permit records.* The person to whom an annual permit is issued shall keep a
21 detailed record of alterations made under such annual permit. The building official shall have access to such
22 records at all times or such records shall be filed with the building official as designated.

23 *105.1.3 Food permit.* In accordance with Section 500.12, Florida Statutes, a food permit from the
24 Department of Agriculture and Consumer Services is required of any person who operates a food
25 establishment or retail store.

26 *105.1.4 Public swimming pool.* The local enforcing agency may not issue a building permit to construct,
27 develop, or modify a public swimming pool without proof of application, whether complete or incomplete,
28 for an operating permit pursuant to Section 514.031, Florida Statutes. A certificate of completion or
29 occupancy may not be issued until such operating permit is issued. The local enforcing agency shall conduct
30 their review of the building permit application upon filing and in accordance with Chapter 553, Florida
31 Statutes. The local enforcing agency may confer with the Department of Health, if necessary, but may not
32 delay the building permit application review while awaiting comment from the Department of Health.

33 *[A] 105.2 Work exempt from permit.* Exemptions from permit requirements of this code shall not be deemed to
34 grant authorization for any work to be done in any manner in violation of the provisions of this code or any other
35 laws or ordinances of this jurisdiction, to include work in any special flood hazard area. Exemptions granted under
36 this section do not relieve the owner or contractor from their duty to comply with applicable provisions of the
37 Florida Building Code, and requirements of the local floodplain management ordinance. Permits shall not be
38 required for the following:

39 *Gas:*

- 40 1. Portable heating appliance.
- 41 2. Replacement of any minor part that does not alter approval of equipment or make such
42 equipment unsafe.

43 *Mechanical:*

- 44 1. Portable heating appliance.
- 45 2. Portable ventilation equipment.

- 1 3. Portable cooling unit.
- 2 4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this
- 3 code.
- 4 5. Replacement of any part that does not alter its approval or make it unsafe.
- 5 6. Portable evaporative cooler.
- 6 7. Self-contained refrigeration system containing 10 pounds (4.54 kg) or less of refrigerant and
- 7 actuated by motors of 1 horsepower (0.75 kW) or less.
- 8 8. The installation, replacement, removal or metering of any load management control device.

9 *Plumbing:*

- 10 1. The stopping of leaks in drains, water, soil, waste or vent pipe, provided, however, that if any
- 11 concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes
- 12 necessary to remove and replace the same with new material, such work shall be considered as
- 13 new work and a permit shall be obtained and inspection made as provided in this code.
- 14 2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures and the removal and
- 15 reinstallation of water closets, provided such repairs do not involve or require the replacement
- 16 or rearrangement of valves, pipes or fixtures.

17 *[A] 105.2.1 Emergency repairs.* Where equipment replacements and repairs must be performed in an

18 emergency situation, the permit application shall be submitted within the next working business day to the

19 building official.

20 *[A] 105.2.2 Minor repairs.* Ordinary minor repairs may be made with the approval of the building official

21 without a permit, provided the repairs do not include the cutting away of any wall, partition or portion

22 thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of

23 any required means of egress, or rearrangement of parts of a structure affecting the egress requirements;

24 nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe,

25 water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring systems or

26 mechanical equipment or other work affecting public health or general safety, and such repairs shall not

27 violate any of the provisions of the technical codes.

28 *[A] 105.2.3 Public service agencies.* A permit shall not be required for the installation, alteration or repair of

29 generation, transmission, distribution or metering or other related equipment that is under the ownership

30 and control of public service agencies by established right.

31 *[A] 105.3 Application for permit.* To obtain a permit, the applicant shall first file an application therefor in writing

32 on a form furnished by the building department for that purpose.

33 Permit application forms shall be in the format prescribed by a local administrative board, if applicable, and must

34 comply with the requirements of Sections 713.135(5) and (6), Florida Statutes.

35 Each application shall be inscribed with the date of application, and the code in effect as of that date. For a

36 building permit for which an application is submitted prior to the effective date of the Florida Building Code, the

37 state minimum building code in effect in the permitting jurisdiction on the date of the application governs the

38 permitted work for the life of the permit and any extension granted to the permit.

39 Effective October 1, 2017, a local enforcement agency shall post each type of building permit application on its

40 website. Completed applications must be able to be submitted electronically to the appropriate building

41 department. Accepted methods of electronic submission include, but are not limited to, e-mail submission of

42 applications in portable document format or submission of applications through an electronic fill-in form available

43 on the building department's website or through a third-party submission management software. Payments,

44 attachments, or drawings required as part of the application may be submitted in person in a nonelectronic

45 format, at the discretion of the building official.

1 [A] 105.3.1 Action on application. The building official shall examine or cause to be examined applications for
2 permits and amendments thereto within a reasonable time after filing. If the application or the construction
3 documents do not conform to the requirements of pertinent laws, the building official shall reject such
4 application in writing, stating the reasons therefor. If the building official is satisfied that the proposed work
5 conforms to the requirements of this code and laws and ordinances applicable thereto, the building official
6 shall issue a permit therefor as soon as practicable. When authorized through contractual agreement with a
7 school board, in acting on applications for permits, the building official shall give first priority to any
8 applications for the construction of, or addition or renovation to, any school or educational facility.

9 105.3.1.1 If a state university, Florida college or public school district elects to use a local government's
10 code enforcement offices, fees charged by counties and municipalities for enforcement of the Florida
11 Building Code on buildings, structures, and facilities of state universities, state colleges, and public-
12 school districts shall not be more than the actual labor and administrative costs incurred for plans
13 review and inspections to ensure compliance with the code.

14 105.3.1.2 No permit may be issued for any building construction, erection, alteration, modification,
15 repair, or addition unless the applicant for such permit provides to the enforcing agency which issues
16 the permit any of the following documents which apply to the construction for which the permit is to
17 be issued and which shall be prepared by or under the direction of an engineer registered under
18 Chapter 471, Florida Statutes:

- 19 1. Plumbing documents for any new building or addition which requires a plumbing system
20 with more than 250 fixture units or which costs more than \$125,000.
- 21 2. Fire sprinkler documents for any new building or addition which includes a fire sprinkler
22 system which contains 50 or more sprinkler heads. Personnel as authorized by chapter 633
23 Florida Statutes, may design a fire sprinkler system of 49 or fewer heads and may design
24 the alteration of an existing fire sprinkler system if the alteration consists of the relocation,
25 addition or deletion of not more than 49 heads, notwithstanding the size of the existing fire
26 sprinkler system.
- 27 3. Heating, ventilation, and air-conditioning documents for any new building or addition
28 which requires more than a 15-ton-per-system capacity which is designed to accommodate
29 100 or more persons or for which the system costs more than \$125,000. This paragraph
30 does not include any document for the replacement or repair of an existing system in
31 which the work does not require altering a structural part of the building or for work on a
32 residential one-, two-, three-, or four-family structure.

33 An air-conditioning system may be designed by an installing air-conditioning contractor
34 certified under Chapter 489, Florida Statutes, to serve any building or addition which is
35 designed to accommodate fewer than 100 persons and requires an air-conditioning system
36 with a value of \$125,000 or less; and when a 15-ton-per system or less is designed for a
37 singular space of a building and each 15-ton system or less has an independent duct
38 system. Systems not complying with the above require design documents that are to be
39 sealed by a professional engineer.

40 *Example 1:* When a space has two 10-ton systems with each having an independent duct
41 system, the contractor may design these two systems since each unit (system) is less than
42 15 tons.

43 *Example 2:* Consider a small single-story office building which consists of six individual
44 offices where each office has a single three-ton package air conditioning heat pump. The
45 six heat pumps are connected to a single water-cooling tower. The cost of the entire
46 heating, ventilation and air-conditioning work is \$47,000 and the office building
47 accommodates fewer than 100 persons. Because the six mechanical units are connected to
48 a common water tower, this is considered to be an 18-ton system.

1 *Note:* It was further clarified by the Commission that the limiting criteria of 100 persons
2 and \$125,000 apply to the building occupancy load and the cost for the total air-
3 conditioning system of the building.

- 4 4. Any specialized mechanical, electrical, or plumbing document for any new building or
5 addition which includes a medical gas, oxygen, steam, vacuum, toxic air filtration, halon, or
6 fire detection and alarm system which costs more than \$5,000.
- 7 5. Electrical documents. See Florida Statutes 471.003(2)(h). Any electrical or plumbing or air-
8 conditioning and refrigeration system meeting the following thresholds are required to be
9 designed by a Florida Registered Engineer. The system, Requires an electrical system with a
10 value of over \$125,000; and Requires an aggregate service capacity of over 600 amperes
11 (240 volts) on a residential electrical system or over 800 amperes (240 volts) on a
12 commercial or industrial electrical system;

13 *NOTE:* It was further clarified by the Commission that the limiting factor of 240 volt or over
14 is required to be designed by an Engineer. Documents requiring an engineer seal by this
15 part shall not be valid unless a professional engineer who possesses a valid certificate of
16 registration has signed, dated, and stamped such document as provided in Section
17 471.025, Florida Statutes.

- 18 6. All public swimming pools and public bathing places defined by and regulated under
19 Chapter 514, Florida Statutes.

20 *[A] 105.3.2 Time limitation of application.* An application for a permit for any proposed work shall be deemed
21 to have been abandoned becoming null and void 180 days after the date of filing, unless such application has
22 been pursued in good faith or a permit has been issued; except that the building official is authorized to
23 grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall
24 be requested in writing and justifiable cause demonstrated.

25 *105.3.3* An enforcing authority may not issue a building permit for any building construction, erection,
26 alteration, modification, repair or addition unless the permit either includes on its face or there is attached
27 to the permit the following statement: "NOTICE: In addition to the requirements of this permit, there may be
28 additional restrictions applicable to this property that may be found in the public records of this county, and
29 there may be additional permits required from other governmental entities such as water management
30 districts, state agencies, or federal agencies."

31 *105.3.4* A building permit for a single-family residential dwelling must be issued within 30 working days of
32 application therefor unless unusual circumstances require a longer time for processing the application or
33 unless the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or
34 ordinances.

35 *105.3.5 Identification of minimum premium policy.* Except as otherwise provided in Chapter 440, Florida
36 Statutes, Workers' Compensation, every employer shall, as a condition to receiving a building permit, show
37 proof that it has secured compensation for its employees as provided in Sections 440.10 and 440.38, Florida
38 Statutes.

39 *105.3.6 Asbestos removal.* Moving, removal or disposal of asbestos-containing materials on a residential
40 building where the owner occupies the building, the building is not for sale or lease, and the work is
41 performed according to the owner-builder limitations provided in this paragraph. To qualify for exemption
42 under this paragraph, an owner must personally appear and sign the building permit application. The
43 permitting agency shall provide the person with a disclosure statement in substantially the following form:

44 *Disclosure Statement:* State law requires asbestos abatement to be done by licensed contractors. You
45 have applied for a permit under an exemption to that law. The exemption allows you, as the owner of
46 your property, to act as your own asbestos abatement contractor even though you do not have a
47 license. You must supervise the construction yourself. You may move, remove or dispose of asbestos-

1 containing materials on a residential building where you occupy the building and the building is not for
2 sale or lease, or the building is a farm outbuilding on your property. If you sell or lease such building
3 within 1 year after the asbestos abatement is complete, the law will presume that you intended to sell
4 or lease the property at the time the work was done, which is a violation of this exemption. You may
5 not hire an unlicensed person as your contractor. Your work must be done according to all local, state
6 and federal laws and regulations which apply to asbestos abatement projects. It is your responsibility
7 to make sure that people employed by you have licenses required by state law and by county or
8 municipal licensing ordinances.

9 *105.3.7 Applicable Code for Manufactured Buildings.* Manufacturers should be permitted to complete all
10 buildings designed and approved prior to the effective date of a new code edition, provided a clear signed
11 contract is in place. The contract shall provide specific data mirroring that required by an application for
12 permit, specifically, without limitation, date of execution, building owner or dealer, and anticipated date of
13 completion. However, the construction activity must commence within 6 months of the contract's execution.
14 The contract is subject to verification by the Department of Business and Professional Regulation.

15 *105.4 Conditions of the permit.* The issuance or granting of a permit shall not be construed to be a permit for, or an
16 approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Permits
17 presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction
18 shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the
19 building official from requiring the correction of errors in the construction documents and other data. The building
20 official is also authorized to prevent occupancy or use of a structure where in violation of this code or of any other
21 ordinance of this jurisdiction.

22 *105.4.1 Permit intent.* A permit issued shall be construed to be a license to proceed with the work and not as
23 authority to violate, cancel, alter or set aside any of the provisions of the technical codes, nor shall issuance
24 of a permit prevent the building official from thereafter requiring a correction of errors in plans, construction
25 or violations of this code. Every permit issued shall become invalid unless the work authorized by such
26 permit is commenced within 6 months after its issuance, or if the work authorized by such permit is
27 suspended or abandoned for a period of 6 months after the time the work is commenced.

28 *105.4.1.1* If work has commenced and the permit is revoked, becomes null and void, or expires because
29 of lack of progress or abandonment, a new permit covering the proposed construction shall be
30 obtained before proceeding with the work.

31 *105.4.1.2* If a new permit is not obtained within 180 days from the date the initial permit became null
32 and void, the building official is authorized to require that any work which has been commenced or
33 completed be removed from the building site. Alternately, a new permit may be issued on application,
34 providing the work in place and required to complete the structure meets all applicable regulations in
35 effect at the time the initial permit became null and void and any regulations which may have become
36 effective between the date of expiration and the date of issuance of the new permit.

37 *105.4.1.3* Work shall be considered to be in active progress when the permit has received an approved
38 inspection within 180 days. This provision shall not be applicable in case of civil commotion or strike or
39 when the building work is halted due directly to judicial injunction, order or similar process.

40 *105.4.1.4* The fee for renewal reissuance and extension of a permit shall be set forth by the
41 administrative authority.

42 *105.5 Expiration.* Every permit issued shall become invalid unless the work on the site authorized by such permit is
43 commenced within 180 days after its issuance, or if the work authorized on the site by such permit holder and
44 property owner shall be responsible to either complete all work in accordance with the permitted plans and
45 inspection or remove any partially completed work in a safe and code compliant manner. The building official is
46 authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The
47 extension shall be requested in writing and justifiable cause demonstrated as determined by the building official.

1 *105.5.1 Additional options for closing a permit.* Pursuant to Section 553.79(15), Florida Statutes, a property
2 owner, regardless of whether the property owner is the one listed on the application for the building permit,
3 may close a building permit by complying with the following requirements:

- 4 1. The property owner may retain the original contractor listed on the permit or hire a different
5 contractor appropriately licensed in this state to perform the work necessary to satisfy the
6 conditions of the permit and to obtain any necessary inspection in order to close the permit. If a
7 contractor other than the original contractor listed on the permit is hired by the property owner
8 to close the permit, such contractor is not liable for any defects in the work performed by the
9 original contractor and is only liable for the work that he or she performs.
- 10 2. The property owner may assume the role of an owner-builder, in accordance with Sections
11 489.103(7) and 489.503(6), Florida Statutes.
- 12 3. If a building permit is expired and its requirements have been substantially completed, as
13 determined by the local enforcement agency, the permit may be closed without having to obtain
14 a new building permit, and the work required to close the permit may be done pursuant to the
15 building code in effect at the time the local enforcement agency received the application for the
16 permit, unless the contractor has sought and received approval from the local enforcement
17 agency for an alternative material, design or method of construction.
- 18 4. A local enforcement agency may close a building permit 6 years after the issuance of the permit,
19 even in the absence of a final inspection, if the local enforcement agency determines that no
20 apparent safety hazard exists.

21 For purposes of this section, the term "close" means that the requirements of the permit have
22 been satisfied.

23 *105.5.2* For the purposes of this subsection, a closed permit shall mean a permit for which all requirements
24 for completion have been satisfied or a permit that has been administratively closed by the building official.

25 *105.5.3* For the purposes of this subsection, an open permit shall mean a permit that has not satisfied all
26 requirements for completion as defined in 105.5.1.1.

27 *[A] 105.6 Denial or revocation.* Whenever a permit required under this section is denied or revoked because the
28 plan, or the construction, erection, alteration, modification, repair, or demolition of a building, is found by the local
29 enforcing agency to be not in compliance with the Florida Building Code, the local enforcing agency shall identify
30 the specific plan or project features that do not comply with the applicable codes, identify the specific code
31 chapters and sections upon which the finding is based, and provide this information to the permit applicant. If the
32 local building code administrator or inspector finds that the plans are not in compliance with the Florida Building
33 Code, the local building code administrator or inspector shall identify the specific plan features that do not comply
34 with the applicable codes, identify the specific code chapters and sections upon which the finding is based, and
35 provide this information to the local enforcing agency. The local enforcing agency shall provide this information to
36 the permit applicant.

37 *105.6.1* Pursuant to Section 553.79(16), Florida Statutes, a local enforcement agency may not deny issuance
38 of a building permit to; issue a notice of violation to; or fine, penalize, sanction or assess fees against an
39 arm's-length purchaser of a property for value solely because a building permit applied for by a previous
40 owner of the property was not closed. The local enforcement agency shall maintain all rights and remedies
41 against the property owner and contractor listed on the permit.

42 *105.6.2* Pursuant to Section 553.79(16), Florida Statutes, a local enforcement agency may not deny issuance
43 of a building permit to a contractor solely because the contractor is listed on other building permits that
44 were not closed. A local enforcement agency has the authority to deny a new permit application from an
45 applicant for other reasons.

46 *[A] 105.7 Placement of permit.* The building permit or copy shall be kept on the site of the work until the
47 completion of the project.

1 *105.8 Notice of commencement.* In accordance with Section 713.135, Florida Statutes, when any person applies for
2 a building permit, the authority issuing such permit shall print on the face of each permit card in no less than 14-
3 point, capitalized, boldfaced type: "WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF
4 COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF
5 COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU
6 INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE RECORDING YOUR
7 NOTICE OF COMMENCEMENT."

8 *105.9 Asbestos.* The enforcing agency shall require each building permit for the demolition or renovation of an
9 existing structure to contain an asbestos notification statement which indicates the owner's or operator's
10 responsibility to comply with the provisions of Section 469.003, Florida Statutes, and to notify the Department of
11 Environmental Protection of his or her intentions to remove asbestos, when applicable, in accordance with state
12 and federal law.

13 *105.10 Certificate of protective treatment for prevention of termites.* A weather-resistant job-site posting board
14 shall be provided to receive duplicate treatment certificates as each required protective treatment is completed,
15 providing a copy for the person the permit is issued to and another copy for the building permit files. The
16 treatment certificate shall provide the product used, identity of the applicator, time and date of the treatment, site
17 location, area treated, chemical used, percent concentration and number of gallons used, to establish a verifiable
18 record of protective treatment. If the soil chemical barrier method for termite prevention is used, final exterior
19 treatment shall be completed prior to final building approval.

20 *105.11 Notice of termite protection.* A permanent sign which identifies the termite treatment provider and need
21 for reinspection and treatment contract renewal shall be provided. The sign shall be posted near the water heater
22 or electric panel.

23 *105.12 Work starting before permit issuance.* Upon approval of the building official, the scope of work delineated
24 in the building permit application and plan may be started prior to the final approval and issuance of the permit,
25 provided any work completed is entirely at risk of the permit applicant and the work does not proceed past the
26 first required inspection.

27 *105.13 Phased permit approval.* After submittal of the appropriate construction documents, the building official is
28 authorized to issue a permit for the construction of foundations or any other part of a building or structure before
29 the construction documents for the whole building or structure have been submitted. The holder of such permit
30 for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building
31 operation and without assurance that a permit for the entire structure will be granted. Corrections may be
32 required to meet the requirements of the technical codes.

33 *105.14 Permit issued on basis of an affidavit.* Whenever a permit is issued in reliance upon an affidavit or
34 whenever the work to be covered by a permit involves installation under conditions which, in the opinion of the
35 building official, are hazardous or complex, the building official shall require that the architect or engineer who
36 signed the affidavit or prepared the drawings or computations shall supervise such work. In addition, they shall be
37 responsible for conformity to the permit, provide copies of inspection reports as inspections are performed, and
38 upon completion make and file with the building official written affidavit that the work has been done in
39 conformity to the reviewed plans and with the structural provisions of the technical codes. In the event such
40 architect or engineer is not available, the owner shall employ in his stead a competent person or agency whose
41 qualifications are reviewed by the building official. The building official shall ensure that any person conducting
42 plans review is qualified as a plans examiner under Part XII of Chapter 468, Florida Statutes, and that any person
43 conducting inspections is qualified as a building inspector under Part XII of Chapter 468, Florida Statutes.

44 *Exception:* Permit issued on basis of an affidavit shall not extend to the flood load and flood resistance
45 requirements of the Florida Building Code.

46 *105.15 Opening protection.* When any activity requiring a building permit, not including roof covering replacement
47 or repair work associated with the prevention of degradation of the residence, that is applied for on or after July 1,
48 2008, and for which the estimated cost is \$50,000 or more for a site built single-family detached residential

1 structure that is located in the wind-borne debris region as defined in this code and that has an insured value of
2 \$750,000 or more, or, if the site built single-family detached residential structure is uninsured or for which
3 documentation of insured value is not presented, has a just valuation for the structure for purposes of ad valorem
4 taxation of \$750,000 or more; opening protections as required within this code or Florida Building Code,
5 Residential for new construction shall be provided.

6 *Exception:* Single family residential structures permitted subject to the Florida Building Code are not required
7 to comply with this section.

8 *105.16 Inspection of existing residential building not impacted by construction.*

9 (a) A local enforcing agency, and any local building code administrator, inspector, or other official or
10 entity, may not require as a condition of issuance of a one- or two-family residential building permit
11 the inspection of any portion of a building, structure, or real property that is not directly impacted by
12 the construction, erection, alteration, modification, repair, or demolition of the building, structure, or
13 real property for which the permit is sought.

14 (b) This subsection does not apply to a building permit sought for:

- 15 1. A substantial improvement as defined in s. 161.54, Florida Statutes or as defined in the Florida
16 Building Code.
- 17 2. A change of occupancy as defined in the Florida Building Code.
- 18 3. A conversion from residential to nonresidential or mixed use pursuant to s. 553.507(2)(a), Florida
19 Statutes or as defined in the Florida Building Code.
- 20 4. A historic building as defined in the Florida Building Code.

21 (c) This subsection does not prohibit a local enforcing agency, or any local building code administrator,
22 inspector, or other official or entity, from:

- 23 1. Citing any violation inadvertently observed in plain view during the ordinary course of an
24 inspection conducted in accordance with the prohibition in paragraph (a).
- 25 2. Inspecting a physically nonadjacent portion of a building, structure, or real property that is
26 directly impacted by the construction, erection, alteration, modification, repair, or demolition of
27 the building, structure, or real property for which the permit is sought in accordance with the
28 prohibition in paragraph (a).
- 29 3. Inspecting any portion of a building, structure, or real property for which the owner or other
30 person having control of the building, structure, or real property has voluntarily consented to the
31 inspection of that portion of the building, structure, or real property in accordance with the
32 prohibition in paragraph (a).
- 33 4. Inspecting any portion of a building, structure, or real property pursuant to an inspection warrant
34 issued in accordance with ss. 933.20-933.30, Florida Statutes.

35 *105.17 Streamlined low-voltage alarm system installation permitting.*

36 (1) As used in this section, the term:

- 37 (a) "Contractor" means a person who is qualified to engage in the business of electrical or alarm
38 system contracting pursuant to a certificate or registration issued by the department under Part
39 II of Chapter 489, Florida Statutes.
- 40 (b) "Low-voltage alarm system project" means a project related to the installation, maintenance,
41 inspection, replacement, or service of a new or existing alarm system, as defined in s. 489.505,
42 Florida Statutes, that is hardwired and operating at low voltage, as defined in the National
43 Electrical Code Standard 70, Current Edition, or a new or existing low-voltage electric fence, and
44 ancillary components or equipment attached to such a system, or fence, including, but not

- 1 limited to, home-automation equipment, thermostats, closed-circuit television systems, access
2 controls, battery recharging devices, and video cameras.
- 3 (c) "Low-voltage electric fence" means an alarm system, as defined in s. 489.505, that consists of a
4 fence structure and an energizer powered by a commercial storage battery not exceeding 12
5 volts which produces an electric charge upon contact with the fence structure.
- 6 (d) "Wireless alarm system" means a burglar alarm system of smoke detector that is not hardwired.
- 7 (2) Notwithstanding any provision of this code, this section applies to all low-voltage alarm system
8 projects for which a permit is required by a local enforcement agency. However, a permit is not
9 required to install, maintain, inspect, replace, or service a wireless alarm system, including any ancillary
10 components or equipment attached to the system.
- 11 (3) A low-voltage electric fence must meet all of the following requirements to be permitted as a low-
12 voltage alarm system project and no further permit shall be required for the low-voltage alarm system
13 project other than as provided in this section:
- 14 (a) The electric charge produced by the fence upon contact must not exceed energizer
15 characteristics set forth in paragraph 22.108 and depicted in Figure 102 of International
16 Electrotechnical Commission Standard No. 60335-2-76, Current Edition.
- 17 (b) A nonelectric fence or wall must completely enclose the low-voltage electric fence. The low-
18 voltage electric fence may be up to 2 feet higher than the perimeter nonelectric fence or wall.
- 19 (c) The low-voltage electric fence must be identified using warning signs attached to the fence at
20 intervals of not more than 60 feet.
- 21 (d) The low-voltage electric fence shall not be installed in an area zoned exclusively for single-family
22 or multi-family residential use.
- 23 (e) The low-voltage electric fence shall not enclose the portions of a property which are used for
24 residential purposes.
- 25 (4) This section does not apply to the installation or replacement of a fire alarm if a plan review is
26 required.
- 27 (5) A local enforcement agency shall make uniform basic permit labels available for purchase by a
28 contractor to be used for the installation or replacement of a new or existing alarm system at a cost as
29 indicated in s. 553.793, Florida Statutes. The local enforcement agency may not require the payment of
30 any additional fees, charges, or expenses associated with the installation or replacement of a new or
31 existing alarm.
- 32 (a) A local enforcement agency may not require a contractor, as a condition of purchasing a label, to
33 submit information other than identification information of the licensee and proof of registration
34 or certification as a contractor.
- 35 (b) A label is valid for 1 year after the date of purchase and may only be used within the jurisdiction
36 of the local enforcement agency that issued the label. A contractor may purchase labels in bulk
37 for one or more unspecified current or future projects.
- 38 (6) A contractor shall post an unused uniform basic permit label in a conspicuous place on the premises of
39 the low-voltage alarm system project site before commencing work on the project.
- 40 (7) A contractor is not required to notify the local enforcement agency before commencing work on a low-
41 voltage alarm system project. However, a contractor must submit a Uniform Notice of a Low-Voltage
42 Alarm System Project as provided under subsection (7) to the local enforcement agency within 14 days
43 after completing the project. A local enforcement agency may take disciplinary action against a
44 contractor who fails to timely submit a Uniform Notice of a Low-Voltage Alarm System Project.

- 1 (8) The Uniform Notice of a Low-Voltage Alarm System Project may be submitted electronically or by
2 facsimile if all submissions are signed by the owner, tenant, contractor, or authorized representative of
3 such persons. The Uniform Notice of a Low-Voltage Alarm System Project shall be in the format
4 prescribed by the local enforcement agency and must comply with the requirements of s. 553.793(7),
5 Florida Statutes.
- 6 (9) A local enforcement agency may coordinate directly with the owner or customer to inspect a low-
7 voltage alarm system to ensure compliance with applicable codes and standards. If a low-voltage alarm
8 system project fails an inspection, the contractor must take corrective action as necessary to pass
9 inspection.
- 10 (10) A municipality, county, district, or other entity of local government may not adopt or maintain in effect
11 any ordinance or rule regarding a low-voltage alarm system project that is inconsistent with this
12 section.
- 13 (11) A uniform basic permit label shall not be required for the subsequent maintenance, inspection, or
14 service of an alarm system that was permitted in accordance with this section.
- 15 (12) The provisions of this act are not intended to impose new or additional licensure requirements on
16 persons licensed in accordance with the applicable provisions of Chapter 489, Florida Statutes.

17 **SECTION 106**
18 **FLOOR AND ROOF DESIGN LOADS**

19 *[A] 106.1 Live loads posted.* In commercial or industrial buildings, for each floor or portion thereof designed for live
20 loads exceeding 50 psf (2.40 kN/m²), such design live loads shall be conspicuously posted by the owner or the
21 owner's authorized agent in that part of each story in which they apply, using durable signs. It shall be unlawful to
22 remove or deface such notices.

23 *[A] 106.2 Issuance of certificate of occupancy.* A certificate of occupancy required by Section 111 shall not be
24 issued until the floor load signs, required by Section 106.1, have been installed.

25 *[A] 106.3 Restrictions on loading.* It shall be unlawful to place, or cause or permit to be placed, on any floor or roof
26 of a building, structure or portion thereof, a load greater than is permitted by this code.

27 **SECTION 107**
28 **SUBMITTAL DOCUMENTS**

29 *[A] 107.1 General.* Submittal documents consisting of construction documents, statement of special inspections,
30 geotechnical report and other data shall be submitted in two or more sets with each permit application. The
31 construction documents shall be prepared by a registered design professional where required by Chapter 471,
32 Florida Statutes & 61G15 Florida Administrative Code or Chapter 481, Florida Statutes & 61G1 Florida
33 Administrative Code. Where special conditions exist, the building official is authorized to require additional
34 construction documents to be prepared by a registered design professional.

35 *Exception:* The building official is authorized to waive the submission of construction documents and other
36 data not required to be prepared by a registered design professional if it is found that the nature of the work
37 applied for is such that review of construction documents is not necessary to obtain compliance with this
38 code.

39 *[A] 107.2 Construction documents.* Construction documents shall be in accordance with Sections 107.2.1 through
40 107.2.6.

41 *107.2.1 Information on construction documents.* Construction documents shall be dimensioned and drawn
42 upon suitable material. Electronic media documents are permitted to be submitted where approved by the
43 building official. Construction documents shall be of sufficient clarity to indicate the location, nature and
44 extent of the work proposed and show in detail that it will conform to the provisions of this code and
45 relevant laws, ordinances, rules and regulations, as determined by the building official.

1 [A] 107.2.2 *Fire protection system shop drawings.* Shop drawings for the fire protection system(s) shall be
2 submitted to indicate conformance to this code and the construction documents and shall be approved prior
3 to the start of system installation. Shop drawings shall contain all information as required by the referenced
4 installation standards in Chapter 9.

5 [A] 107.2.3 *Means of egress.* The construction documents shall show in sufficient detail the location,
6 construction, size and character of all portions of the means of egress including the path of the exit discharge
7 to the public way in compliance with the provisions of this code. In other than occupancies in Groups R-2, R-
8 3, and I-1, the construction documents shall designate the number of occupants to be accommodated on
9 every floor, and in all rooms and spaces.

10 [A] 107.2.4 *Exterior wall envelope.* Construction documents for all buildings shall describe the exterior wall
11 envelope in sufficient detail to determine compliance with this code. The construction documents shall
12 provide details of the exterior wall envelope as required, including flashing, intersections with dissimilar
13 materials, corners, end details, control joints, intersections at roof, eaves or parapets, means of drainage,
14 water-resistive membrane and details around openings.

15 The construction documents shall include manufacturer's installation instructions that provide supporting
16 documentation that the proposed penetration and opening details described in the construction documents
17 maintain the weather resistance of the exterior wall envelope. The supporting documentation shall fully
18 describe the exterior wall system that was tested, where applicable, as well as the test procedure used.

19 107.2.5 *Exterior balcony and elevated walking surfaces.* Where balcony or other elevated walking surfaces
20 are exposed to water from direct or blowing rain, snow or irrigation, and the structural framing is protected
21 by an impervious moisture barrier, the construction documents shall include details for all elements of the
22 impervious moisture barrier system. The construction documents shall include manufacturer's installation
23 instructions.

24 [A] 107.2.6 *Site plan.* The construction documents submitted with the application for permit shall be
25 accompanied by a site plan showing to scale the size and location of new construction and existing structures
26 on the site, distances from lot lines, the established street grades and the proposed finished grades and, as
27 applicable, flood hazard areas, floodways, and design flood elevations; and it shall be drawn in accordance
28 with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be
29 demolished and the location and size of existing structures and construction that are to remain on the site or
30 plot. The building official is authorized to waive or modify the requirement for a site plan where the
31 application for permit is for alteration or repair or where otherwise warranted.

32 [A] 107.2.6.1 *Design flood elevations.* Where design flood elevations are not specified, they shall be
33 established in accordance with Section 1612.3.1.

34 107.2.6.2 For the purpose of inspection and record retention, site plans for a building may be
35 maintained in the form of an electronic copy at the worksite. These plans must be open to inspection
36 by the building official or a duly authorized representative, as required by the Florida Building Code.

37 [A] 107.2.7 *Structural information.* The construction documents shall provide the information specified in
38 Section 1603.

39 [A] 107.3 *Examination of documents.* The building official shall examine or cause to be examined the accompanying
40 submittal documents and shall ascertain by such examinations whether the construction indicated and described is
41 in accordance with the requirements of this code and other pertinent laws or ordinances.

42 *Exceptions:*

- 43 1. Building plans approved pursuant to Section 553.77(5), Florida Statutes, and state-approved
44 manufactured buildings are exempt from local codes enforcing agency plan reviews except for
45 provisions of the code relating to erection, assembly or construction at the site. Erection, assembly and
46 construction at the site are subject to local permitting and inspections. Photocopies of plans approved

1 according to Rule 61-41.009, Florida Administrative Code, shall be sufficient for local permit application
2 documents of record for the modular building portion of the permitted project.

- 3 2. Industrial construction on sites where design, construction and fire safety are supervised by
4 appropriately licensed design and inspection professionals and which contain adequate in-house fire
5 departments and rescue squads is exempt, subject to approval by the building official, from review of
6 plans and inspections, providing the appropriate licensed design and inspection professionals certify
7 that applicable codes and standards have been met and supply appropriate approved drawings to local
8 building and fire-safety inspectors.

9 *[A] 107.3.1 Approval of construction documents.* When the building official issues a permit, the construction
10 documents shall be approved, in writing or by stamp, as "Reviewed for Code Compliance." One set of
11 construction documents so reviewed shall be retained by the building official. The other set shall be returned
12 to the applicant, shall be kept at the site of work and shall be open to inspection by the building official or a
13 duly authorized representative.

14 *[A] 107.3.2 Previous approvals.* This code shall not require changes in the construction documents,
15 construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or
16 otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days
17 after the effective date of this code and has not been abandoned.

18 *[A] 107.3.3 Phased approval.* The building official is authorized to issue a permit for the construction of
19 foundations or any other part of a building or structure before the construction documents for the whole
20 building or structure have been submitted, provided that adequate information and detailed statements
21 have been filed complying with pertinent requirements of this code. The holder of such permit for the
22 foundation or other parts of a building or structure shall proceed at the holder's own risk with the building
23 operation and without assurance that a permit for the entire structure will be granted.

24 *[A] 107.3.4 Design professional in responsible charge.* Where it is required that documents be prepared by a
25 registered design professional, the building official shall be authorized to require the owner or the owner's
26 authorized agent to engage and designate on the building permit application a registered design professional
27 who shall act as the registered design professional in responsible charge. If the circumstances require, the
28 owner or the owner's authorized agent shall designate a substitute registered design professional in
29 responsible charge who shall perform the duties required of the original registered design professional in
30 responsible charge. The building official shall be notified in writing by the owner or owner's authorized agent
31 if the registered design professional in responsible charge is changed or is unable to continue to perform the
32 duties.

33 The registered design professional in responsible charge shall be responsible for reviewing and coordinating
34 submittal documents prepared by others, including phased and deferred submittal items, for compatibility
35 with the design of the building.

36 *107.3.4.1 Deferred submittals.* For the purposes of this section, deferred submittals are defined as
37 those portions of the design that are not submitted at the time of the application and that are to be
38 submitted to the building official.

39 Deferral of any submittal items shall have the prior approval of the building official. The registered
40 design professional in responsible charge shall list the deferred submittals on the construction
41 documents for review by the building official.

42 Documents for deferred submittal items shall be submitted to the registered design professional in
43 responsible charge who shall review them and forward them to the building official with a notation
44 indicating that the deferred submittal documents have been reviewed and found to be in general
45 conformance to the design of the building. The deferred submittal items shall not be installed until the
46 deferred submittal documents have been approved by the building official.

1 107.3.4.2 Certifications by contractors authorized under the provisions of Section 489.115(4)(b), Florida
2 Statutes, shall be considered equivalent to sealed plans and specifications by a person licensed under
3 Chapter 471, Florida Statutes, or Chapter 481, Florida Statutes, by local enforcement agencies for plans
4 review for permitting purposes relating to compliance with the wind-resistance provisions of the code
5 or alternate methodologies approved by the Florida Building Commission for one- and two-family
6 dwellings. Local enforcement agencies may rely upon such certification by contractors that the plans
7 and specifications submitted conform to the requirements of the code for wind resistance. Upon good
8 cause shown, local government code enforcement agencies may accept or reject plans sealed by
9 persons licensed under Chapters 471, 481 or 489, Florida Statutes.

10 107.3.5 *Minimum plan review criteria for buildings.* The examination of the documents by the building official
11 shall include the following minimum criteria and documents: a floor plan; site plan; foundation plan;
12 floor/roof framing plan or truss layout; all fenestration and building envelope penetrations; flashing; and
13 rough opening dimensions; and all exterior elevations:

14 *Commercial Buildings:*

15 *Building:*

- 16 1. Site requirements:
 - 17 Parking Fire access
 - 18 Vehicle loading
 - 19 Driving/turning radius
 - 20 Fire hydrant/water supply/post indicator valve (PIV)
 - 21 Set back/separation (assumed property lines)
 - 22 Location of specific tanks, water lines and sewer lines
 - 23 Flood hazard areas, flood zones, and design flood elevations
- 24 2. Occupancy group and special occupancy requirements shall be determined (with cross
25 check with the energy code submittal).
- 26 3. Minimum type of construction shall be determined (see Table 503).
- 27 4. Fire-resistant construction requirements shall include the following components:
 - 28 Fire-resistant separations
 - 29 Fire-resistant protection for type of construction
 - 30 Protection of openings and penetrations of rated walls
 - 31 Fireblocking and draftstopping and calculated fire resistance
- 32 5. Fire suppression systems shall include:
 - 33 Early warning smoke evacuation systems
 - 34 Schematic fire sprinklers
 - 35 Standpipes
 - 36 Pre-engineered systems
 - 37 Riser diagram.
- 38 6. Life safety systems shall be determined and shall include the following requirements:
 - 39 Occupant load and egress capacities

- 1 Early warning
- 2 Smoke control
- 3 Stair pressurization
- 4 Systems schematic
- 5 7. Occupancy load/egress requirements shall include:
- 6 Occupancy load
- 7 Gross
- 8 Net
- 9 Means of egress
- 10 Exit access
- 11 Exit
- 12 Exit discharge
- 13 Stairs construction/geometry and protection
- 14 Doors
- 15 Emergency lighting and exit signs
- 16 Specific occupancy requirements
- 17 Construction requirements
- 18 Horizontal exits/exit passageways
- 19 8. Structural requirements shall include:
- 20 Soil conditions/analysis
- 21 Termite protection
- 22 Design loads
- 23 Wind requirements
- 24 Building envelope
- 25 Impact resistant coverings or systems
- 26 Structural calculations (if required)
- 27 Foundation
- 28 Flood requirements in accordance with Section 1612, including lowest floor elevations,
- 29 enclosures, flood damage-resistant materials
- 30 Wall systems Floor systems
- 31 Roof systems
- 32 Threshold inspection plan
- 33 Stair systems
- 34 9. Materials shall be reviewed and shall at a minimum include the following:
- 35 Wood
- 36 Steel

- 1 Aluminum
- 2 Concrete
- 3 Plastic
- 4 Glass
- 5 Masonry
- 6 Gypsum board and plaster Insulating (mechanical)
- 7 Roofing
- 8 Insulation
- 9 Building envelope portions of the Energy Code (including calculation and mandatory
- 10 requirements)
- 11 10. Accessibility requirements shall include the following:
- 12 Site requirements
- 13 Accessible route
- 14 Vertical accessibility
- 15 Toilet and bathing facilities
- 16 Drinking fountains
- 17 Equipment
- 18 Special occupancy requirements
- 19 Fair housing requirements
- 20 11. Interior requirements shall include the following:
- 21 Interior finishes (flame spread/smoke development)
- 22 Light and ventilation (including corresponding portion of the energy code)
- 23 Sanitation
- 24 12. Special systems:
- 25 Elevators
- 26 Escalators
- 27 Lifts
- 28 13. Swimming pools:
- 29 Barrier requirements
- 30 Spas
- 31 Wading pools
- 32 14. Location and installation details. The specific location and installation details of each fire
- 33 door, fire damper, ceiling damper and smoke damper shall be shown and properly
- 34 identified on the building plans by the designer.
- 35 *Electrical:*
- 36 1. Electrical:

- 1 Wiring
- 2 Services
- 3 Feeders and branch circuits
- 4 Overcurrent protection
- 5 Grounding
- 6 Wiring methods and materials
- 7 GFCIs
- 8 Electrical portions of the Energy Code (including calculation and mandatory requirements)
- 9 2. Equipment
- 10 3. Special occupancies
- 11 4. Emergency systems
- 12 5. Communication systems
- 13 6. Low voltage
- 14 7. Load calculations
- 15 8. Design flood elevation

Plumbing:

- 17 1. Minimum plumbing facilities
- 18 2. Fixture requirements
- 19 3. Water supply piping
- 20 4. Sanitary drainage
- 21 5. Water heaters
- 22 6. Vents
- 23 7. Roof drainage
- 24 8. Back flow prevention
- 25 9. Irrigation
- 26 10. Location of water supply line
- 27 11. Grease traps
- 28 12. Environmental requirements
- 29 13. Plumbing riser
- 30 14. Design flood elevation
- 31 15. Water/plumbing portions of the Energy Code (including calculation and mandatory
- 32 requirements)

Mechanical:

- 34 1. Mechanical portions of the Energy calculations
- 35 2. Exhaust systems: Clothes dryer exhaust
- 36 Kitchen equipment exhaust

- 1 Specialty exhaust systems
- 2 3. Equipment
- 3 4. Equipment location
- 4 5. Make-up air
- 5 6. Roof-mounted equipment
- 6 7. Duct systems
- 7 8. Ventilation
- 8 9. Combustion air
- 9 10. Chimneys, fireplaces and vents
- 10 11. Appliances
- 11 12. Boilers
- 12 13. Refrigeration
- 13 14. Bathroom ventilation
- 14 15. Laboratory
- 15 16. Design flood elevation
- 16 *Gas:*
- 17 1. Gas piping
- 18 2. Venting
- 19 3. Combustion air
- 20 4. Chimneys and vents
- 21 5. Appliances
- 22 6. Type of gas
- 23 7. Fireplaces
- 24 8. LP tank location
- 25 9. Riser diagram/shutoffs
- 26 10. Design flood elevation
- 27 11. Gas portions of the Energy Code (including calculation and mandatory requirements)
- 28 *Demolition:*
- 29 1. Asbestos removal
- 30 *Residential (one- and two-family):*
- 31 1. Site requirements:
- 32 Set back/separation (assumed property lines) Location of septic tanks
- 33 2. Fire-resistant construction (if required)
- 34 3. Fire
- 35 4. Smoke detector locations

- 1 5. Egress:
- 2 Egress window size and location stairs construction requirements
- 3 6. Structural requirements shall include:
- 4 Wall section from foundation through roof, including assembly and materials connector
- 5 tables wind requirements structural calculations (if required)
- 6 Termite protection
- 7 Design loads
- 8 Wind requirements
- 9 Building envelope
- 10 Foundation
- 11 Wall systems
- 12 Floor systems
- 13 Roof systems
- 14 Flood hazard areas, flood zones, design flood elevations, lowest floor elevations,
- 15 enclosures, equipment, and flood damage-resistant materials
- 16 7. Accessibility requirements:
- 17 Show/identify
- 18 Accessible bath
- 19 8. Impact resistant coverings or systems
- 20 9. Residential Energy Code submittal (including calculation and mandatory requirements)

21 *Manufactured buildings/housing:*

- 22 1. Site requirements
- 23 Setback/separation (assumed property lines)
- 24 Location of septic tanks (if applicable)
- 25 2. Structural
- 26 Wind zone
- 27 Anchoring
- 28 Blocking
- 29 3. Plumbing
- 30 List potable water source and meter size (if applicable)
- 31 4. Mechanical
- 32 Exhaust systems
- 33 Clothes dryer exhaust
- 34 Kitchen equipment exhaust
- 35 5. Electrical exterior disconnect location

36 *Exemptions:* Plans examination by the building official shall not be required for the following work:

- 1 1. Replacing existing equipment such as mechanical units, water heaters, etc.
- 2 2. Reroofs
- 3 3. Minor electrical, plumbing and mechanical repairs
- 4 4. Annual maintenance permits
- 5 5. Prototype plans:
- 6 Except for local site adaptations, siding, foundations and/or modifications.
- 7 Except for structures that require waiver.
- 8 6. Manufactured buildings plan except for foundations and modifications of buildings on site
- 9 and as listed above in manufactured buildings/housing.

10 [A] 107.4 Amended construction documents. Work shall be installed in accordance with the approved construction
 11 documents, and any changes made during construction that are not in compliance with the approved construction
 12 documents shall be resubmitted for approval as an amended set of construction documents.

13 [A] 107.5 Retention of construction documents. One set of approved construction documents shall be retained by
 14 the building official for a period of not less than 180 days from date of completion of the permitted work, or as
 15 required by state or local laws.

16 107.6 Affidavits. The building official may accept a sworn affidavit from a registered architect or engineer stating
 17 that the plans submitted conform to the technical codes. For buildings and structures, the affidavit shall state that
 18 the plans conform to the laws as to egress, type of construction and general arrangement and, if accompanied by
 19 drawings, show the structural design and that the plans and design conform to the requirements of the technical
 20 codes as to strength, stresses, strains, loads and stability. The building official may without any examination or
 21 inspection accept such affidavit, provided the architect or engineer who made such affidavit agrees to submit to
 22 the building official copies of inspection reports as inspections are performed and upon completion of the
 23 structure, electrical, gas, mechanical or plumbing systems a certification that the structure, electrical, gas,
 24 mechanical or plumbing system has been erected in accordance with the requirements of the technical codes.
 25 Where the building official relies upon such affidavit, the architect or engineer shall assume full responsibility for
 26 compliance with all provisions of the technical codes and other pertinent laws or ordinances. The building official
 27 shall ensure that any person conducting plans review is qualified as a plans examiner under Part XII of Chapter 468,
 28 Florida Statutes, and that any person conducting inspections is qualified as a building inspector under Part XII of
 29 Chapter 468, Florida Statutes.

30 107.6.1 Building permits issued on the basis of an affidavit. Pursuant to the requirements of federal
 31 regulation for participation in the National Flood Insurance Program (44 C.F.R. Parts 59 and 60), the authority
 32 granted to the building official to issue permits, to rely on inspections, and to accept plans and construction
 33 documents on the basis of affidavits and plans submitted pursuant to Sections 105.14 and 107.6, shall not
 34 extend to the flood load and flood-resistance construction requirements of the Florida Building Code.

SECTION 108
TEMPORARY STRUCTURES AND USES

37 [A] 108.1 General. The building official is authorized to issue a permit for temporary structures and temporary
 38 uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 180 days. The
 39 building official is authorized to grant extensions for demonstrated cause.

40 [A] 108.2 Conformance. Temporary structures and uses shall comply with the requirements in Section 3103.

41 [A] 108.3 Temporary power. The building official is authorized to give permission to temporarily supply and use
 42 power in part of an electric installation before such installation has been fully completed and the final certificate of
 43 completion has been issued. The part covered by the temporary certificate shall comply with the requirements
 44 specified for temporary lighting, heat or power in NFPA 70.

1 [A] 108.4 Termination of approval. The building official is authorized to terminate such permit for a temporary
2 structure or use and to order the temporary structure or use to be discontinued.

3
4
5 **SECTION 109**
6 **FEES**

7 [A] 109.1 Payment of fees. A permit shall not be valid until the fees prescribed by law have been paid, nor shall an
8 amendment to a permit be released until the additional fee, if any, has been paid.

9 [A] 109.2 Schedule of permit fees. On buildings, structures, electrical, gas, mechanical, and plumbing systems or
10 alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule as
11 established by the applicable governing authority.

12 [A] 109.3 Building permit valuations. The applicant for a permit shall provide an estimated permit value at time of
13 application. Permit valuations shall include total value of work, including materials and labor, for which the permit
14 is being issued, such as electrical, gas, mechanical, plumbing equipment and permanent systems. If, in the opinion
15 of the building official, the valuation is underestimated on the application, the permit shall be denied, unless the
16 applicant can show detailed estimates to meet the approval of the building official. Final building permit valuation
17 shall be set by the building official.

18 [A] 109.4 Work commencing before permit issuance. Any person who commences any work on a building,
19 structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits or without prior
20 approval from the building official as permitted in Section 105.2.2 or 105.12 shall be subject to a fee established by
21 the building official that shall be in addition to the required permit fees or as provided by local ordinance. This
22 provision shall not apply to emergency work when delay would clearly have placed life or property in imminent
23 danger. But in all such cases the required permit(s) must be applied for within three (3) business days and any
24 unreasonable delay in obtaining those permit(s) shall result in the charge of a double fee. The payment of a double
25 fee shall not preclude or be deemed a substitute for prosecution for commencing work without first obtaining a
26 permit. The building official may grant extensions of time or waive fees when justifiable cause has been
27 demonstrated in writing.

28 [A] 109.5 Related fees. The payment of the fee for the construction, alteration, removal or demolition for work
29 done in connection to or concurrently with the work authorized by a building permit shall not relieve the applicant
30 or holder of the permit from the payment of other fees that are prescribed by law.

31 [A] 109.6 Refunds. Reserved

32 **SECTION 110**
33 **INSPECTIONS**

34 [A] 110.1 General. Construction or work for which a permit is required shall be subject to inspection by the building
35 official and such construction or work shall remain exposed and provided with access for inspection purposes until
36 approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the
37 provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate
38 or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty
39 of the owner or the owner's authorized agent to cause the work to remain exposed and provided with access for
40 inspection purposes. Neither the building official nor the jurisdiction shall be liable for expense entailed in the
41 removal or replacement of any material required to allow inspection.

42 *110.1.1 Manufacturers and fabricators.* When deemed necessary by the building official, he/she shall make,
43 or cause to be made, an inspection of materials or assemblies at the point of manufacture or fabrication. A
44 record shall be made of every such examination and inspection and of all violations of the technical codes.

45 [A] 110.2 Preliminary inspection. Before issuing a permit, the building official is authorized to examine or cause to
46 be examined buildings, structures and sites for which an application has been filed.

1 [A] 110.3 Required inspections. The building official upon notification from the permit holder or his or her agent
2 shall make the following inspections, or any other such inspection as deemed necessary and shall either release
3 that portion of the construction or shall notify the permit holder or his or her agent of any violations which must
4 be corrected in order to comply with the technical codes. The building official shall determine the timing and
5 sequencing of when inspections occur and what elements are inspected at each inspection.

6 *Building*

7 1. Foundation inspection. To be made after trenches are excavated, any required reinforcing steel is
8 in place, forms erected and shall at a minimum include the following building components:

9 • Stem-wall

10 • Monolithic slab-on-grade

11 • Piling/pile caps

12 • Footers/grade beams

13 1.1. Slab Inspection: Concrete slab and under-floor inspections shall be made after in-slab or
14 under-floor reinforcing steel and building service equipment, conduit, piping accessories
15 and other ancillary equipment items are in place, but before any concrete is placed or floor
16 sheathing installed, including the subfloor.

17 1.2. A foundation/form board survey prepared and certified by a Florida licensed professional
18 surveyor and mapper may be required, prior to approval of the slab inspection. The survey
19 shall certify placement of the building on the site, illustrate all surrounding setback
20 dimensions and shall be available at the job site for review by the building inspector. In lieu
21 of providing a survey, the contractor may elect to uncover all property line markers and
22 string-up all property lines in preparation for inspection.

23 1.3. In flood hazard areas, upon placement of the lowest floor, including basement, and prior to
24 further vertical construction, the elevation certification shall be submitted to the authority
25 having jurisdiction.

26 2. Framing inspection. To be made after the roof, all framing, fireblocking and bracing is in place, all
27 concealing wiring, all pipes, chimneys, ducts and vents are complete and the rough electrical,
28 plumbing, heating wires, pipes and ducts are approved and shall at a minimum include the
29 following building components:

30 • Window/door framing

31 • Window U-factor/SHGC (as indicated on approved energy calculations)

32 • Vertical cells/columns

33 • Lintel/tie beams

34 • Framing/trusses/bracing/connectors (including truss layout and engineered drawings)

35 • Draftstopping/fireblocking

36 • Curtain wall framing

37 • Energy insulation (Insulation R-factor as indicated on approved energy calculations)

38 • Accessibility

39 • Verify rough opening dimensions are within tolerances.

40 • Window/door buck attachment

- 1 2.1 Insulation Inspection: To be made after the framing inspection is approved and the
2 insulation is in place, according to approved energy calculation submittal. Includes wall and
3 ceiling insulation.
- 4 2.2 Lath and gypsum board inspection for fire-resistance rated or shear assemblies. Lath and
5 gypsum board inspections shall be made after lathing and gypsum board, interior and
6 exterior, is in place, but before ant plastering is applied or gypsum board joints and
7 fasteners are taped and finished.
- 8 3. Sheathing inspection. To be made either as part of a dry-in inspection or done separately at the
9 request of the contractor after all roof and wall sheathing and fasteners are complete and shall at
10 a minimum include the following building components:
- 11 • Roof sheathing
 - 12 • Wall sheathing
 - 13 • Continuous air barrier
 - 14 • Exterior siding/cladding
 - 15 • Sheathing fasteners
 - 16 • Roof/wall dry-in
- 17 NOTE: Sheathing fasteners installed and found to be missing the structural member (shiners)
18 shall be removed and properly reinstalled prior to installation of the dry-in material.
- 19 4. Exterior wall coverings. Shall at a minimum include the following building components in
20 progress inspections:
- 21 • Exterior wall coverings and veneers
 - 22 • Soffit coverings
- 23 5. Roofing inspection. Shall at a minimum be made in at least two inspections and include the
24 following building components:
- 25 • Dry-in
 - 26 • Insulation
 - 27 • Roof coverings (including In Progress as necessary)
 - 28 • Insulation on roof deck (according to submitted energy calculation)
 - 29 • Flashing
- 30 5.1 Re-roof sheathing inspection. An affidavit with a notarized signature of a state or locally
31 licensed roofing contractor for the installation of additional sheathing fasteners as required
32 by the Existing Building Code may be accepted at the discretion of the building official.
- 33 6. Final inspection. To be made after the building is completed and ready for occupancy.
- 34 6.1. In flood hazard areas, as part of the final inspection, a final certification of the lowest floor
35 elevation shall be submitted to the authority having jurisdiction.
- 36 7. Swimming pool inspection. First inspection to be made after excavation and installation of
37 reinforcing steel, bonding and main drain and prior to placing of concrete.
- 38 a. Steel reinforcement inspection
 - 39 b. Underground electric inspection
 - 40 c. Underground piping inspection including a pressure test.

- 1 d. Underground electric inspection under deck area (including the equipotential bonding)
- 2 e. Underground piping inspection under deck area
- 3 f. Deck inspection: to be made prior to installation of the deck material (with forms, deck
- 4 drains, and any reinforcement in place
- 5 g. Safety Inspection; Made prior to filling the pool with the bonding connections made, the
- 6 proper drain covers installed and the final barriers installed.
- 7 h. Final pool piping
- 8 i. Final Electrical inspection
- 9 j. Final inspection to be made when the swimming pool is complete and all required
- 10 enclosure requirements are in place.

11 In order to pass final inspection and receive a certificate of completion, a residential
 12 swimming pool must meet the requirements relating to pool safety features as described in
 13 Section 454.2.17 of this code.

- 14 8. Demolition inspections. First inspection to be made after all utility connections have been
- 15 disconnected and secured in such manner that no unsafe or unsanitary conditions shall exist
- 16 during or after demolition operations.

17 Final inspection to be made after all demolition work is completed.

- 18 9. Manufactured building inspections. The building department shall inspect construction of
- 19 foundations; connecting buildings to foundations; installation of parts identified on plans as site
- 20 installed items, joining the modules, including utility cross-overs; utility connections from the
- 21 building to utility lines on site; and any other work done on site which requires compliance with
- 22 the Florida Building Code. Additional inspections may be required for public educational facilities
- 23 (see Section 453.27.20 of this code).

- 24 10. Where impact-resistant coverings or impact-resistant systems are installed, the building official
- 25 shall schedule adequate inspections of impact-resistant coverings or impact-resistant systems to
- 26 determine the following:

27 The system indicated on the plans was installed.

28 The system is installed in accordance with the manufacturer's installation instructions and the
 29 product approval.

30 *Electrical*

- 31 1. Underground inspection. To be made after trenches or ditches are excavated, conduit or cable
- 32 installed, and before any backfill is put in place.
- 33 2. Rough-in inspection. To be made after the roof, framing, fireblocking and bracing is in place and
- 34 prior to the installation of wall or ceiling membranes.
- 35 3. Final inspection. To be made after the building is complete, all required electrical fixtures are in
- 36 place and properly connected or protected, and the structure is ready for occupancy.
- 37 4. Existing Swimming Pools. To be made after all repairs or alterations are complete, all required
- 38 electrical equipment, GFCI protection, and equipotential bonding are in place on said alterations
- 39 or repairs.

40 *Plumbing*

- 41 1. Underground inspection. To be made after trenches or ditches are excavated, piping installed,
- 42 and before any backfill is put in place.

- 1 2. Rough-in inspection. To be made after the roof, framing, fireblocking and bracing is in place and
2 all soil, waste and vent piping is complete, and prior to this installation of wall or ceiling
3 membranes.
4 Includes plumbing provisions of the energy code and approved energy calculation provisions.
- 5 3. Final inspection. To be made after the building is complete, all plumbing fixtures are in place and
6 properly connected, and the structure is ready for occupancy.
7 *Note:* See Section 312 of the Florida Building Code, Plumbing for required tests.

8 *Mechanical*

- 9 1. Underground inspection. To be made after trenches or ditches are excavated, underground duct
10 and fuel piping installed, and before any backfill is put in place.
- 11 2. Rough-in inspection. To be made after the roof, framing, fireblocking and bracing are in place and
12 all ducting, and other concealed components are complete, and prior to the installation of wall or
13 ceiling membranes.
14 Includes mechanical provisions of the energy code and approved energy calculation provisions.
- 15 3. Final inspection. To be made after the building is complete, the mechanical system is in place and
16 properly connected, and the structure is ready for occupancy.

17 *Gas*

- 18 1. Rough piping inspection. To be made after all new piping authorized by the permit has been
19 installed, and before any such piping has been covered or concealed or any fixtures or gas
20 appliances have been connected.
21 Includes gas provisions of the energy code and approved energy calculation provisions.
- 22 2. Final piping inspection. To be made after all piping authorized by the permit has been installed
23 and after all portions which are to be concealed by plastering or otherwise have been so
24 concealed, and before any fixtures or gas appliances have been connected. This inspection shall
25 include a pressure test.
- 26 3. Final inspection. To be made on all new gas work authorized by the permit and such portions of
27 existing systems as may be affected by new work or any changes, to ensure compliance with all
28 the requirements of this code and to assure that the installation and construction of the gas
29 system is in accordance with reviewed plans.

30 *Site Debris*

- 31 1. The contractor and/or owner of any active or inactive construction project shall be responsible
32 for the clean-up and removal of all construction debris or any other miscellaneous discarded
33 articles during the course of the construction project and prior to receiving final inspection
34 approval. Construction job sites must be kept clean and in a safe condition at all times.
- 35 2. All debris shall be kept in such a manner as to prevent it from being spread by any means.

36 *[A] 110.3.1 Footing and foundation inspection.* Footing and foundation inspections shall be made after
37 excavations for footings are complete and any required reinforcing steel is in place. For concrete
38 foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall
39 be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need
40 not be on the job.

41 *[A] 110.3.2 Concrete slab and under-floor inspection.* Concrete slab and under-floor inspections shall be
42 made after in-slab or under-floor reinforcing steel and building service equipment, conduit, piping

1 accessories and other ancillary equipment items are in place, but before any concrete is placed or floor
2 sheathing installed, including the subfloor.

3 *[A] 110.3.3 Lowest floor elevation.* In flood hazard areas, upon placement of the lowest floor, including
4 the basement, and prior to further vertical construction, the elevation certification required in Section
5 1612.4 and Section R322 of the Florida Building Code, Residential, shall be submitted to the building
6 official.

7 *[A] 110.3.4 Frame inspection.* Framing inspections shall be made after the roof deck or sheathing, all
8 framing, fireblocking and bracing are in place and pipes, chimneys and vents to be concealed are
9 complete and the rough electrical, plumbing, heating wires, pipes and ducts are approved.

10 *[A] 110.3.5 Lath, gypsum board and gypsum panel product inspection.* Lath, gypsum board and gypsum
11 panel product inspections shall be made after lathing, gypsum board and gypsum panel products,
12 interior and exterior, are in place, but before any plastering is applied or gypsum board and gypsum
13 panel product joints and fasteners are taped and finished.

14 *Exception:* Gypsum board and gypsum panel products that are not part of a fire-resistance-rated
15 assembly or a shear assembly.

16 *110.3.6 Weather-exposed balcony and walking surface waterproofing.* Where balcony or other
17 elevated walking surfaces are exposed to water from direct or blowing rain, snow or irrigation, and the
18 structural framing is protected by an impervious moisture barrier, all elements of the impervious-
19 moisture-barrier system shall not be concealed until inspected and approved.

20 *[A] 110.3.7 Fire and smoke-resistant penetrations.* Protection of joints and penetrations in fire-
21 resistance-rated assemblies, smoke barriers and smoke partitions shall not be concealed from view
22 until inspected and approved.

23 *[A] 110.3.8 Energy efficiency inspections.* Inspections shall be made to determine compliance with FBC,
24 Energy Conservation and confirm with the approved energy code submittal (by appropriate trade) and
25 corresponding mandatory requirements and shall include, but not be limited to, inspections for:
26 corresponding envelope insulation R- and U-values, fenestration U-value, and Solar Heat Gain
27 Coefficient, duct system R-value, and HVAC, lighting, electrical and water-heating equipment efficiency.

28 *[A] 110.3.9 Other inspections.* In addition to the inspections specified in Sections 110.3 through
29 110.3.8, the building official is authorized to make or require other inspections of any construction
30 work to ascertain compliance with the provisions of this code and other laws that are enforced by the
31 department of building safety.

32 *[A] 110.3.10 Special inspections.* Reserved.

33 *110.3.11 Final inspection.* The final inspection shall be made after all work required by the building
34 permit is completed.

35 *110.3.11.1 Flood hazard documentation.* If located in a flood hazard area, documentation of the
36 elevation of the lowest floor as required in Section 1612.5 and Section R322 of the Florida
37 Building Code, Residential, shall be submitted to the building official prior to the final inspection.

38 *110.3.11.2 Commercial Energy Code documentation.* If required by energy code path submittal,
39 confirmation that commissioning result requirements have been received by building owner.

40 *110.3.11.3 Residential Energy Code documentation.* If required by energy code path submittal
41 (R405), confirmation that the duct test requirements shall be received by building official.

42 *110.3.12 Termites.* Building components and building surroundings required to be protected from
43 termite damage in accordance with Section 1503.7, Section 2304.12.9 or Section 2304.12.4, specifically
44 required to be inspected for termites in accordance with Section 2114, or required to have chemical

1 soil treatment in accordance with Section 1816 shall not be covered or concealed until the release from
2 the building official has been received.

3 *110.3.13 Impact-resistant coverings or systems.* Where impact-resistant coverings or systems are
4 installed to meet requirements of this code, the building official shall schedule adequate inspections of
5 impact-resistant coverings or systems to determine the following:

- 6 1. The system indicated on the plans was installed.
- 7 2. The system is installed in accordance with the manufacturer's installation instructions and
8 the product approval.

9 *[A] 110.4 Inspection agencies.* The building official is authorized to accept reports of approved inspection agencies,
10 provided such agencies satisfy the requirements as to qualifications and reliability.

11 *[A] 110.5 Inspection requests.* It shall be the duty of the holder of the building permit or their duly authorized agent
12 to notify the building official when work is ready for inspection. It shall be the duty of the permit holder to provide
13 access to and means for inspections of such work that are required by this code.

14 *[A] 110.6 Approval required.* Work shall not be done beyond the point indicated in each successive inspection
15 without first obtaining the approval of the building official. The building official, upon notification, shall make the
16 requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or
17 notify the permit holder or his or her agent wherein the same fails to comply with this code. Any portions that do
18 not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building
19 official.

20 *110.7 Shoring.* For threshold buildings, shoring and associated formwork or falsework shall be designed and
21 inspected by a Florida licensed professional engineer prior to any required mandatory inspections by the threshold
22 building inspector.

23 *110.8 Threshold building.*

24 *110.8.1* During new construction or during repair or restoration projects in which the structural system or
25 structural loading of a building is being modified, the enforcing agency shall require a special inspector to
26 perform structural inspections on a threshold building pursuant to a structural inspection plan prepared by
27 the engineer or architect of record. The structural inspection plan must be submitted to the enforcing agency
28 prior to the issuance of a building permit for the construction of a threshold building. The purpose of the
29 structural inspection plans is to provide specific inspection procedures and schedules so that the building can
30 be adequately inspected for compliance with the permitted documents. The special inspector may not serve
31 as a surrogate in carrying out the responsibilities of the building official, the architect, or the engineer of
32 record. The contractor's contractual or statutory obligations are not relieved by any action of the special
33 inspector.

34 *110.8.2* The special inspector shall determine that a professional engineer who specializes in shoring design
35 has inspected the shoring and reshoring for conformance with the shoring and reshoring plans submitted to
36 the enforcing agency. A fee simple title owner of a building, which does not meet the minimum size, height,
37 occupancy, occupancy classification, or number-of-stories criteria which would result in classification as a
38 threshold building under s. 553.71(7), Florida Statutes may designate such building as a threshold building,
39 subject to more than the minimum number of inspections required by the Florida Building Code.

40 *110.8.3* The fee owner of a threshold building shall select and pay all costs of employing a special inspector,
41 but the special inspector shall be responsible to the enforcement agency. The inspector shall be a person
42 certified, licensed or registered under Chapter 471, Florida Statutes, as an engineer or under Chapter 481,
43 Florida Statutes, as an architect.

44 *110.8.4* Each enforcement agency shall require that, on every threshold building:

45 *110.8.4.1* The special inspector, upon completion of the building and prior to the issuance of a
46 certificate of occupancy, file a signed and sealed statement with the enforcement agency in

1 substantially the following form: "To the best of my knowledge and belief, the above described
2 construction of all structural load-bearing components complies with the permitted documents, and
3 the shoring and reshoring conforms to the shoring and reshoring plans submitted to the enforcement
4 agency."

5 *110.8.4.2* Any proposal to install an alternate structural product or system to which building codes
6 apply be submitted to the enforcement agency for review for compliance with the codes and made
7 part of the enforcement agency's recorded set of permit documents.

8 *110.8.4.3* All shoring and reshoring procedures, plans and details be submitted to the enforcement
9 agency for recordkeeping. Each shoring and reshoring installation shall be supervised, inspected and
10 certified to be in compliance with the shoring documents by the contractor.

11 *110.8.4.4* All plans for the building which are required to be signed and sealed by the architect or
12 engineer of record contain a statement that, to the best of the architect's or engineer's knowledge, the
13 plans and specifications comply with the applicable minimum building codes and the applicable fire-
14 safety standards as determined by the local authority in accordance with this section and Chapter 633,
15 Florida Statutes.

16 *110.8.5* No enforcing agency may issue a building permit for construction of any threshold building except to
17 a licensed general contractor, as defined in Section 489.105(3)(a), Florida Statutes, or to a licensed building
18 contractor, as defined in Section 489.105(3)(b), Florida Statutes, within the scope of her or his license. The
19 named contractor to whom the building permit is issued shall have the responsibility for supervision,
20 direction, management and control of the construction activities on the project for which the building permit
21 was issued.

22 *110.8.6* The building department may allow a special inspector to conduct the minimum structural inspection
23 of threshold buildings required by this code, Section 553.73, Florida Statutes, without duplicative inspection
24 by the building department. The building official is responsible for ensuring that any person conducting
25 inspections is qualified as a building inspector under Part XII of Chapter 468, Florida Statutes, or certified as a
26 special inspector under Chapter 471 or 481, Florida Statutes. Inspections of threshold buildings required by
27 Section 553.79(5), Florida Statutes, are in addition to the minimum inspections required by this code.

28 **SECTION 111**
29 **CERTIFICATE OF OCCUPANCY**

30 *[A] 111.1 Use and occupancy.* A building or structure shall not be used or occupied, and a change in the existing
31 use or occupancy classification of a building or structure or portion thereof shall not be made, until the building
32 official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy
33 shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the
34 jurisdiction.

35 *Exception:* Certificates of occupancy are not required for work exempt from permits in accordance with
36 Section 105.2.

37 *[A] 111.2 Certificate issued.* After the building official inspects the building or structure and does not find violations
38 of the provisions of this code or other laws that are enforced by the department of building safety, the building
39 official shall issue a certificate of occupancy that contains the following:

- 40 1. The building permit number.
- 41 2. The address of the structure.
- 42 3. The name and address of the owner or the owner's authorized agent.
- 43 4. A description of that portion of the structure for which the certificate is issued.

- 1 5. A statement that the described portion of the structure has been inspected for compliance with the
2 requirements of this code for the occupancy and division of occupancy and the use for which the
3 proposed occupancy is classified.
- 4 6. For buildings and structures in flood hazard areas, a statement that documentation of the as-built
5 lowest floor elevation has been provided and is retained in the records of the authority having
6 jurisdiction
- 7 7. The name of the building official.
- 8 8. The edition of the code under which the permit was issued.
- 9 9. The use and occupancy, in accordance with the provisions of Chapter 3.
- 10 10. The type of construction as defined in Chapter 6.
- 11 11. The design occupant load.
- 12 12. If an automatic sprinkler system is provided, whether the sprinkler system is required.
- 13 13. Any special stipulations and conditions of the building permit.

14 *[A] 111.3 Temporary occupancy.* The building official is authorized to issue a temporary certificate of occupancy
15 before the completion of the entire work covered by the permit, provided that such portion or portions shall be
16 occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is
17 valid.

18 *[A] 111.4 Revocation.* The building official is authorized to, in writing, suspend or revoke a certificate of occupancy
19 or completion issued under the provisions of this code wherever the certificate is issued in error, or on the basis of
20 incorrect information supplied, or where it is determined that the building or structure or portion thereof is in
21 violation of any ordinance or regulation or any of the provisions of this code.

22 *111.5 Certificate of completion.* A certificate of completion is proof that a structure or system is complete and for
23 certain types of permits is released for use and may be connected to a utility system. This certificate does not grant
24 authority to occupy a building, such as shell building, prior to the issuance of a certificate of occupancy.

25 **SECTION 112**
26 **SERVICE UTILITIES**

27 *[A] 112.1 Connection of service utilities.* A person shall not make connections from a utility, source of energy, fuel
28 or power to any building or system that is regulated by this code for which a permit is required, until released by
29 the building official.

30 *[A] 112.2 Temporary connection.* The building official shall have the authority to authorize the temporary
31 connection of the building or system to the utility, source of energy, fuel or power.

32 *[A] 112.3 Authority to disconnect service utilities.* The building official shall have the authority to authorize
33 disconnection of utility service to the building, structure or system regulated by this code and the referenced codes
34 and standards set forth in Section 101.4 in case of emergency where necessary to eliminate an immediate hazard
35 to life or property or where such utility connection has been made without the approval required by Section 112.1
36 or 112.2. The building official shall notify the serving utility, and wherever possible the owner and occupant of the
37 building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior
38 to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as
39 soon as practical thereafter.

40
41 **SECTION 113**
42 **BOARD OF APPEALS**
43 **RESERVED**

1 **SECTION 114**
2 **VIOLATIONS**

3 **RESERVED**

4 **SECTION 115**
5 **STOP WORK ORDER**

6 *[A] 115.1 Authority.* Where the building official finds any work regulated by this code being performed in a manner
7 either contrary to the provisions of this code or dangerous or unsafe, the building official is authorized to issue a
8 stop work order.

9 *[A] 115.2 Issuance.* The stop work order shall be in writing and shall be given to the owner of the property
10 involved, the owner's authorized agent or the person performing the work. Upon issuance of a stop work order,
11 the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions
12 under which the cited work will be permitted to resume.

13 *[A] 115.3 Unlawful continuance.* Any person who shall continue any work after having been served with a stop
14 work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall
15 be subject to penalties as prescribed by law.

16 **SECTION 116**
17 **UNSAFE STRUCTURES AND EQUIPMENT**

18 **RESERVED**

19 **SECTION 117**
20 **VARIANCES IN FLOOD HAZARD AREAS**

21 *117.1 Flood hazard areas.* Pursuant to Section 553.73(5), Florida Statutes, the variance procedures adopted in the
22 local flood plain management ordinance shall apply to requests submitted to the building official for variances to
23 the provisions of Section 1612.4 of the Florida Building Code, Building or, as applicable, the provisions of Section
24 R322 of the Florida Building Code, Residential. This section shall not apply to Section 3109 of the Florida Building
25 Code, Building.

26 **SECTION 118**
27 **ADDITIONAL REQUIREMENTS**

28 *118.1 Additional Electrical Requirements*

29 *118.1.8 Hard wired:*

30 When building permits are required, then water heaters and air handlers shall be hard wired to an approved
31 electrical disconnect device.

32 *118.1.9 Protection during construction:*

33 *118.1.9.1* Interior electrical work shall not start prior to the structure being dried-in. Both components
34 and fasteners shall be protected against the elements.

35 *118.1.9.2* Any components that are rusted or corroded shall be replaced.

36 *118.1.9.3* Holes around boxes or holes made to accommodate pipes or wires shall be sealed with an
37 approved filler.

38 *118.2 Additional site requirements.*

39 All areas that are disturbed by construction activity shall be re-graded and satisfactorily ground covered prior to
40 the final inspection. No final inspections or work complete inspections will pass inspection until the site is
41 completely cleaned up and all work has been completed.

42 *118.2.1* All new houses shall be built and graded to convey storm water to areas within their own property
43 that will not negatively impact neighboring properties.

1 118.2.2 There shall be a 3-foot setback from the back side of the seawall for concrete decks. Concrete decks
2 shall not be constructed in this setback to accommodate the function and maintenance of the French Drain.
3 Walkways to access docks and boat lifts shall be allowed at a rate of one four-foot-wide walkway for every
4 50' of seawall, or two per lot, whichever is greater. Other coverings shall be removable for maintenance and
5 shall not impede the function of the French Drain.

6 *118.3 Additional plumbing requirements.*

7 Waste pipes that are located below structures that are located on lots that require pilings shall be a minimum of
8 schedule 40 PVC, and supported by hangers at 4'0" intervals and at each riser as it passes through the above floor.

9 *118.4 Additional mechanical requirements.*

10 During the replacement of Mechanical Equipment, every effort should be made to accommodate the clearances
11 needed to provide the required open-air space around new equipment. These clearances are set forth by the
12 manufacturer to maximize the energy efficiency and overall performance of the equipment.

13 1. If the equipment cannot be rearranged to provide the required clearances, the pads/platforms may
14 have to be expanded to accommodate the new larger units, provided it is not technically infeasible to
15 do so.

16 2. A letter from the manufacturer shall state the minimum allowable clearances for the equipment to be
17 installed. If these clearances cannot be achieved, the Building Official shall determine if the
18 pad/platform needs to be expanded to accommodate any new equipment or future installations.

19 3. If the pad/platform is located on common property and was originally constructed to accommodate
20 small equipment with no room for expansion, and small units are not available, it shall be the
21 responsibility of the owner of the common property, to arrange to have the pad/platform expanded at
22 its expense, to reasonably accommodate new units. The cost of relocation of the line sets and
23 disconnects shall be included in the installation of the new equipment.

24 *118.5 Additional building requirements.*

25 *118.5.1 Minimum slab reinforcement.*

26 All concrete slabs supported by pilings shall be a minimum 5" thick and be reinforced by #3 rebar @ 12" o.c.
27 or 2 layers of heavy gauge (2.4 to 2.9 minimum) Woven Wire Fabric (WWF). Ancillary slabs, such as
28 driveways, walkways, and sidewalks may use rolled wire or fiber-mesh.

29 *118.5.2* Slabs for non-waterfront houses shall be reinforced with (2.4 to 2.9 minimum) (W.W.F.) A.K.A.
30 roadmesh or rebar and meet ACI-318 standards.

31 *118.5.3* All new waterfront houses and pools shall be pile supported. This includes concrete stairs and
32 elevated air-conditioner condenser pads. Cantilevering or other acceptable Engineering solutions will be
33 acceptable. Other sound Engineered solutions will be considered if accompanied by a geo-technical soil
34 boring report and a detailed customized foundation signed and sealed by a Design Professional, the Design
35 Professional will supervise the layering of replacement fill and certify the foundation has been constructed as
36 intended and meets the requirements of his/her design.

37 *118.5.4* Additions and concrete slabs that depend on edge support, where the load path does not return to
38 the foundation, dowels shall be spaced not greater than 18" on center and secured by epoxy into solid
39 masonry or tied to the existing structure by concrete filling voids in the block or other methods that will
40 support the new slab.

41 *118.5.5* Corner bars shall be required on top and bottom bars located on the outside of each corner and shall
42 be a minimum of 40 bar diameters.

43 *118.5.6* No permanent structures shall be constructed within 15 (fifteen) feet of the seawall. However, in
44 rare cases structures could be built within the 15 feet if a new seawall is constructed with a deadman system

1 that does not require the deadmen to be located under the structure or undermine the foundation in any
2 way.

3 *118.5.7 Structures located in flood hazard areas (Zone A) other than coastal high hazard areas and Coastal A*
4 *Zones*

5 Structures located in a flood hazard area (Zone A) other than a coastal high hazard area and Coastal A Zone
6 where BFE is greater than one (1) foot above natural grade of the site or the lowest adjacent grade of an
7 exterior wall, will require the top of spread footings or the top of grade beam with a maximum elevation of 6
8 Feet NAVD.

9 *118.5.8 Finished floor and lowest floor.*

10 On parcels where unusual topographic conditions exist and the above standards conditions cannot be
11 reasonably applied, the Building Official will consider requests to decrease the finished-floor elevation. All
12 requests will require an analysis by a Florida registered professional engineer of the 25-year, three (3) day
13 storm event and the 100-year, three (3) day storm event, using zero discharge for the entire drainage basin
14 in which the proposed structure is located. Reductions may be allowed on the basis of the analysis, but in no
15 case shall the lowest floor elevation of buildings in special flood hazard areas be lower than required by the
16 Florida Building Code, as modified by Marco Island.

17 *118.5.9 Lot pre-inspection for new Single Family and Seawall permits.*

18 Pre-inspection of the lot(s) is required, prior to the issuance of any permit, for any new Construction project,
19 major addition project, seawall replacement, or seawall maintenance project. The inspection will verify the
20 current condition of the adjoining properties. It will proactively identify and storm-water drainage issues.
21 Findings will be submitted to the permit applicant as a review comment or as a condition of the permit, at
22 the Building Official's discretion.

23 *118.5.10 Prohibited Materials.* Materials that have the potential to become wind driven missiles shall be
24 prohibited. Example: Aggregate such as that found on tar and gravel roofs, or gravel used as ballast on roofs.
25 This includes roofing, re-roofing and any material that is likely to be misplaced and propelled by strong
26 winds.

27 *118.6 Additional requirements - General.*

28 *118.6.1 Weathered materials.*

29 *118.6.1.1* Materials shall be protected against the weather and insects prior to and during
30 construction. Materials that could be damaged shall be protected from the time they are delivered
31 until completion of the final inspection. Materials that have been adversely affected by the elements
32 shall be replaced.

33 *118.6.1.2* Trusses must be elevated off the ground and be erected within twenty-five (25) days of
34 delivery. Trusses of questionable integrity shall be replaced.

35 *NOTE:* Every effort should be made to protect the end product from the adverse effects of water.
36 Plywood buckling, delaminating, and excessive microbiological growth (fungus) can be prevented
37 without extraordinary effort. Coordinating truss deliveries, house wrap, window installation, and dry-in
38 procedures will greatly reduce premature weathering.

39 *118.6.2 Restricted hours on certain activities.*

40 Pile driving and demolition activities are only allowed between the hours of 8:00 a.m. and 5:00 p.m. Monday
41 through Saturday. No pile driving or demolition activities may take place on Sundays or City observed
42 holidays.

43 *118.7 Florida Building Code Amendments.*

44 *118.7.1 Florida Building Code, Residential, Section R322.*

1 R322.2.1 Elevation requirements.

- 2 1. Buildings and structures in flood hazard areas including flood hazard areas designated as
3 Coastal A Zones, shall have the lowest floors elevated to or above the elevation specified in
4 the Marco Island Code of Ordinances, Chapter 26.
- 5 2. In areas of shallow flooding (AO Zones), buildings and structures shall have the lowest floor
6 (including basement) elevated to a height above the highest adjacent grade of not less than
7 the depth number specified in feet (mm) on the FIRM plus 1 foot (305 mm), or not less
8 than 3 feet (915 mm) if a depth number is not specified.
- 9 3. Basement floors that are below grade on all sides shall be elevated to or above base flood
10 elevation plus 1 foot (305 mm), or the design flood elevation, whichever is higher.

11 *Exception:* Enclosed areas below the design flood elevation, including basements with floors that
12 are not below grade on all sides, shall meet the requirements of Section 322.2.2.

13 *R322.2.2 Enclosed area below design flood elevation.* Enclosed areas, including crawl spaces, that are
14 below the design flood elevation shall:

- 15 1. Be used solely for parking of vehicles, building access or storage. Access to enclosed areas
16 shall be the minimum necessary to allow for the parking of vehicles (garage door) or
17 limited storage of maintenance equipment used in connection with the premises (standard
18 exterior door) or entry to the building (elevator or stairwell with standard exterior door or
19 one double door set for main entrance).

20 Remainder unchanged

21 *R322.3.2 Elevation requirements.*

- 22 1. Buildings and structures erected within coastal high-hazard areas and Coastal A Zones, shall
23 be elevated so that the bottom of the lowest horizontal structure members supporting the
24 lowest floor, with the exception of pilings, pile caps, columns, grade beams and bracing, is
25 elevated to or above the elevation specified in the Marco Island Code of Ordinances,
26 Chapter 26.
- 27 2. Basement floors that are below grade on all sides are prohibited.
- 28 3. The use of fill for structural support is prohibited.
- 29 4. Minor grading, and the placement of minor quantities of fill, shall be permitted for
30 landscaping and for drainage purposes under and around buildings and for support of
31 parking slabs, pool decks, patios and walkways.
- 32 5. Walls and partitions enclosing areas below the design flood elevation shall meet the
33 requirements of Sections R322.3.5 and R322.3.6.

34 *R322.3.6 Enclosed areas below design flood elevation.* Enclosed areas below the design flood elevation
35 shall be used solely for parking of vehicles, building access or storage. Access to enclosed areas shall be
36 the minimum necessary to allow for the parking of vehicles (garage door) or limited storage of
37 maintenance equipment used in connection with the premises (standard exterior door) or entry to the
38 building (elevator or stairwell with standard exterior door or one double door set for main entrance).

39 *118.7.2 Florida Building Code, Building, Section 202.*

40 SUBSTANTIAL IMPROVEMENT. Any combination of repair, alteration reconstruction, rehabilitation, addition,
41 or other improvement of a building or structure taking place during a 5-year period, the cumulative cost of
42 which equals or exceeds 50 percent of the market value of the building or structure before the improvement
43 or repair is started. For each building or structure, the 5-year period begins on the date of the first permit
44 issued for improvement or repair of that building or structure. If the structure has incurred "substantial

1 damage," any repairs are considered substantial improvement regardless of the actual repair work
2 performed. The term does not, however, include either:

- 3 (1) Any project for improvement of a building required to correct existing health, sanitary, or safety
4 code violations identified by the building official and that are the minimum necessary to assure
5 safe living conditions.
- 6 (2) Any alteration of a historic structure provided the alteration will not preclude the structure's
7 continued designation as a historic structure and the alteration is approved by variance issued
8 pursuant to Marco Island Code of Ordinances, Chapter 26.
- 9 (3) Costs of additional, code-compliant building elements or alterations or replacements of materials
10 or building elements whose express purpose is the mitigation of future wind or flood damage,
11 provided the costs of such measures, plus the costs of any other improvements and repairs
12 undertaken at the same time, do not exceed 50 percent of the market value of the structure.
13 Costs associated with horizontal additions and vertical additions shall not be excluded. Examples
14 of code-compliant wind and flood mitigation measures include, but are not limited to, the
15 installation or replacement of storm shutters; replacement of windows and doors with impact
16 resistant glass; strengthening of roof attachments or exterior walls; replacing existing materials
17 with wind and flood damage-resistant materials; elevating machinery and equipment; and
18 installation of flood openings.
- 19 (4) Costs of additional, code-compliant energy efficiency retrofits whose express purpose is the
20 improvement of energy efficiency of the building, provided the costs of such measures, plus the
21 costs of any other improvements and repairs undertaken at the same time, do not exceed 50
22 percent of the market value of the structure. Costs associated with lateral and vertical additions
23 shall not be excluded. Examples of code-compliant energy efficiency retrofits include, but are not
24 limited to application of insulation; replacement of windows and doors with insulated products;
25 installation of geo-thermal climate control systems; installation of attic ventilation equipment;
26 and the installation of solar energy systems.

27 *118.7.3 Florida Building Code, Building, Section 1612.*

28 *1612.4.3 Elevation requirements.* The minimum elevation requirements shall be as specified in ASCE 24
29 or the Marco Island Code of Ordinances, Chapter 26, whichever is higher.

30 *118.7.4 Florida Building Code, Existing Building, Section 202.*

31 **SUBSTANTIAL IMPROVEMENT.** For the purpose of determining compliance with the flood provisions of this
32 code, any combination of repair, alteration reconstruction, rehabilitation, addition, or other improvement of
33 a building or structure taking place during a 5-year period, the cumulative cost of which equals or exceeds 50
34 percent of the market value of the building or structure before the improvement or repair is started. For
35 each building or structure, the 5-year period begins on the date of the first permit issued for improvement or
36 repair of that building or structure. If the structure has incurred "substantial damage," any repairs are
37 considered substantial improvement regardless of the actual repair work performed. The term does not,
38 however, include either:

- 39 (1) Any project for improvement of a building required to correct existing health, sanitary, or safety
40 code violations identified by the building official and that are the minimum necessary to assure
41 safe living conditions.
- 42 (2) Any alteration of a historic structure provided the alteration will not preclude the structure's
43 continued designation as a historic structure and the alteration is approved by variance issued
44 pursuant to Marco Island Code of Ordinances, Chapter 26.
- 45 (3) Costs of additional, code-compliant building elements or alterations or replacements of materials
46 or building elements whose express purpose is the mitigation of future wind or flood damage,
47 provided the costs of such measures, plus the costs of any other improvements and repairs

1 undertaken at the same time, do not exceed 50 percent of the market value of the structure.
2 Costs associated with horizontal additions and vertical additions shall not be excluded. Examples
3 of code-compliant wind and flood mitigation measures include, but are not limited to, the
4 installation or replacement of storm shutters; replacement of windows and doors with impact
5 resistant glass; strengthening of roof attachments or exterior walls; replacing existing materials
6 with wind and flood damage-resistant materials; elevating machinery and equipment; and
7 installation of flood openings.

- 8 (4) Costs of additional, code-compliant energy efficiency retrofits whose express purpose is the
9 improvement of energy efficiency of the building, provided the costs of such measures, plus the
10 costs of any other improvements and repairs undertaken at the same time, do not exceed 50
11 percent of the market value of the structure. Costs associated with lateral and vertical additions
12 shall not be excluded. Examples of code-compliant energy efficiency retrofits include, but are not
13 limited to application of insulation; replacement of windows and doors with insulated products;
14 installation of geo-thermal climate control systems; installation of attic ventilation equipment;
15 and the installation of solar energy systems.

16 **Sec. 6-112. Penalties.**

17 ~~Violation of this article shall be punishable according to the procedures and penalties set forth in chapter 14~~
18 ~~of this code. If any person, firm, corporation, or other legal entity whether public or private, shall fail or refuse to~~
19 ~~obey or comply with, or violates, any of the provisions of this division, such person, firm, corporation, or other legal~~
20 ~~entity whether public or private, upon conviction of such offense, shall be punished by a fine not to exceed \$500.00~~
21 ~~or by imprisonment not to exceed 60 days in the county jail, or both, in the discretion of the court. Each day of~~
22 ~~continued violation or noncompliance shall be considered as a separate offense. In addition, any person, firm,~~
23 ~~corporation, or other legal entity whether public or private, convicted under the provisions of this section shall pay~~
24 ~~all costs and expenses involved in the case.~~

26 **Secs. 6-113—6-140. Reserved.**

27 **ARTICLE V. OUTDOOR LIGHTING**

28 **Sec. 6-141. Definitions.**

29 The following words, terms and phrases, when used in this ~~division~~article, shall have the meanings ascribed to
30 them in this section, except where the context clearly indicates a different meaning. These definitions are
31 supplemental to the definitions in section 1-2 of this code. The definitions in this section shall prevail in case of
32 conflict.

33 *Floodlight* means an artificial light source designed to give direct and/or reflective illumination over a large
34 area. Vehicular parking lighting sources, wall packs, and security/surveillance lights shall be considered as floodlights.
35 Also see *Uplighting*.

36 *Footcandle*. One footcandle is the amount of illumination provided by a light source of one international candle
37 at a distance of one foot from the light source.

38 *Glare* means a sensation of brightness within the visual field that causes annoyance, discomfort, or loss in
39 visual performance and visibility.

40 *Hood*. See *Shield*.

1 *International candle or candle power.* One international candle is the unit of luminous intensity as established
2 by standard light sources as maintained by the U.S. Bureau of Standards. This is called more commonly one candle
3 power.

4 *Luminaire* means a device or fixture containing a light source and means for directing and controlling the
5 distribution of light emitted therefrom.

6 *Shield* means an opaque device or fixture intended to direct and restrict the distribution of light emitted from
7 a light source.

8 *Snook light* is a regional term for a light source, usually attached to a dock facility or seawall, which is
9 illuminated for the purpose of attracting fish.

10 *Uplighting* means a lighting technique in which sources of illumination are strategically located to light up
11 features such as building facades, signs, and trees.

12 **Sec. 6-142. Penalties.**

13 (a) ~~Violation of this article shall be punishable according to the procedures and penalties set forth in chapter 14~~
14 ~~of this code. Pursuant to F.S. § 162.22, a person found to be in violation of this division may be charged with a~~
15 ~~fine, not to exceed \$500.00, and may be sentenced to a definite term of imprisonment, not to exceed 60 days.~~
16 ~~Each violation or noncompliance shall be considered a separate and distinct offense. Further, each day of~~
17 ~~continued violation or noncompliance shall be considered as a separate offense.~~

18 ~~(b) Violation of this division may also be prosecuted before the code enforcement board.~~

19 **Sec. 6-143. Purpose and intent of article.**

20 It is the intent and purpose of this ~~division article~~ to protect and promote the health, safety and welfare of the
21 citizens of the city, and the public at large, by providing reasonable standards for the installation and maintenance
22 of outdoor lighting. All outdoor lighting shall be installed and maintained in such a manner and be so shielded that
23 the cone of light shall fall substantially within the perimeter of the property. Through the use of shielding and
24 limitations upon intensity, ambient light travelling outward and upward shall be reduced to the greatest extent
25 possible without unduly interfering with the intent and purpose of the outdoor lighting. It is further intended that
26 this ~~division article~~ shall be liberally construed to effect such intent and purpose.

27 **Sec. 6-144. Exemptions.**

28 (a) *Publicly owned facilities; street lighting.* Lighting at publicly owned facilities and street lighting shall be exempt
29 from the provisions of this ~~division article~~. Applicable state department of transportation design standards and
30 public facility design standards shall be utilized in the placement, maintenance, and regulation of lights at
31 public facilities and in public streets.

32 (b) *Existing tennis facilities.* Multiple-court tennis facilities existing at the date of adoption of the ordinance from
33 which this ~~division article~~ is derived are permitted up to 5.0 footcandles of illumination to fall on adjoining RSF
34 and RMF zoned properties until 10:00 p.m.

35 **Sec. 6-145. Maximum lighting levels.**

36 (a) Regulation of the intensity and glare of outdoor lighting shall be as follows:

37 (1) No lighting source shall cause more than 1.0 footcandle of illumination to fall on adjoining residential
38 single-family (RSF) zoned property.

39 (2) No lighting source shall cause more than 1.0 footcandle of illumination to fall on adjoining residential
40 multifamily (RMF) zoned property.

- 1 (3) No lighting source shall cause more than 10.0 footcandles of illumination to fall on any adjoining
- 2 commercially (C) zoned property.
- 3 (4) No lighting source shall cause more than 1.0 footcandle of illumination to fall on any public right-of-way
- 4 in residential areas.
- 5 (5) No lighting source shall cause more than 10.0 footcandles of illumination to fall on any public right-of-
- 6 way in commercial areas.
- 7 (b) Outdoor lighting on property abutting lands subject to sea turtle nesting activities is further regulated pursuant
- 8 to [section 3.4.02\(B\) ~~division 3.10~~](#) of the county land development code (Sea Turtle Protection); [in the event of](#)
- 9 [conflict, the stricter regulation shall prevail.](#)

10 **Sec. 6-146. Shielding.**

- 11 (a) All outdoor lighting (except public recreational lighting and sign lighting) shall be shielded and directed
- 12 according to the following schedule:

Wattage of Each Light Source	Shielding Required	Directed Downward
Up to 50 watts	No	No
50 to 100 watts	Yes	No
Over 100 watts	Yes	Yes
Floodlights	Yes	Yes
Snook lights	Yes	Yes
Uplighting	Yes	No

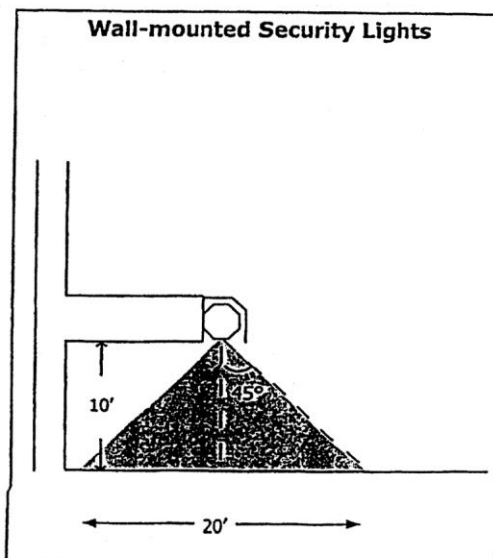
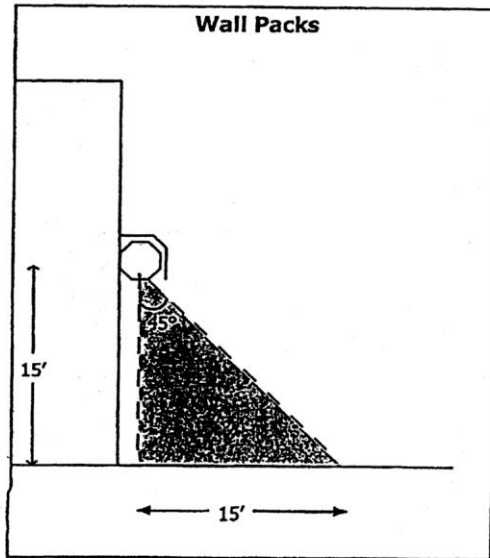
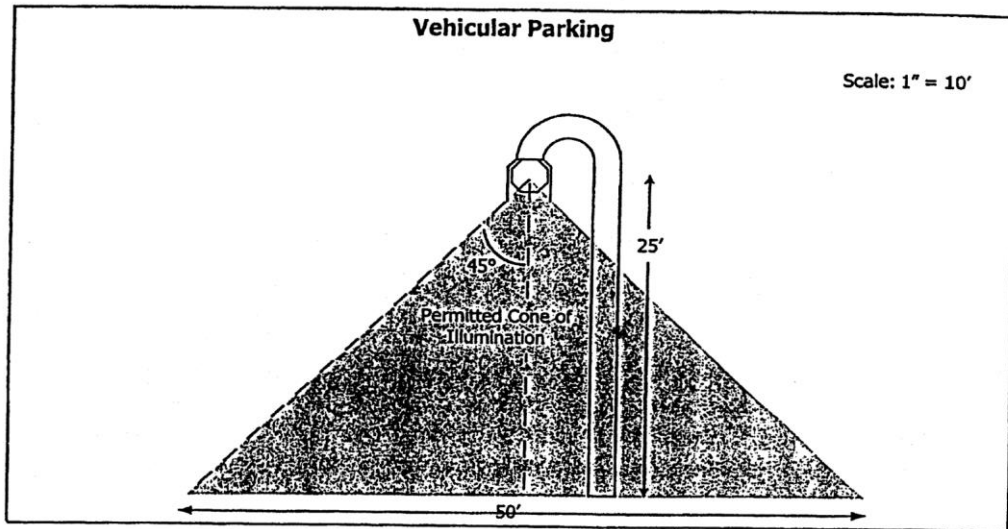
13
 14 Uplighting shall be shielded in such a manner that no illuminated part of the light source shall be visible from any
 15 adjoining public right-of-way or property line.

- 16 (b) ~~Except for uplighting, light sources which are required to be shielded shall be shielded. All light emitted from a~~
 17 ~~shielded fixture shall in such a manner that no light emitted from the light source shall travel upward or~~
 18 ~~horizontally. In addition, light sources required to be directed downward shall be so directed such~~ that the
 19 cone of light ~~emitted from the source of illumination~~ shall not exceed ~~an included angle of 90 degrees~~ (45
 20 degrees as measured from the midpoint of the light source to the ground). Refer to the exhibits at the end of
 21 this ~~division article~~ for illustrations of shielding and angle measurements.

- 22 (c) Illuminated signage shall be regulated pursuant to [article VI of the ~~division 2.5 of the county chapter 30~~](#), land
 23 development code (Signs).

24 **Sec. 6-147. Measurement of intensity and glare; changes to standards.**

- 25 (a) Light intensity and glare shall be measured in footcandles at the property line with a direct reading from a
- 26 portable light meter. The meter shall be factory tested and calibrated.
- 27 ~~(b) The city council may change, delete or add to the permitted levels of illumination by resolution.~~



Vehicular Parking, Wall Packs, Wall-mounted Security Lights

1
2
3

4 **Secs. 6-148—6-170. Reserved.**

5 **ARTICLE VI. POST-DISASTER REDEVELOPMENT PLAN**

6 **Sec. 6-171. Purpose and intent.**

7 It is the intent of the city to identify opportunities to mitigate future damages from major or catastrophic
 8 disasters through the prudent management and enforcement of community reconstruction. To further this intent,
 9 the city will make every effort to develop its capacity to identify and coordinate various post-disaster recovery and
 10 reconstruction resources while at the same time ensuring maximum local control over the recovery and
 11 reconstruction process.

1 Following a major or catastrophic disaster, sufficient time must be provided to conduct damage assessments,
2 classify and categorize individual structure damage, and evaluate the effectiveness and enforcement of the existing
3 building code. It is further the intent of the city to allow rebuilding and reconstruction in an orderly manner by
4 controlling the issuance of building permits, development orders, development permits and site plan reviews in
5 order to manage the location, timing, and sequence of reconstruction and repair.

6 **Sec. 6-172. Definitions.**

7 The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them
8 in this section, except where the context clearly indicates a different meaning. ~~The following terms and definitions~~
9 apply for the purposes of this division. These definitions are supplemental to the definitions in section 1-2 of this
10 code. The definitions in this section shall prevail in case of conflict.:

11 *Building value* means the latest assessment of all improvements on a parcel of land as recorded in the Collier
12 County Property Appraiser's file before the structure was damaged.

13 *Catastrophic disaster* is defined as an event that overwhelms local response capabilities and will require mutual
14 aid, state response, federal disaster relief programs, and activation of the state and federal response plans.

15 ~~*Chief building official* means the chief of building services who is hereby designated by the city council to~~
16 ~~implement, administer and enforce the building permit moratorium provision of this division.~~

17 *Current regulatory standards for new construction* includes consideration of the following: Density, floodplain
18 management, building code, land development code and comprehensive plan requirements, site location, and
19 parking requirements.

20 *Damage assessment* means a systematic procedure for evaluating damage to public and private property,
21 based on current replacement cost. The assessment may be used to determine if the damaged area can qualify for
22 federal or state disaster assistance.

23 *Damage assessment team* means a local group of qualified individuals charged with providing an initial
24 assessment of damage to private and public properties in the aftermath of a significant natural or man-made event.

25 *Development* has the meaning given in section 30-10.

26 *Destroyed structure* means a structure that is total loss or damaged to such an extent that repairs are not
27 technically or economically feasible. The indicator for this category is if the cost to repair exceeds 50 percent of the
28 replacement cost at the time of damage or destruction.

29 *Development permit* has the meaning given in section 30-10.

30 ~~*Development order* has the meaning given in section 30-10. means any order, permit, determination, or action~~
31 ~~granting with conditions an application for any final development order, building permit, temporary use permit,~~
32 ~~temporary construction and development permit, spot survey, electrical permit, plumbing permit, boat dock permit,~~
33 ~~septic tank permit, right-of-way permit, construction approval for infrastructure (including water, sewer, grading,~~
34 ~~paving) development of regional impact (DRI) development order, zoning ordinance amendment, comprehensive~~
35 ~~plan amendment, flood variance, coastal construction control line variance, vegetation removal permits, agricultural~~
36 ~~clearing permits, site development plan approval, subdivision approval (including plats, plans, variances and~~
37 ~~amendments), rezoning PUD amendment, certification, conditional use, variance, or any other official action of the~~
38 ~~city having the effect of permitting development as defined in the land development code.~~

39
40 *Intensity* means the gross floor area, number of residential units, height, and amount of land occupied by
41 buildings and roofed structures on a property.

42 *Major damaged structure* means a structure that can be made habitable with extensive repairs. Damage may
43 include foundation, roof structure, and major structural components. The indicator for this category is if the cost to
44 repair is greater than 20 percent and up to and including 50 percent of the replacement cost at the time of damage.

1 *Major disaster* is defined as an event that may require mutual aid, state response assistance and federal
2 disaster relief programs.

3 *Minor damaged structure* means a structure that can be made habitable in a short period of time with minimal
4 repairs. Damages may include doors, windows, floors, roofs, central air conditioners, and other minor structural
5 damage. The indicator for this category is if the cost to repair is 20 percent or less than the replacement cost at the
6 time of damage.

7 *Minor disaster* means a structure that is likely to be within the response capabilities of local government and
8 to result in only a minimal need for state or federal assistance.

9 [Nonconforming means an aspect of a structure that does not comply with a current regulation in the land](#)
10 [development code but was lawfully constructed under previous regulations.](#)

11 *Replacement cost* means the actual cost to repair, reconstruct, rebuild or replace a damaged structure. It will
12 not include the following parts of a structure or items not considered a permanent part of the structure: building
13 plans, surveys, permits, sidewalks, pools, screens, sheds, gazebos, fences, furniture and carpeting. For purposes of
14 this division, the replacement cost will be compared to the structure's replacement value to determine the percent
15 of the structural damage.

16 *Replacement value* of a structure means the market building value contained in the Collier County Property
17 Appraiser's File multiplied by one of the following factors: 120 percent in a major disaster; 150 percent in a
18 catastrophic disaster. The structure's owner can opt to establish replacement value by hiring a state licensed
19 contractor to make such determinations rather than use the formula stated in this definition.

20 *Structure* means anything constructed or erected requires a fixed location on the ground, or attached to
21 something having a fixed location on or in the ground.

23 **Sec. 6-173. Recovery coordination.**

24 Recovery coordination shall follow policies and procedures contained in the Comprehensive Emergency
25 Management Plan (CEMP), and the Hurricane Action Plan (HAP). Local recovery efforts will be coordinated with
26 Collier County Emergency Management based on existing mutual aid and other interlocal agreements.

27 **Sec. 6-174. Post-disaster redevelopment priorities.**

28 The following priority sequence will govern community rebuilding and redevelopment efforts:

- 29 (1) Re-establishing services that meet the physical and safety needs of the community to include: water,
30 food, ice; medical care; emergency access; continuity of governmental operations; communications;
31 security of residents and possessions from harm; health, and temporary housing.
- 32 (2) Re-establishing infrastructure necessary for community reconstruction such as: electrical distribution
33 systems; potable water and sanitary sewer service; restoring medical and health care; rebuilding
34 damaged stormwater and transportation facilities; and housing facilities.
- 35 (3) Restoring the community's economic base per accepted econometric principles and practices.
- 36 (4) Improving the community's ability to withstand the effects of future major or catastrophic disasters.
- 37 (5) Re-opening or re-establishment of public beach access points.

38 **Sec. 6-175. Essential service and facility restoration priorities.**

39 Priorities for power, water and sewerage treatment, and communication restoration will be in accordance with
40 existing protocols established by the individual utilities and any terms and conditions contained in executed

1 franchise agreements with the city. All protocols are intended to emphasize health, safety and essential community
2 services as priorities.

3 **Sec. 6-176. Post-disaster debris clearance and disposal strategies.**

4 The following policies will govern emergency debris clearance, removal and disposal strategies:

- 5 (1) Clearing debris from roads and streets beginning with arterials, then local collectors, then local streets.
6 (2) Priorities will be to clear roadways and bridges to provide for emergency operations, to provide access
7 to critical public service locations, and access to designated staging areas and distribution centers
8 supporting disaster relief efforts.
9 (3) City parks and other public properties will be used to store debris on an interim basis.

10 The city shall have in place executed contracts with qualified debris management firms to effectuate the
11 implementation of this section in the aftermath of a disaster event.

12 **Sec. 6-177. Determination of damage and buildback policy.**

13 (a) *Determination of damage.* The primary task of the local damage assessment team is to identify structures
14 which have been damaged as a result of the disaster. The city damage assessment team will catalogue and
15 report to the ~~chief of~~ building official those structures which have:

- 16 (1) Been destroyed;
17 (2) Received major damage; and
18 (3) Received minor damage.

19 The chief building official will then, as may be necessary, inspect the damaged structures and place each structure
20 in one of the damage categories provided for by this ~~division~~ article. The assessment will also serve as a basis for
21 determining if federal and state disaster declaration are warranted.

22 (b) *Buildback policy.* Structures which have been damaged by natural or manmade disasters to the extent that the
23 cost of their reconstruction or repair exceed 50 percent of the replacement value of the structure may be
24 reconstructed, but in accordance with the legally documented actual use, ~~intensity~~ density, ~~size~~, style and type
25 of construction ~~including square footage~~ existing at the time of destruction, thereby allowing such structures
26 to be rebuilt or replaced to the ~~size~~ intensity, style, and type of their original construction, ~~including their~~
27 ~~original square footage~~; provided, however, that the affected structure, as rebuilt or replaced, complies with
28 all applicable federal and state regulations and local regulations which do not preclude reconstruction
29 otherwise intended by this policy. In accordance with this policy:

- 30 (1) Structures damaged up to and including 50 percent of their replacement value at the time of disaster
31 can be rebuilt to their original conditions, with repair work subject to current building and life safety
32 codes.
33 (2) Structures damaged by the disaster by more than 50 percent of their replacement value at the time of
34 disaster can be rebuilt to their original square footage and density, provided that they comply with:
35 a. Federal requirements for elevation above the 100-year flood level;
36 b. The ~~city~~ building code requirements for flood proofing;
37 c. Current building and life safety codes;
38 d. Marco Island and State of Florida Department of Environmental Protection Coastal Construction
39 Control Line regulations;

- 1 e. Applicable disability access regulations of the Americans with Disabilities Act (ADA); and
- 2 f. Any required city zoning or other development regulations with the exception of existing ~~density~~
3 ~~or~~ intensity requirements ~~established~~, unless compliance with such zoning or other development
4 regulations would preclude reconstruction otherwise intended by this buildback policy as
5 determined by the city manager in paragraph (3), below, or otherwise by resolution of the city
6 council.
- 7 (3) To minimize the need for individual variances or compliance determinations prior to reconstruction~~s~~, the
8 regulations of the ~~city~~ land development code affecting setbacks, parking, buffering and open space may
9 be modified. City manager ~~or designee~~ may require documentation as to the actual uses, ~~densities~~, and
10 intensities existing prior to the disaster event and at the time of the original construction through such
11 means as photographs, diagrams, plans, affidavits, and permits prior to authorizing modifications to the
12 above requirements. These requirements may be modified as follows:
- 13 a. Front, rear, side or water body setbacks may be modified to permit the reconstruction of existing
14 structures that are nonconforming with regard to a specific setback so long as the reconstruction
15 will not result in an increase in the height of the structure as defined by the land development
16 code; and the reconstruction will not result in a further diminution of the setback. City manager ~~or~~
17 ~~designee~~ may approve bay windows, chimneys and similar architectural features that may
18 encroach further into the setback provided the encroachment does not protrude beyond the
19 existing overhang of the building.
- 20 b. Front, rear, side, or water body setbacks may be modified to permit the construction of a
21 ~~handicapped~~ access appurtenance for disabled persons to any reconstruction.
- 22 c. Front, rear, side or water body setbacks may be modified to allow for the replacement of stairs or
23 decking that provides access into any reconstructed dwelling unit.
- 24 ~~d.~~ Front, rear, side or water body setbacks may be modified to legitimize minor existing
25 encroachments in setbacks discovered at the time of reconstruction.
- 26 e. ~~Buildings or structures that are not in compliance with current setback regulations and which can~~
27 ~~be proven to have been permitted prior to the adoption of such regulations shall be considered~~
28 ~~legally nonconforming and may also be reviewed by the city manager or designee under this~~
29 ~~section.~~
- 30 f. A diminution of the front yard setbacks on a collector or arterial roadway shall be consistent with
31 future road widening requirements.
- 32 (4) The city manager ~~or designee~~ is authorized to modify the parking requirements for nonresidential uses
33 as established by the ~~city~~ land development code. In no instance shall the parking requirements be
34 modified where the reconstruction involves the increase ~~of density or~~ intensity of use. Such
35 requirements may be modified under the following circumstances:
- 36 a. To improve ingress and egress to the site in accordance with the county access management plan.
- 37 b. To eliminate or reduce the instances where conditions require that parked vehicles back out onto
38 the public streets.
- 39 c. To allow for the provision of handicapped disabled permit parking spaces in accordance with the
40 city land development building code.
- 41 (5) The city manager ~~or designee~~ is authorized to modify the buffering or open space requirements of the
42 land development code when such modifications ~~and reconstruction~~ will:
- 43 a. Accommodate modifications to existing parking or additional parking.
- 44 b. To accommodate changes as a result of reconstruction.
- 45 In no instance shall buffering or open space areas be eliminated.

- 1 (6) Damaged structures ~~may shall~~ not be reconstructed ~~at to a more-greater intense-intensity use or higher~~
2 ~~density than originally-legally constructed prior to the disaster permitted by the comprehensive plan and~~
3 ~~land development code. No redevelopment at a higher density or more intense use will be permitted~~
4 unless appropriate zoning, development review, building permit and other applicable land development
5 approvals are granted through normal processes as set forth in the land development code.

6 **Sec. 6-178. Moratoria.**

- 7 (a) *Conditions for declaration.* City council may, ~~pursuant to F.S. ch. 252,~~ declare a moratorium under the following
8 conditions in order to prioritize the repair and reconstruction of damaged critical public facilities immediately
9 needed for public health, safety and welfare purposes.
- 10 (1) *Initial building moratorium.* An initial building moratorium may be declared when one or more of the
11 following actions or findings occur:
- 12 a. The city is declared a disaster area by either the Governor of the State of Florida or the President
13 of the United States.
- 14 b. A finding has been made by the city council that a state of local emergency exists in accordance
15 with F.S. ch. 252;
- 16 c. Fifty or more structures have received major damage or have been destroyed as determined by
17 the chief building official; or
- 18 d. The city is unable to maintain minimum acceptable levels of service expected during non-
19 emergency situations as provided for by the capital improvement element of the comprehensive
20 plan.
- 21 (2) *Destroyed structure moratorium.* No building permit will be issued for at least 30 days following the
22 expiration of the initial building moratorium for the replacement of any structure which has been
23 destroyed. When a building permit is issued, structures damaged can be rebuilt in accordance with the
24 buildback policy set forth herein.
- 25 (3) *Major damaged structure moratorium.* No building permit for repairs of a major damaged structure will
26 be issued for at least ten days following the expiration of the initial building moratorium.
- 27 (4) *Minor damaged structure moratorium.* No building permits for the repair of minor damaged structures
28 will be issued for at least five days following the expiration of the initial building moratorium.
- 29 (5) *New development moratorium.* No building permit for new construction or reconstruction unrelated to
30 rebuilding or repairing structures damaged by the disaster will be accepted nor building permits will be
31 issued for at least 30 days following the expiration of the initial building moratorium so that damage may
32 be assessed and repairs be made. The city manager will determine and advise the city council whether a
33 new development moratorium is required based upon the results of damage assessment and
34 recommendations from the ~~chief~~ building official.
- 35 (6) *Outstanding building permit inspection moratorium.*
- 36 a. All building permits that were issued prior to the disaster will be suspended for a minimum period
37 of 30 days following the expiration of the initial building moratorium, unless the ~~chief~~ building
38 official determines on an individual case-by-case basis that sufficient inspection staff is available to
39 adequately inspect the structures should construction begin or resume. Suspension of the building
40 permit means that no further construction authorized by the building permit is permitted and that
41 no inspections by the city building department will be performed during the moratorium period.
42 Applications for inspections relating to building permits suspended under this section shall be
43 adjusted accordingly to reflect the time period covered by this 30-day moratorium.
- 44 b. The city reserves the right to reinspect any and all construction in progress pursuant to validly
45 issued pre-disaster building permits to verify that the work in place suffered no damage as a result

1 of the disaster. In the event that the city determines that such construction sustained damage
2 during the disaster or suspects that damage occurred, the property owner and/or general
3 contractor is responsible for rework, removal, retesting, and uncovering work to facilitate
4 inspection so that compliance with the building permit and the building code can be ensured.

5 (7) *Outstanding development order moratorium.*

- 6 a. All development orders [and permits](#) as defined herein issued prior to the disaster will be suspended
7 for a minimum period of 30 days following the expiration of the initial building moratorium.
8 Suspension of the development order [means no development permit will be issued under the](#)
9 [development order. Suspension o the development permit](#) means that no ~~development order~~
10 work [under the development permit](#) is authorized and that no ~~development order~~ inspections by
11 ~~the community development department~~ [under the development permit](#) will be performed during
12 the moratorium. Applications for development orders [and permits](#) suspended under this section
13 will be adjusted accordingly to reflect the time period covered by this 30-day moratorium.
- 14 b. The city reserves the right to reinspect any and all ~~development order~~ work in place [under the](#)
15 [development permit](#) prior to the disaster to verify that the work in place was not damaged during
16 the disaster. In the event that the city determines that development ~~order permit~~ work in place
17 was damaged during the disaster or suspects that damage occurred, the developer will be
18 responsible for rework, removal, retesting, and uncovering work to facilitate inspection so that
19 compliance with the development order documents and the land development code can be
20 ensured.

21 (8) *Site development plan, subdivision plat review, and zoning request moratorium.*

- 22 a. Site plans which have been submitted to the city prior to the disaster will not be reviewed by the
23 city staff for a period of 30 days following the expiration of the initial building moratorium. All
24 submittal dates and review periods will be adjusted accordingly to reflect the time period covered
25 by this 30-day moratorium.
- 26 b. No new site plans, zoning requests or subdivision plats will be accepted by the city for a period of
27 30 days following the expiration of the initial building moratorium.
- 28 c. All submittal dates and review periods will be adjusted accordingly to reflect the time period
29 covered by this 30-day moratorium.

- 30 (b) *Duration.* All moratoria other than the initial building moratoria as enacted will be in effect for the length of
31 time described above and may be terminated or extended by the city council.

32 **Sec. 6-179. Emergency repairs and emergency permitting.**

33 (a) *Emergency repairs.*

- 34 (1) No construction or reconstruction activity may be undertaken without a building permit, while a building
35 moratorium is in effect; however, emergency repairs necessary to prevent injury, loss of life, imminent
36 collapse of a structure or other additional damage to the structure or its contents will not be subject of
37 the temporary moratoria provided for by this division and shall not require individual building permits.
38 Such emergency repairs shall include but not be limited to:
- 39 a. Temporary roof repairs with plywood or plastic sheeting to make structures habitable or to prevent
40 continuing damage due to rain and wind to building interiors and exteriors;
- 41 b. Covering exterior wall openings with plywood or plastic sheeting;
- 42 c. Repairs to interior ceilings to make buildings habitable or to drain accumulated flood waters;
- 43 d. Repairs to steps; and
- 44 e. Temporary stabilization measures to avoid imminent building or structure collapse.

(2) Emergency repairs to buildings or infrastructure that house the following organizations or activities shall not be subject to any temporary moratorium because of their necessity to protect the public health and safety by providing electrical power, potable water, waste water, and communications facilities; emergency stabilization of roadways; police, fire and medical facilities; essential governmental facilities; response/recovery centers and distribution centers; debris removal activities; and stabilization or removal of structures about to collapse.

(3) Nothing in this division shall be construed to suspend state and federal permit regulations.

(b) *Emergency permitting.* An emergency permitting system will be established by the most recent building and construction administrative codes to assure the quality of the reconstructed buildings and structures, and to implement the city's buildback policy as set forth herein.

Sec. 6-180. Economic redevelopment policies.

(a) The following general policies will guide the use resources employed towards rebuilding of the community's economic base:

(1) Reopen the business community.

(2) Re-establish the tourist industry.

(b) Damaged businesses and other economic enterprises necessary for the public health and safety and for restoring the community's economic base will be allowed to use temporary structures such as modular buildings, mobile homes, or similar type structures to carry out their activities, until their damaged structure is rebuilt or replaced according to applicable development and redevelopment regulations.

Sec. 6-181. Guidelines for acquiring damaged property.

(a) When determined to be in the public interest, the city council may enter into negotiation with a property owner or owners whose improved real estate property has been damaged by the disaster for the purpose of acquiring such buildings and associated land or lot for transfer by sale, lease or donation to the city when the following conditions are met:

(1) The property must be located in an area damaged by the disaster;

(2) The property should be free of any encumbrances; and

(3) The building structure must:

a. Have been damaged substantially beyond repair or must have been damaged to the extent that the cost of reconstruction or repairs exceeds 50 percent of the replacement value of the buildings or structures at the time of the disaster; or

b. Not be capable of repair because of buildback policy provisions herein or significantly increased building costs; or have been abandoned by its owner.

(b) Property acquired under these conditions must be dedicated for such purposes as the city council may agree are consistent with:

(1) Open space uses; or

(2) Managing the land for its dedicated purposes, future uses which would likely result in threats to human life or property damage of the same type that has occurred during previous disasters will not be permitted.

(c) Allowable open space uses include parks for outdoor recreational activities, nature preserves or trails, beach access, unimproved parking lots, and structures functionally related to these uses such as open-sided picnic facilities, refreshment stands, or other non-habitable structures primarily supporting the recreational activities.

1 **Sec. 6-182. Authority.**

2 Nothing in this division limits the authority of the city council to declare, repeal or extend a state of local
3 emergency.

4 **Sec. 6-183. Penalties.**

5 (a) ~~Violation of this article shall be punishable according to the procedures and penalties set forth in chapter 14
6 of this code. Any person, firm, company or corporation who fails to comply with or violates any section of this
7 division article, or the emergency measures which may be effective pursuant to this division, is guilty of a
8 misdemeanor of the second degree, and upon conviction for such offense, may be punished by a fine not to
9 exceed \$500.00 or by imprisonment not to exceed 60 days in the Collier County Jail, or both, in discretion of
10 the court hearing the case. Each day of continued noncompliance or violation will constitute a separate
11 offense. In addition to this penalty, any construction licensee of the city or the state who violates any provision
12 of this division article or the emergency measures which are effective as a result of this division article, will be
13 charged with said violation and have the matter heard before the appropriate city board, state administrative
14 body, or court of law.~~

15 ~~(b) Nothing contained herein prevents the city from taking such other lawful action in any court of competent
16 jurisdiction as is necessary to prevent or remedy any failure to comply with, or violation of, this division or
17 the emergency measures which may be made effective according to this division. Such other lawful action
18 includes, but it is not limited to, an equitable action for injunctive relief or an action at law for damages.~~

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23 **ARTICLE VII. HURRICANE PREPAREDNESS**

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26 **Sec. 6-1. ~~Hurricane preparedness property maintenance~~ Title.**

27 ~~(a) Title-~~ This article shall be referred to as the "Marco Island Hurricane Preparedness Property Maintenance
28 Code."

29 **Sec. 6-2. Weather emergencies.**

30 ~~(b) Weather emergencies-~~

31 (1) *Declaration.* The provisions of this article apply ~~at the direction of the city manager, or upon issuance of
32 a tropical storm or hurricane warning by the National Weather Service or National Hurricane Center said
33 manager's designee, or upon direction of the city manager~~ in the event of other significant expected
34 inclement weather conditions, ~~or other similar types of inclement weather warnings,~~ for any part of
35 Collier County.

36 (2) *Construction sites.*

37 a. All construction materials, including roof tiles, within the city shall be secured, stored or removed
38 so as not to create a safety hazard because of hurricane or tropical storm force winds, or similar
39 inclement weather.

40 b. ~~Media broadcasts or notices issued by the National Weather Service or National Hurricane Center
41 of a hurricane or tropical storm warning shall be deemed sufficient notice to the~~ The owner of real
42 property upon which construction is occurring or any contractor responsible for the construction

1 ~~to shall~~ secure, store or remove loose construction debris and loose construction materials against
2 the effects of high wind.

3 c. Materials stockpiled on top of any structure under construction shall be permanently installed by
4 the property owner or contractor ~~at the direction of the city manager, or said manager's designee.~~
5 However, if such installation cannot be timely completed, then the property owner or contractor
6 shall:

7 1. Band together the construction materials and mechanically fasten them to the top of the
8 structure in such a manner so a threat of becoming airborne during a tropical storm or
9 hurricane is not experienced;

10 2. Remove the construction materials from the top of the structure and mechanically tie them
11 down to the ground;

12 3. Remove the construction materials from the job site; or

13 4. Store the construction materials inside a protected structure.

14 d. Interiors of structures under construction shall be secured to prevent materials from becoming
15 airborne.

16 e. All debris on a construction site shall be stored in commercial containers and shall be properly
17 secured.

18 f. Commercial containers and portable toilets must be removed from a construction site or
19 mechanically tied to the ground.

20 g. Piles of dirt, sand, and stone on a construction site shall be located away from the canals, right of
21 ways, adjoining properties, swales, culverts, and inlet grates.

22 h. All construction materials or debris required to be secured, stored or removed shall remain so
23 ~~secure, stored or removed hereunder from the property~~ until the National Weather Service,
24 National Hurricane Center or other appropriate weather agency has removed all portions of Collier
25 County from those areas included in a hurricane or tropical storm warning, or the city manager, ~~or~~
26 ~~said manager's designee~~, lifts an inclement weather directive pursuant to this Code section/article,
27 whichever event ~~shall~~ first occur.

28 i. In the event of a violation of this article, in addition to all other remedies provided ~~in this Code or~~
29 ~~otherwise~~ by law, the city may take whatever emergency action it deems necessary to secure, store
30 or remove all loose construction materials and debris, including, but not limited to, roof tiles and
31 roofing materials. In such circumstances, the city shall ~~seek reimbursement bill the property owner~~
32 ~~and/or his/her agent contractor~~ for all charges and expenses incurred to eliminate these potentially
33 unsafe conditions ~~pursuant to section 14-62 by any means necessary~~. The securing of an outside
34 contractor to perform these services shall be deemed to be the securing of emergency services
35 and shall not require the city to utilize a competitive bid process to select a contractor. A notice of
36 violation shall be posted at the job site and mailed to the property owner or contractor. The written
37 notice shall constitute a stop work order and shall remain in effect until the bill is paid. Upon receipt
38 of payment, the building official ~~or his designee~~ shall allow resumption of work. ~~If the bill for such~~
39 ~~services remains unpaid for a period of 30 days or more, the city may record a claim of lien~~
40 ~~encumbering the property and thereafter proceed according to law to enforce the lien.~~

41 j. The owner of the property and the contractor shall be jointly and severally responsible for
42 compliance with the provisions of this article.

43 k. The owner or contractor, ~~personally or through their agent or representative, shall have the right~~
44 ~~to~~ may appeal the decision of the city ordering the cessation of all work and appear before the
45 construction board of adjustments and appeals pursuant to section 6-40 at a specified time and
46 place to show cause why they should not be responsible for weather emergency code compliance.

1 (3) *Developed sites.*

2 a. On ~~all~~ developed property, all household furnishings including, but not limited to, furniture and
3 lawn equipment not secured by a fence or screen enclosure, shall be secured, stored or removed
4 so as to not create a safety hazard due to hurricane force winds.

5 b. All materials and household furnishings required to be secured, stored or removed shall remain so
6 secure, stored or removed hereunder from the property at the direction of until the city manager,
7 or said manager's designee, lifts an inclement weather directive pursuant to this ~~Code~~ section, or
8 until the National Weather Service, National Hurricane Center or other appropriate agency has
9 removed all portions of Collier County from those areas included in a hurricane or tropical storm
10 warning, whichever event occurs first.

11 c. ~~Media broadcasts or notice at the direction of the city manager, or said manager's designee issued~~
12 ~~by the National Weather Service or National Hurricane Center of a hurricane or tropical storm~~
13 ~~warning for Collier County shall be deemed sufficient notice to the owner of developed real~~
14 ~~property to store or secure furnishings or to remove furnishings not secured or stored from the~~
15 ~~property.~~

16 (c) *Penalties.*

17 (1) *Penalty.* The violation or failure to comply with any provision of this ~~Code article shall is punishable~~
18 ~~according to the penalties and procedures set forth in chapter 14 of this code. constitute an offense~~
19 ~~against the city. Penalties shall be assessed in accordance with section 1-14 of this Code, or its successor.~~

20 (2) *Stop work order; order to abate.* Additionally, where a violation related to any construction or condition
21 for which a permit has been issued; or is subject to issuance, the violation may be enforced by the
22 building official ~~or designee~~ through the issuance of a stop work order in accordance with the procedures
23 set forth in the Florida Building Code; or an order to repair, restore or demolish the work; to vacate the
24 premises; or otherwise to abate the violation enforceable.

25 (3) *Nuisance.* Any violation of this article is subject to abatement as a public nuisance.

26 ~~(4) The provisions of this article are cumulative with and in addition to any other remedy provided by law.~~

1 **Chapter 8 BUSINESSES**

2 **ARTICLE I. IN GENERAL**

3 **Secs. 8-1—8-30. Reserved.**

4 **ARTICLE II. DISPLAY AND SALE OF TOBACCO PRODUCTS**

5 **Sec. 8-31. Intent.**

6 This article is intended to prevent the sale and delivery of tobacco products to persons under the age of 18 by
7 regulating the commercial marketing and placement of such products. This article ~~shall not be interpreted or~~
8 ~~construed to does not~~ prohibit the sale or delivery of tobacco products which are otherwise lawful or regulated
9 pursuant to F.S. ch. 569.

10 **Sec. 8-32. Definitions.**

11 The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them
12 in this section, except where the context clearly indicates a different meaning. These definitions are supplemental
13 to the definitions in section 1-2 of this code. The definitions in this section shall prevail in case of conflict. For the
14 purpose of this article, the following terms shall mean:

15 *Open display unit* means a case, rack, shelf, counter, table, desk, kiosk, booth, stand, or other surface that
16 allows direct public access to the product placed therein.

17 *Restricted access area* means a physically confined area with immediate access limited to the vendor or the
18 vendor's employee(s).

19 *Self-service tobacco merchandising* means an open display of tobacco products that the public has access to
20 without the intervention of the vendor or employee(s) of the vendor.

21 *Specialty tobacco store* means an establishment primarily in the business of selling cigars, pipe tobacco and
22 other tobacco products.

23 *Tobacco products* include loose tobacco leaves, and products made from tobacco leaves, in whole or in part,
24 which can be used for smoking, sniffing, or chewing, including but not limited to cigarettes, cigars, pipe tobacco,
25 snuff or smokeless tobacco, and chewing tobacco. Tobacco product also includes cigarette wrappers.

26 *Vendor* means any individual, sole proprietorship, joint venture, corporation, partnership, cooperative
27 association, or other legal entity licensed as a dealer in tobacco products pursuant to F.S. ch. 569 and any employee
28 or agent of said dealer.

29 **Sec. 8-33. Placement of tobacco products in open display unit.**

30 No vendor shall place tobacco products in an open display unit unless such unit is located in a restricted access
31 area or sell, permit to be sold, offer for sale, or display for sale any tobacco products by means of self-service
32 merchandising in a non-restricted access area.

33 **Sec. 8-34. Exceptions.**

34 ~~{~~The exceptions to the provisions of section 8-33 are as follows:~~}~~

- 35 (1) An establishment that prohibits persons under 18 years of age on the premises.
36 (2) Specialty tobacco stores.

1 **Sec. ~~Penalties. 8-35. Enforcement.~~**

2 Violation of this article shall be punishable according to the procedures and penalties set forth in chapter 14
3 of this code. The provisions of this article shall be enforced by any procedure permitted by Florida Statutes.

4 **Sec. ~~8-36. Applicability.~~**

5 The provisions of this article shall apply to all areas of the City of Marco Island within the corporate limits of
6 the city.

7 **Secs. ~~8-367~~—8-50. Reserved.**

8 **ARTICLE III. SOLICITORS**

9 **Sec. 8-51. Intent and purpose.**

10 The intent and purpose of this article is to require any solicitor to establish the solicitor's identity to safeguard
11 the interests of residents of the city in the prevention of fraud and prevention of other crime. This article is also
12 intended to protect the privacy of the residents of the city by limiting solicitation to reasonable hours.

13 **Sec. 8-52. Definitions.**

14 The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them
15 in this section, except where the context clearly indicates a different meaning. These definitions are supplemental
16 to the definitions in section 1-2 of this code. The definitions in this section shall prevail in case of conflict.:

17 *Solicitation* means going to a residential property or dwelling unit without the express consent of or invitation
18 from the owner or occupant for either (i) the sale or offer for sale of any goods, wares, merchandise, real estate
19 (including timeshares), subscriptions, or services, or (ii) the offer of money for services of any kind, or other
20 consideration, or the enticement or importunity thereof.

21 *Solicitor* means any person who engages in solicitation.

22 **Sec. 8-53. Exception.**

23 The permit requirement of this article shall not apply to Collier County residents under the age of 18 engaging
24 in solicitation for any civic, charitable, or governmental organization. Any parent or legal guardian accompanying
25 any such individual shall not be required to obtain a permit.

26 **Sec. 8-54. Acts prohibited.**

27 No person shall:

- 28 (1) Enter into or upon residential premises in the city under false pretenses to engage in solicitation for any
29 purpose.
- 30 (2) Enter upon any residential premises to engage in solicitation, when the owner or occupant has displayed
31 a "No Soliciting" or "No Peddlers" sign on such premises.
- 32 (3) Remain in or on any residential premises to engage in solicitation after the owner or occupant has
33 requested any such person to leave.

- 1 (4) Engage in solicitation in the city without a permit as provided in this article.
- 2 (5) Engage in solicitation prior to 9:00 a.m. or after 5:00 p.m.
- 3 (6) Engage in solicitation in the city with a permit issued in another's name.
- 4 (7) Engage in solicitation without a permit visibly displayed.
- 5 (8) Fail to produce photo identification upon request when engaged solicitation.

6 **Sec. 8-55. Permit application; contents.**

7 Except as otherwise provided in section 8-53, all persons before entering into or upon a residential premises
8 within the city to engage in solicitation, shall file an application for a permit with the police ~~department chief or the~~
9 ~~police chief's designee~~ and include with such application the following information:

- 10 (1) The name, local and permanent addresses, age, race, weight, height, color of hair and eyes and any other
11 distinguishing physical characteristics of the applicant.
- 12 (2) A color photo identification.
- 13 (3) The nature or purpose for which solicitations will be made, including a description of any goods, wares,
14 merchandise, real estate, subscriptions, or services to be offered for sale.
- 15 (4) The name, address and phone number of the business for which the solicitor will be soliciting, which
16 customers can contact with questions and complaints.
- 17 (5) A current copy of the county ~~occupational license business tax receipt~~ applicable to the solicitor.
- 18 (6) A statement as to whether the applicant has been convicted of any felony or misdemeanor, and if so,
19 the nature of the offense, when and where convicted and the penalty or punishment assessed therefor.
- 20 (7) A complete set of fingerprints of the person registering, such fingerprints to be taken by the city manager
21 ~~or the city manager's designee~~.

22 **Sec. 8-56. Issuance.**

23 Upon furnishing the information required under section 8-55, the applicant shall be issued a permit, unless the
24 information furnished in compliance with this article shows that the applicant has been:

- 25 (1) Convicted of a violent felony crime;
- 26 (2) Three or more convictions for crimes involving theft, fraud, violence or moral turpitude;
- 27 (3) Two convictions for crimes involving theft, fraud, violence or moral turpitude if less than ten years have
28 passed since released from any court ordered incarceration or supervision;
- 29 (4) One conviction for a felony crime involving theft, fraud, or moral turpitude if less than five years have
30 passed since released from any court ordered incarceration or supervision; or
- 31 (5) One conviction for a misdemeanor crime involving theft, fraud, violence or moral turpitude if less than
32 three years have passed since released from any court ordered incarceration or supervision.

33 **Sec. 8-57. Duration, renewal.**

34 A permit issued under this article shall be valid for 30 days from the date of issuance. Renewals for like periods
35 may be granted, unless earlier revoked as provided in this article. A maximum of two renewals will be granted
36 without submission of a new permit application and payment of the applicable permit fee. Prior to issuing a renewal,
37 the individual shall attest to the accuracy of the information provided in the original permit application and disclose
38 any changes to the information previously provided therein.

1 **Sec. 8-58. Duty to carry, exhibit permit.**

2 Every solicitor shall carry the solicitor's permit and photo identification at all times while engaged in
3 solicitation. The permit shall be visibly displayed while engaged in solicitation and the photo identification shall be
4 shown upon request.

5 **Sec. 8-59. Fees.**

6 A permit application fee, ~~which fee shall be fixed by~~ established by resolution of the city council, shall be paid
7 ~~to the city manager or the city manager's designee~~ when the application is filed. The fee shall cover the costs of a
8 background investigation of the applicant and processing of the application.

9 **Sec. 8-60. Revocation authorized; grounds.**

10 Permits issued as provided by this article may be revoked by the city manager ~~or the city manager's designee~~
11 after notice and hearing for any of the following offenses:

- 12 (1) Fraud, misrepresentation or a false statement in the application.
- 13 (2) Fraud, misrepresentation or a false statement in the conduct of the solicitation.
- 14 (3) Violation of any condition, provision or qualification provided in the application.
- 15 (4) Conviction, nolo contendere plea or forfeiture resulting from violation of any city, state or federal law
16 involving theft, fraud, violence or moral turpitude occurring subsequent to city issuance of the permit.
- 17 (5) Conducting business in an unlawful manner or in such manner as to threaten breach of the peace or
18 menace to public health, safety or welfare.
- 19 (6) Failure to comply with any provision of this article.

20 **Sec. 8-61. Notice of revocation.**

21 Written notice of revocation of a permit issued under this article and the grounds therefor shall be mailed or
22 delivered to a permittee at the address listed in permittee's application.

23 **Sec. 8-62. Appeal.**

24 Any person aggrieved by the denial of a permit or revocation of a permit shall have the right of appeal to the
25 city council per the procedure in section 1-15 of this code. ~~Such appeal shall be taken by filing with the city manager,
26 within 14 days after notice of the action complained of has been mailed or delivered to such person's last known
27 address, a written statement setting forth fully the grounds for the appeal. The city manager shall set a time and
28 place for a hearing on such appeal, and notice of such hearing shall be given to the appellant at least five days before
29 the date of said hearing. The decision and order of the city council on such appeal shall be final.~~

30 **Sec. 8-63. Penalties.**

31 Violation of this article shall be punishable according to the procedures and penalties set forth in chapter 14 of this
32 code. ~~(a) Any person or persons, firm or corporation, or any agent thereof, who violates any of the provisions of~~
33 ~~any section of this article shall be punished by a fine not exceeding \$500.00 or imprisonment not exceeding 60~~
34 ~~days or by both such fine and imprisonment.~~

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

1 **Secs. 8-64—8-69. Reserved.**

2 **ARTICLE IV. MARCO ISLAND LAWN AND LANDSCAPE MAINTENANCE**
3 **REGISTRATION REGULATIONS**

4 **Sec. 8-70. Intent and purpose.**

5 The intent and purpose of this article is to require any person ~~(including a~~ business entity) performing lawn
6 or landscaping maintenance work in the city to possess minimum qualifications and competency that will assist in
7 strengthening and promoting public awareness of the need to engage in certain lawn and landscape maintenance
8 activities and therefore mitigate long-term and immediate adverse impacts from stormwater run-off into natural
9 water bodies located in and adjacent to the city.

10 **Sec. 8-71. Definitions.**

11 The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them
12 in this section, except where the context clearly indicates a different meaning. These definitions are supplemental
13 to the definitions in section 1-2 of this code. The definitions in this section shall prevail in case of conflict.:

14 *Applicator* means any person who applies, in any manner, fertilizer to turf or landscape plants within the city
15 as defined in this article.

16 *Certification* means the process of completing the state-approved course and test for fertilizer application as
17 required in F.S. § 482.1562.

18 *Commercial fertilizer applicator*, ~~except as provided in F.S. § 482.1562(9),~~ means any individual person who
19 applies fertilizer for payment or other consideration to property not owned by the ~~person~~individual or firm applying
20 the fertilizer or their and includes the employer of the applicator, and excludes yard workers who apply fertilizer
21 only to individual residential properties using fertilizer and equipment provided by the residential property owner
22 or resident.

23 *Institutional applicator* means any person, other than a private, noncommercial or commercial applicator who
24 applies fertilizer for the purpose of maintaining turf or landscape plants. Institutional applicators shall include, but
25 shall not be limited to, owners and managers or employees of public lands, schools, parks, religious institutions,
26 utilities, industrial or business sites, and any residential properties maintained in condominium or common
27 ownership.

28 *Landscaping* means planting and installation of trees, lawns and other plants.

29 *Landscape architect* means an individual licensed by the state responsible for the preparation of landscaping
30 plans and design.

31 *Lawn and landscape professional* means any ~~person~~individual who not exempt from this article pursuant to
32 section 8-72, who engages in solicitation for the delivery of lawn, landscaping or lawn or landscaping maintenance
33 services, which may include application of fertilizer.

34 *Noncommercial applicator* means any ~~person~~individual other than a commercial fertilizer applicator or
35 institutional applicator who applies fertilizer on turf or landscape plants in the city, such as an individual owner of a
36 single-family residential unit.

37 *Registration* is the process of applying to the city for recognition of appropriate certification to apply fertilizer
38 within the city and receipt of a decal identifying the vehicles of the approved applicators.

1 **Sec. 8-72. Exemptions.**

2 The registration requirement of this article shall not apply to the following:

- 3 (1) Any individual noncommercial property owner engaging in ~~lawn, landscaping or~~ lawn or landscaping
4 maintenance on one's own property;
- 5 (2) Any landscape architects licensed by the state engaging in lawn or landscaping maintenance services;
- 6 (3) Any ~~person individual or business entity, which that~~ person possesses a license from the state to apply
7 herbicides, pesticides, chemicals; ~~or and~~
- 8 (4) Any ~~individual or business entity~~ person possessing a valid specialty contractor's license from Collier
9 County for the delivery of services such as landscaping, tree removal and trimming, and irrigation.

10 **Sec. 8-73. Regulated activities.**

- 11 (a) It shall be a violation of this ~~c~~Code to provide any lawn and landscaping maintenance and services in the city
12 without first being certified and registered with the city as a lawn and landscape professional, except as
13 provided in this section 8-72.
- 14 (b) Any lawn and landscaping maintenance and services, including fertilizer application, provided to the city by a
15 lawn and landscape professional, shall have at least one supervisor at each work site registered with the city
16 as a lawn and landscape professional. In addition, all business entities under contract with the city shall have
17 at least ten percent of their staff certified and registered with the city as a lawn and landscape professional
18 within six months of entering into a contract with the city; and at least 50 percent of their staff certified by the
19 city as a lawn and landscape professional within one year of entering into a contract with the city.
- 20 (c) Any lawn and landscaping maintenance or services, including fertilizer application, provided by lawn and
21 landscape professionals within the city, shall have at least one supervisor certified and registered with the city
22 as a lawn and landscape professional. These businesses shall provide at least one supervisor and/or crew
23 leader per vehicle registered by the city as a lawn and landscape professional within one year of adoption. Any
24 lawn and landscaping professional applying fertilizer is required to be state certified and city registered.

25 **Sec. 8-74. Certification application; contents.**

- 26 (a) *Training and licensing.*
 - 27 (1) ~~F.S. § 482.1562 contains language regarding the limited certification of urban landscape commercial~~
28 ~~fertilizer application. Commercial f~~Fertilizer applicators, ~~as shall be~~ certified under F.S. § 482.1562 that
29 ~~section of state statute, and~~ shall have and carry evidence of their certification in their possession at all
30 times when applying fertilizer, ~~evidence of that certification.~~
 - 31 (2) The city also hereby requires lawn and landscape professionals, except as exempted above, to abide by
32 and successfully complete the six-hour training program in the Florida-Friendly Best Management
33 Practices for Protection of Water Resources by the Green Industries offered by the Florida Department
34 of Environmental Protection through the University of Florida Extension program (or approved
35 equivalent), ~~as well as local ordinance requirements, as amended.~~
- 36 (b) *Lawn and landscape professional registration.* It shall be a violation of this article for lawn and landscape
37 professionals, ~~except as exempted above,~~ to fertilize lawns or ~~landscape~~ plants without first being certified
38 with by the state and business being registered with the city as provided herein. It shall be the responsibility
39 of the landscape professional to complete required training, obtain certification and to register with the city.
 - 40 (1) Any ~~lawn,~~ landscaping and or landscape maintenance business that applies fertilizer shall register
41 supervisors/crew leaders with the city.

- 1 (2) Lawn and landscape professionals registering with the city as such shall:
- 2 a. Attend and successfully complete the six-hour training program as described above.
- 3 b. Attend and successfully complete the three-hour annual refresher course (or approved equivalent)
- 4 for renewal of registration.
- 5 c. ~~Obtain c~~Certification ~~under F.S. 482.1562~~ and registration ~~pursuant to this article. shall be based~~
- 6 ~~on demonstrated ability, experience, and education in the following areas of competency:~~
- 7 ~~1. Effects of the environment from sediment, nutrients, and pesticides moving off-site through~~
- 8 ~~surface or ground water.~~
- 9 ~~2. Site design and plant selection to enhance the natural environment.~~
- 10 ~~3. Rates and methods of applying fertilizer and irrigation that minimize negative environmental~~
- 11 ~~consequences.~~
- 12 ~~4. Utilization of integrated pest management to both minimize pests and decrease chemical~~
- 13 ~~applications.~~
- 14 ~~d. Illustrate an ability to apply his or her knowledge of the concepts identified herein by providing a~~
- 15 ~~written, detailed management plan that outlines maintenance activities to be carried out for~~
- 16 ~~specific locations.~~
- 17 ~~de. Provide an initial application fee of \$50.00 and a fee for each renewal as established by resolution~~
- 18 ~~of the city council, which shall be used to defray the costs of the program. A fee of \$15.00 shall be~~
- 19 ~~charged to renew certification. The application fee may be amended by resolution of the city~~
- 20 ~~council as may be necessary.~~
- 21 ~~(3) The city shall provide any person who has satisfied the requirement set forth herein and paid the~~
- 22 ~~application fee, registration and a decal indicating the city considers that person to be a certified lawn~~
- 23 ~~and landscape maintenance professional.~~
- 24 ~~(4) The registration program shall be managed and administered by the growth management department.~~
- 25 ~~However, the city manager or designee shall retain the authority to approve registration of any~~
- 26 ~~applicant for lawn and landscape registration.~~
- 27 ~~(5) It shall be the responsibility of the landscape professional to complete required training and to register~~
- 28 ~~with the city.~~

29 **Sec. 8-75. Duration, renewal.**

30 A registration issued ~~by the city pursuant to~~under this article shall be valid for one year. Renewals for an

31 additional one-year period ~~may shall~~ be granted, unless previously issued registrations are revoked as provided in

32 this article. ~~A maximum of two~~Two ~~successivesingle~~one-year renewals will be granted without submission of a new

33 registration application and without payment of ~~the applicable new~~ registration fee. However, prior to receiving a

34 renewed registration, the applicant must update and make any necessary changes needed to the previously

35 submitted application. Certification with the state must occur in compliance with state regulations.

36 **Sec. 8-76. Duty to carry, exhibit certification and receive appropriate permit.**

- 37 (a) *Identification.* Every registered lawn and landscaping professional shall carry ~~his or her~~their registration and
- 38 photo identification at all times while engaged in lawn or landscaping maintenance work in the city.
- 39 (b) The city-issued lawn and landscape professionals decal shall be displayed on every state-licensed motor vehicle
- 40 used by a commercial fertilizer applicator or institutional applicator, and by lawn and landscape maintenance
- 41 professionals when performing services within the city limits. One decal will be issued with each registration;

1 each additional decal will cost \$5.00. The decal shall be displayed prominently and in such a manner as not to
2 be obstructed.

3 ~~(c)~~ *Permitting.* All registered landscape professionals are required to obtain appropriate permits from the city.

4 (1) A minimum of one business day prior to fertilizer application within the city, the registered professional
5 must apply for an e-mail permit, free of charge, indicating the location, type of fertilizer and
6 acknowledgement that a spreader deflector will be utilized.

7 (2) ~~A Code enforcement~~ code enforcement official may visit any site where fertilization is occurring and
8 stop work if a permit was not received or if improper products or methods are being employed.

9 **Sec. 8-77. Penalty, Revocation authorized; grounds.**

10 Violation of this article shall be punishable according to the procedures and penalties set forth in chapter 14
11 of this code. In addition to the penalties provided in section 1-14 of this code, Registration issued under this article
12 may be revoked by the city manager ~~or designee~~ after notice and hearing for any of the following offenses:

13 (1) Fraud, misrepresentation or a false statement in the application.

14 (2) Fraud, misrepresentation or a false statement in the performance of lawn or landscaping maintenance
15 services.

16 (3) Violation of any condition, provision or qualification provided in the application.

17 (4) Conviction, nolo contendere plea or forfeiture resulting from violation of any city, state or federal law
18 involving theft, fraud, violence or moral turpitude.

19 (5) Conducting business in an unlawful manner or in such manner as to threaten breach of the peace or
20 menace to public health, safety or welfare.

21 (6) Failure to comply with any provision of this article and applicable sections of chapter 18, environment,
22 of this Code.

23 **Sec. 8-78. Notice of revocation.**

24 (a) Written notice of revocation of a registration issued under this article and the grounds therefor shall be mailed
25 or delivered to a certified lawn and landscaping professional at the address specified in its application.

26 (b) The public will be notified of revocation of any landscaping professional's registration through the monthly
27 report to city council, on the city's website and a notification will be posted at City Hall.

28 **Sec. 8-79. Appeal.**

29 Any person aggrieved by the denial of a registration or revocation of a registration shall have the right of appeal
30 to the city council per the procedure in section 1-15 of this code. Such appeal shall be taken by filing with the city
31 manager or designee, within 14 days after notice of the action complained of has been mailed or delivered to such
32 person's last known address, a written statement setting forth fully the grounds for the appeal. The city manager or
33 designee shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the
34 appellant at least five days before the date of said hearing. The decision and order of the city council on such appeal
35 shall be final.

36 **~~Sec. 8-80. Penalties.~~**

37 Any person or persons, firm or corporation, or any agent thereof, who violates any of the provisions of any
38 section of this article shall be punished by revocation of any registration issued under this article, and other
39 penalties as may be imposed by the code enforcement magistrate pursuant to state law or this Code.

1 **Secs. 8-801—8-99. Reserved.**

2 **Chapter 10 CIVIL EMERGENCIES**

3 **Sec. 10-1. Definitions Reserved.**

4 ~~For the purpose of this chapter, an emergency is defined, as provided in F.S. ch. 252, as follows: any occurrence,~~
5 ~~or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in~~
6 ~~substantial injury or harm to the population or substantial damage to or loss of property.~~

7 **Sec. 10-2. Violations; penalties; additional remedies.**

8 ~~Violation of this article shall be punishable according to the procedures and penalties set forth in chapter 14~~
9 ~~of this code. Any person who refuses to comply with or violates any section of this article, or the emergency measures~~
10 ~~which may be made effective pursuant to this article, shall be guilty of a misdemeanor, and upon conviction for such~~
11 ~~offense shall be punished by a fine not to exceed \$500.00 or by imprisonment not to exceed 60 days in the county~~
12 ~~jail, or both, in the discretion of the court. Each day of continued noncompliance or violation shall constitute a~~
13 ~~separate offense. In addition, any licensee of the county or the city found guilty of violating any provision of this~~
14 ~~article, or the emergency measures which may be made effective pursuant to this article, may have his license~~
15 ~~suspended or revoked by the city council. Nothing contained in this section shall prevent the city from taking such~~
16 ~~other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply~~
17 ~~with, or violation of, this article or the emergency measures which may be made effective pursuant to this article.~~
18 ~~Such other lawful action shall include, but shall not be limited to, an equitable action for injunctive relief or an action~~
19 ~~at law for damages.~~

20 **Sec. 10-3. Authority to declare state of emergency.**

21 Pursuant to F.S. ~~ch~~§. 25238, which authorizes the waiver of procedures and formalities otherwise required of
22 political subdivisions ~~to take whatever prudent action is necessary~~ to ensure the health, safety, and welfare of the
23 community in the event of a state of emergency, the chair~~man~~ of the city council, ~~or the vice chairman in his~~
24 ~~absence, or the city manager in the absence of the chairman and vice chairman,~~ is hereby designated and
25 empowered to declare a local state of emergency whenever the chair ~~she shall~~ determines that a natural or
26 manmade disaster has occurred or that the occurrence or threat of one is imminent and requires immediate and
27 expeditious action. In the absence of the chair, authority granted to the chair under this chapter shall pass to the
28 vice chair and in the absence of both the chair and vice chair, to the city manager.

29 **Sec. 10-4. Proclamation of state of emergency.**

30 A state of emergency shall be declared by proclamation of the chair~~man, or the vice chairman in his absence,~~
31 ~~or by the city manager in the absence of the chairman and vice chairman.~~ The state of emergency shall continue
32 until the chair~~man, or the vice chairman in his absence, or the city manager in the absence of the chairman and vice~~
33 ~~chairman,~~ finds that the threat or danger no longer exists and/or until an emergency meeting of a quorum of the
34 city council can take place and terminate the state of emergency by proclamation.

35 **Sec. 10-5. Activation of disaster emergency plans.**

36 A proclamation declaring a state of emergency shall activate the disaster emergency plans applicable to the
37 city and shall be the authority for use or distribution of any supplies, equipment, materials, and/or facilities
38 assembled or arranged to be made available pursuant to such plans.

1 **Sec. 10-6. Emergency measures.**

- 2 (a) In addition to any other powers conferred by law, upon the declaration of a state of emergency pursuant to
3 this ~~article~~chapter, the chair~~man, or the vice chairman in his absence, or the city manager in the absence of~~
4 ~~the chairman and vice chairman~~, may order and promulgate all or any of the following emergency measures
5 to be effective during the period of such emergency in whole or in part, and with such limitations and
6 conditions as ~~he~~the chair may deem appropriate to protect the health, safety and welfare of the community:
- 7 (1) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and
8 combustibles.
 - 9 (2) Establish curfews, including but not limited to the prohibition of or restrictions on pedestrian and
10 vehicular movement, standing and parking, except for the provision of designated essential services,
11 such as fire, police, emergency medical services and hospital services, including the transportation of
12 patients, utility emergency repairs and emergency calls by physicians.
 - 13 (3) Utilize all available resources of the city government as reasonably necessary to cope with the disaster
14 emergency.
 - 15 (4) Declare certain areas off limits to all but emergency personnel.
 - 16 (5) Make provisions for availability and use of temporary emergency housing and emergency warehousing
17 of materials.
 - 18 (6) Establish emergency operating centers and shelters in addition to or in place of those provided for in the
19 city's emergency plan.
 - 20 (7) Declare that during an emergency it shall be unlawful and an offense against the city for any person to
21 use the fresh water supplied by the county or local water company for any purpose other than cooking,
22 drinking or bathing.
 - 23 (8) Declare that during an emergency it shall be unlawful and an offense against the city for any person
24 operating within the city to charge more than the normal average retail price for any merchandise,
25 goods, or services sold during the emergency. The average retail price as used in this subsection is
26 defined to be that price at which similar merchandise, goods, or services were being sold during the 90
27 days immediately preceding the emergency or at a markup which is a larger percentage over wholesale
28 cost than was being added to wholesale cost prior to the emergency.
- 29 (b) Preceding or during the emergency, the chair, or in the chair's absence, the vice-chair, or in both of the chair
30 and vice-chair's absence, the city manager~~man, or the vice chairman in his absence, or the city manager in the~~
31 ~~absence of the chairman and vice chairman~~, shall have the authority to call on the National Guard or the Army,
32 Coast Guard, or other law enforcement division or other agency as necessary to assist in the mitigation of the
33 emergency or to help maintain law and order, rescue, and traffic control.

34 **Sec. 10-7. Authority of council.**

35 Nothing in this article shall be construed to limit the authority of the city council to declare or terminate a state
36 of emergency and take any action necessary by law when sitting in regular or special session.

37
38

39 **Chapter 11ARTICLE VII. MISCELLANEOUS OFFENSES**

40 **ARTICLE I. SEXUAL OFFENDERS AND SEXUAL PREDATORS**

1 **Sec. ~~11-118-200~~. Sexual offender and sexual predator residency prohibition.**

2 (a) *Findings and intent.*

3 (1) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on
4 children are sexual predators who present an extreme threat to the public safety. Sexual offenders are
5 extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit
6 many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction
7 of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable,
8 clearly exorbitant.

9 (2) It is the intent of this article to serve the city's compelling interest to promote, protect and improve the
10 health, safety and welfare of the citizens of the city by creating areas around locations where children
11 regularly gather and can be stalked or observed in concentrated numbers wherein certain sexual
12 offenders and sexual predators are prohibited from establishing temporary or permanent residence.

13 (b) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed
14 to them in this section, except where the context clearly indicates a different meaning. [These definitions are](#)
15 [supplemental to the definitions in section 1-2 of this code. The definitions in this section shall prevail in case](#)
16 [of conflict.](#)

17 *Permanent residence* means a place where the person abides, lodges, or resides for 14 or more consecutive
18 days.

19 *Reside or residence* means to have a place of permanent residence or temporary residence.

20 *Sexual offender* shall have the meaning ascribed to such term in F.S. § 943.0435.

21 *Sexual predator* shall have the meaning ascribed to such term in F.S. § 775.21.

22 *Temporary residence* means a place where the person abides, lodges, or resides for a period of 14 or more
23 days in the aggregate during any calendar year and which is not the person's permanent address, or a place where
24 the person routinely abides, lodges, or resides for a period of four or more consecutive or nonconsecutive days in
25 any month and which is not the person's permanent residence.

26 (c) *Sexual offender and sexual predator residency prohibition.*

27 (1) It is unlawful for any person who has been convicted of a violation of F.S. § 794.011 (sexual battery), §
28 800.04 (lewd and lascivious acts on/in presence of persons under age 16), § 827.071 (sexual performance
29 by a child), § 847.0135(5) (sexual acts transmitted over computer) or § 847.0145 (selling or buying of
30 minors for portrayal in sexually explicit conduct), or a similar law of another jurisdiction within the United
31 States, in which the victim or apparent victim of the offense was less than 16 years of age, to reside
32 within 2,500 feet of any school, child care facility, park, playground or designated public school bus stop.

33 (2) For purposes of determining the minimum distance separation, the requirement shall be measured by
34 following a straight line from the outer property line of the permanent residence or temporary residence
35 to the nearest outer property line of a school, child care facility, park, playground or designated public
36 school bus stop.

37 (d) *Penalties.* [Violation of this article shall be punishable according to the procedures and penalties set forth in](#)
38 [chapter 14 of this code. A person who violates subsection 18-200\(c\)\(1\) shall be punished by a fine not to exceed](#)
39 [\\$500.00 or by imprisonment for a term not to exceed 60 days, or by both such fine and imprisonment.](#)

40 (e) *Exceptions.*

41 (1) A person residing within 2,500 feet of any school, child care facility, park, playground or designated public
42 school bus stop does not commit a violation of subsection ~~18-200~~[11-1](#)(c)(1) if any of the following apply:

43 a. The person established the permanent residence prior to the effective date of this article (April 20,
44 2015).

1 b. The person was a minor when the person committed the offense and was not convicted as an
2 adult.

3 c. The school, child care facility, park, playground or designated public school bus stop within 2,500
4 feet of the person's permanent residence was opened after the person established the permanent
5 residence.

6 (2) The exceptions in subsections ~~18-20011-1~~(e)(1)a. and c. shall not apply to a sexual offender or sexual
7 predator who is convicted of a subsequent sexual offense as an adult after residing at a registered
8 residence within 2,500 feet of school, child care facility, park, playground or designated public school
9 bus stop.

10 (f) *Property owner violation.* It shall be a violation of this code for a landlord or owner of residential property in
11 the city to rent or lease a residence to a sexual offender or sexual predator, if the sexual offender or sexual
12 predator intends to reside at the property and if the property is located within 2,500 feet of a school, child
13 care facility, park, playground or designated public school bus stop, unless the landlord or owner can establish
14 that, prior to entry of a lease, he or she used reasonable due diligence and was unable to determine that the
15 tenant is a sexual offender or sexual predator. ~~Any person violating this subsection (f) is subject to the code
16 enforcement procedures set forth in the City of Marco Island Code Compliance Ordinance.~~

17 Chapter 14 CODE ~~COMPLIANCE~~ENFORCEMENT ORDINANCE

18 ARTICLE I. IN GENERAL

19 Sec. 14-1. Legislative intent.

20 (a) It is the intent of this chapter to promote, protect, and improve the health, safety, and welfare of the residents
21 and visitors to the City of Marco Island by authorizing the designation of special magistrates with authority to
22 impose administrative fines and other noncriminal penalties and to provide an equitable, expeditious, and
23 effective method of enforcing any codes and ordinances in force in the ~~city~~City of Marco Island.

24 (b) It is the intent of this chapter to establish a procedure by which duly designated code enforcement officers are
25 authorized to issue citations, notices of violations, and notices to appear, under the circumstances set forth in
26 this chapter, for civil violations which are reasonably believed to be violations of duly enacted codes or
27 ordinances of the ~~city~~City of Marco Island.

28 Sec. 14-2. Title and citation.

29 This chapter shall be known and may be cited as the "City of Marco Island Code ~~Compliance~~Enforcement
30 Ordinance."

31 Sec. 14-3. Applicability.

32 This chapter ~~shall apply to, and be enforced in, all incorporated areas of the city~~City of Marco Island and shall
33 ~~be deemed in is addition to and~~ supplemental to F.S. ch. 162, pts. I and II, or as otherwise provided by general law.

34 Sec. 14-4. Definitions.

35 The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them
36 in this section, except where the context clearly indicates a different meaning. Said definitions are inclusive as well
37 as supplemental to those definitions set forth in F.S. ch. 162. These definitions are supplemental to the definitions
38 in section 1-2 of this code and shall prevail in case of conflict.

1 City prosecutor means the city attorney, ~~their designee, or others as~~ unless otherwise approved by council.

2 Code means this code of ordinances and any uncodified ordinances of the city.

3 ~~Code compliance official means the city manager or any designated employee or agent of the city whose duty~~
4 ~~it is to ensure compliance with codes and ordinances enacted by the city. Employees or agents hereby designated~~
5 ~~as code compliance officials include, but are not limited to, code inspectors, zoning administrator, building officials,~~
6 ~~code compliance officers, code administrator, police officers, community service officers, fire safety inspectors, city~~
7 ~~environmentalists, or other designated employees of the city designated by the city manager.~~

8 Irreparable or irreversible violation means a violation which is irreparable or irreversible in nature, and which
9 cannot be remedied after the violation has been committed because the violation constitutes a single prohibited act
10 rather than an ongoing condition or circumstance.

11 Special magistrate means a person designated by the council pursuant to article ~~II IV~~ of this chapter and F.S.
12 § 162.03, with the authority to hold hearings and assess fines for violations and such reasonable costs incurred by
13 the city of its agents in procuring compliance with a violation of city codes and ordinances. The special magistrate
14 ~~shall have~~has no power to initiate code enforcement proceedings.

15 Transient violation means a violation that is of a temporary or fleeting in nature, or where the violator is
16 itinerant or otherwise has no legal residence within the city.

17 Violator means the person or entity legally responsible for the violation (the property owner, tenant, or
18 business entity on the premises, or any combination thereof) and may include the property owner on whose
19 property the violation occurs regardless of who commits the violation.

20 **Sec. 14-5. Notice to subsequent owners.**

21 Any owner of property that is subject to a code enforcement proceeding under this chapter who transfers
22 ownership of such property between the time the initial notice or pleading was served and the time of the hearing
23 is required to comply with the provisions of F.S. § 162~~0~~.06(5), ~~as amended~~.

24 **Secs. 14-6—14-20. Reserved.**

25 **ARTICLE II. SPECIAL MAGISTRATES**

26 **Sec. 14-21. Appointments; qualifications.**

- 27 (a) The council may appoint up to three special magistrates.
- 28 (b) Special magistrates shall at a minimum:
- 29 (1) Be a graduate of a law school accredited by the American Bar Association;
- 30 (2) Be a member in good standing of the Florida Bar; or another state bar.
- 31 (3) Be an arbitrator qualified by a recognized arbitration association.
- 32 (c) Special magistrate appointments shall be for a two-year term. Any special magistrates shall be eligible for
33 reappointment by the council. The council shall have the authority to remove a special magistrate with or
34 without cause upon ten days' written notice.
- 35 (d) If any special magistrate resigns or is removed prior to expiration of their term, or if the council determines
36 that a special magistrate shall not be reappointed, the city manager may make a recommendation for
37 appointment from the candidates previously interviewed to fill the vacancy.

1 **Sec. 14-22. Powers and duties of the special magistrate.**

2 The special magistrate shall have the jurisdiction and authority to do the following:

- 3 (1) Adopt rules and regulations for the conduct of hearings to be approved by council;
- 4 (2) Subpoena violators and witnesses to appear at its hearings, which subpoena may be served by the
5 Collier County Sheriff or any person authorized by law to serve process;
- 6 (3) Subpoena evidence to its hearings, including, but not limited to, records, surveys, plats, and other
7 documentary evidence; which subpoena may be served by the Collier County Sheriff or any person
8 authorized by law to serve process;
- 9 (4) Take testimony under oath;
- 10 (5) Hold hearings on notice of violations or contested citations where applicable;
- 11 (6) Issue orders having the force of the law to command whatever steps are necessary to bring a violation
12 into compliance;
- 13 (7) Modify or reduce any existing orders, including any assessed fines prior to their recordation pursuant to
14 guidelines adopted by resolution of the council;
- 15 (8) Such other powers as provided by general law.

16 **Secs. ~~214-23~~—~~214-30~~. Reserved.**

17 **ARTICLE III. CODE ~~COMPLIANCE ENFORCEMENT~~ NOTICE OF VIOLATION**
18 **PROCEDURE**

19 **Sec. 14-31. Notice of violation.**

- 20 (a) The city hereby adopts the code enforcement provisions of F.S. ch. 162, pt. I, as supplemented by this chapter.
21 It shall be the duty of the code ~~compliance enforcement officer~~ official to initiate enforcement proceedings of
22 the various codes.
- 23 (b) Except as provided in subsections (e) and (f) of this section, if a violation of any code is found, the code
24 ~~compliance enforcement officer~~ official shall notify the violator and give them a reasonable time to correct the
25 violation.
- 26 (c) Should the violation continue beyond the time specified for the correction, the code enforcement official shall
27 execute a written notice of violation, ~~which shall include a statement of facts and circumstances of the alleged~~
28 ~~violation and shall identify the code or ordinance provision which has been violated,~~ and shall schedule a public
29 hearing before the special magistrate. The notice of violation shall include a statement of facts and
30 circumstances of the alleged violation and identify the code provision which has been violated. Written notice
31 of the scheduled hearing, which shall contain the date, time, and place of the hearing, and a copy of the notice
32 of violation, shall be provided to the violator. Failure to provide proper notice may be grounds for continuing
33 the hearing but shall not be grounds for dismissal of the charges.
- 34 (d) If the violation is corrected and thereafter recurs, or if the violation is not corrected by the time specified for
35 the correction, the case shall be presented to the special magistrate even if the violation has been corrected
36 prior to the hearing, ~~and, if practicable, the notice shall so state.~~
- 37 (e) If a repeat violation is found, the code enforcement officer ~~official~~ shall notify the violator but is not required
38 to give the violator a reasonable time to correct the violation. The code enforcement officer ~~official~~, upon
39 notifying the violator of a repeat violation, shall schedule a hearing before the special magistrate and shall

1 provide notice pursuant to F.S. § 162.12, ~~as amended~~. The case may be presented to the special magistrate
2 even if the repeat violation has been corrected prior to the hearing, and the notice shall so state. If the repeat
3 violation has been corrected, the special magistrate retains the right to schedule a hearing to impose the
4 payment of reasonable enforcement fees upon the repeat violator.

- 5 (f) If the code enforcement ~~officer~~ official has reason to believe a violation presents a serious threat to public
6 health, safety, or welfare, or if the nature of the violation constitutes an irreparable or irreversible violation,
7 the code enforcement ~~officer~~ official shall make a reasonable effort to notify the violator and may immediately
8 notify the special magistrate and request a hearing.

9 **Sec. 14-32. Fines; costs of repairs.**

- 10 (a) ~~A special magistrate, upon~~ Upon notification by the code enforcement official that an order of the special
11 magistrate or the prior code enforcement board has not been complied with by the set time, or upon finding
12 that a repeat violation has been committed, the special magistrate may order the violator to pay a fine in an
13 amount specified in this section for each day the violation continues past the date set by the special
14 magistrate for compliance or, in the case of a repeat violation, for each day the repeat violation continues
15 beginning with the date the repeat violation is found to have occurred by the code enforcement
16 ~~officer~~ official. In addition, the special magistrate may direct that all reasonable repairs which are required to
17 bring the property into compliance are made and charge the violator with the reasonable cost of the repairs,
18 along with the fine imposed pursuant to this section. If a finding of a violation or of a repeat violation has
19 been made as provided in this chapter, a hearing shall not be necessary for issuance of the order imposing
20 the fine. If, after due notice and hearing, the special magistrate finds a violation to be irreparable or
21 irreversible in nature, they may order the violator to pay a fine as specified in this section.
- 22 (b) A fine imposed pursuant to this section shall not exceed \$250.00 per day for a first violation and shall not
23 exceed \$500.00 per day for a repeat violation, and, in addition, may include all costs of repairs pursuant to
24 subsection (a) of this section. However, if the special magistrate finds the violation to be irreparable or
25 irreversible in nature, they may impose a fine not to exceed \$5,000.00 per violation.
- 26 (c) In determining the amount of any fine, the special magistrate shall consider the following factors:
- 27 (1) The gravity of the violation;
 - 28 (2) Any actions taken by the violator to correct the violation; and
 - 29 (3) Any previous violations committed by the violator.

30 **Secs. 14-33—14-40. Reserved.**

31 **ARTICLE IV. CIVIL VIOLATION CITATION PROCEDURE**

32 **Sec. 14-41. Civil violation.**

33 The city hereby adopts the code enforcement provisions of F.S. ch. 162, pt. I, as supplemented by this chapter.
34 A violation of any codes or ordinances for which a citation is issued, under the authority provided in this chapter, is
35 a civil violation subject to the enforcement procedures set forth in this chapter and any other applicable enforcement
36 procedure set forth in any other city ordinance or in Florida Statutes. Said civil violation shall carry a ~~minimum~~ civil
37 penalty not to exceed \$500.00. Each day the violation shall continue beyond the time period for correction stated in
38 the written warning notice or citation shall be deemed to constitute a separate civil violation. A civil penalty of less
39 than the maximum civil penalty may apply if the person who has committed the civil violation does not contest the
40 citation. By separate resolution, the council shall approve a schedule of violations and penalties of less than the
41 maximum penalty ~~if for the violator does not un~~ contested the violations.

1

2 **Sec. 14-42. Irreparable or irreversible civil violations; violations that present threat to the**
3 **public.**

4 ~~A code compliance enforcement officer official~~ may issue a civil violation citation to a person ~~or entity~~ with no prior
5 notice of violation when the code ~~compliance enforcement officer official~~, upon personal investigation, has
6 reasonable cause to believe that the violation presents a serious threat to the public health, safety or welfare, is a
7 repeat violation, ~~or~~ if the violator is involved in a transient violation, or if the violation constitutes an irreparable or
8 irreversible violation.

9 **Sec. 14-43. Citations in general.**

10 (a) ~~The~~ code ~~compliance enforcement officer official~~ is authorized to issue a citation to an alleged violator when,
11 based upon personal investigation, the code ~~compliance enforcement officer official~~ has the reasonable cause
12 to believe that the person has committed a violation of the code.

13 (b) The issuance of the civil violation citation shall comply with the following requirements:

14 (1) The maximum civil penalty for each violation is \$500.00;

15 (2) ~~The~~A code ~~compliance enforcement officer official~~ shall only issue a citation upon reasonable cause to
16 believe that a person has committed an act in violation of a code or an ordinance;

17 (3) A citation issued shall be subject to contest before county court or special magistrate, as may be provided
18 by code and general law.

19 **Sec. 14-44. Procedure for issuing citations.**

20 Except as provided in this chapter, prior to issuing a citation, a code ~~compliance enforcement~~ official shall
21 provide notice of violation to the alleged violator and shall establish a reasonable amount of time within which the
22 person must correct the violation. Such time period shall be no more than 30 days. If upon personal investigation,
23 the code ~~compliance enforcement~~ official finds that the person has not corrected the violation within the time period
24 specified, the code ~~compliance enforcement~~ official may issue a citation to the violator responsible for the violation.

25 **Sec. 14-45. Form of citation.**

26 The form of the civil violation citation issued pursuant to this section shall be in the form as provided by general
27 law.

28 **Sec. 14-46. Schedule of civil penalties and fines.**

29 (a) By resolution, the council shall establish a schedule of civil penalties with fines for violation of the various that
30 lists the sections of the code or ordinances, ~~as they may be amended from time to time; which that~~ may be
31 enforced pursuant to the provisions of this chapter ~~and prescribe the dollar amount of civil penalty for the~~
32 violation of those sections.

33 (b) The "description of violations" described in such table is for informational purposes only and the civil penalties
34 attached are meant only as proposed figures not intended to limit the nature, number of, or amount of fines
35 to be imposed for the violations that may be cited in this section. To determine the exact nature of the activity
36 prescribed or required by this code, the relevant code section, or ordinance cited in the specific violation must
37 be examined.

1 (c) Any violation of the code that is not specified by any fee resolution of the council shall be assessed a civil
2 penalty of \$100.00.

3 (d) A person ~~or entity~~ who receives a civil violation citation from ~~at the code~~ ~~compliance enforcement~~ ~~officer official~~
4 for a code or ordinance violation has committed a civil violation and shall be subject to a maximum fine of
5 \$500.00 if that citation is contested unless a lower maximum is prescribed in accordance with the adopted fee
6 schedule resolution.

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11 **Secs. 14-47—14-50. Reserved.**

12 **ARTICLE V. ADDITIONAL COMPLIANCE ENFORCEMENT AUTHORITY**

13 **Sec. 14-51. Additional compliance authority Consent agreements.**

14 (a) The city ~~attorney, or designee~~ ~~prosecutor~~ shall have prosecutorial discretion, including, but not limited to, the
15 right to negotiate a plea with the violator and present that plea to the special magistrate for approval, to
16 recommend the disposition of a case to the special magistrate, and to decline to prosecute a case.

17 (b) The city manager has the authority to enter into consent agreements to facilitate compliance with the terms
18 and conditions of this code. Such agreements may only be entered into prior to the violator's receipt of a notice
19 of hearing of code enforcement action before the special magistrate. Any agreement must be in writing, signed
20 by all parties, executed in recordable form, and entered into the record before the special magistrate. The
21 special magistrate's review is a mere formality as the special magistrate has no authority to approve, deny, or
22 modify the terms of any consent agreement under this subsection. The special magistrate is not responsible
23 for the enforcement of compliance agreement obligations, however dependent upon the terms of such
24 agreement, the recordation before the special magistrate may ~~establish~~ ~~subject~~ the violator to increased
25 penalties for repeat violation in the event of breach of the agreement or subsequent violations. At a minimum,
26 the agreement must specifically set forth the terms and obligations necessary for the violator to comply with
27 the code, indicate that the violator must pay all costs incurred in enforcing the agreement, and provide a
28 specific time frame for the violator to comply.

29 _____ The city, at its option, may record the consent agreement in the public records of Collier County. Upon
30 fulfillment of its terms, the city will record a satisfaction or release of the agreement, if recorded. The violator
31 must pay all costs of recording the original agreement and any satisfaction or release thereof.

32 If the violator fails to comply with the consent agreement, the city may:

33 (1) Pursue code enforcement action, in which case the consent agreement will automatically deemed to be
34 null and void, will have no further effect on the parties, and will not be binding on the special magistrate;
35 or

36 (2) Enforce the terms and conditions of the consent agreement in a court of competent jurisdiction by
37 injunction or an action for specific performance, in the city's sole discretion.

38
39 **Sec. 14-52. Additional enforcement measures.**

40 In addition to the fines provided in this section, the city may apply any of the following penalties and measures:

- 1 (1) Stop work order; order to abate. Where a violation related to any construction or condition for which a
2 permit has been issued; or is subject to issuance, the violation may be enforced by the building official
3 or designee through the issuance of a stop work order in accordance with the procedures set forth in
4 the Florida Building Code; or an order to repair, restore or demolish the work; to vacate the premises;
5 or otherwise to abate the violation enforceable.
- 6 (2) For any violation of this code that constitutes a threat to life or to public or private property not
7 enforceable through the Florida Building Code, the city manager shall have the authority to issue a
8 stop work order in the form of a written official notice issued to the owner of the subject property,
9 their agent or other person engaging in the activity. Upon issuance of such notice from the city
10 manager, the action or work shall immediately be stopped. The notice shall state the conditions under
11 which the action or work may be resumed. Where any emergency exists, oral notice given by the city
12 manager shall be sufficient.
- 13 (3) For certain offenses that constitute nuisances as specified throughout this code, the city may enter
14 upon a property to abate the nuisance and be reimbursed pursuant to article VI upon failure of the
15 property owner or their agent to remedy the violation.
- 16 (4) Suspension or revocation of a city permit or license issued pursuant to the article or chapter of this
17 code under which the violation occurred.
- 18 (5) Nothing contained in this article shall prevent or restrict the city from taking such other lawful action
19 in any court of competent jurisdiction as is necessary to prevent, abate or remedy any violation or
20 noncompliance of this code or any emergency measure that may be made effective pursuant to this
21 code, including but not limited to injunctive relief; or to recover damages suffered by the city as a
22 result of a violation; or to recovery of reasonable attorney's fees, court costs, court reporter's fees and
23 other expenses of litigation.
- 24 (6) All remedies and penalties provided for in this section shall be cumulative and independently available
25 to the city, and the city shall be authorized to pursue any and all remedies set forth in this section to
26 the full extent allowed by law.

27 **Secs. 14-52—14-60. Reserved.**

28 **ARTICLE VI. RECOVERY OF ABATEMENT COSTS; LIENS**

29 **Sec. 14-61. Liens, generally.**

30 Violations of code as provided in this chapter may result in liens being recorded and imposed upon any real or
31 personal property owned by the violator as provided by general law. Liens which have been recorded may only be
32 released by action of the council independently, in accordance with any lien mitigation program instituted and
33 adopted by resolution of the council, or as otherwise provided by law.

34

35 **Sec. 14-62. Procedure for recovery of abatement costs.**

36 (1) Upon becoming aware of the presence of a violation of the city's code, including, but not limited to those
37 violations that create a public nuisance, the city shall use all reasonable efforts to notify any responsible person
38 for the affected property. Notice shall be deemed served by personal service, mail, or posting of a notice of
39 violation upon the property where the violation exists, or adjacent to the right-of-way, if the violation is within
40 the adjacent public right-of-way. The notice shall require correction of the violation, and compliance with the
41 city's code pursuant to section 14-31.b.

1 (2) If, in the opinion of the city manager, there is an emergency condition that necessitates that the city take action
2 to protect the public's health, safety, and welfare, the physical safety of the traveling public, to protect public
3 property, and/or if the offending condition is an unauthorized sign, the violation shall be corrected upon 24
4 hours' notice to any responsible person with respect to the property and/or adjacent sidewalks and right-of-
5 way.

6 (3) If the property owner or their agent has refused to abate the activity or condition described in the notice by
7 the specified date, the city may, through its employees, servants, agents, or contractors, enter upon the
8 property and take such steps as are reasonably required to affect the abatement of the nuisance.

9 (4) After the abatement of the nuisance by the city, the cost to the city shall be calculated, and shall include an
10 administrative fee as established by the city council. An invoice for the costs and administrative fee shall be
11 sent to the property owner or their agent and shall be paid within twenty (20) days of the mailing of the invoice.

12 (5) If the invoice is not paid in full, a certified letter, return receipt requested, shall be mailed to the property
13 owner or agent advising that a notice of assessment of lien shall be recorded in the official records of the
14 county and thereafter shall constitute a lien against the land on which the violation occurred or exists and upon
15 any other real or personal property owned by the violator. The notice of assessment of lien shall include the
16 lien number, the date, a legal description of the property, the name of the recorded owners, and an explanation
17 of the cause of the lien. The owner or agent shall be afforded the opportunity to pay all assessments due, plus
18 a late fee as established by the city council, within 14 days from the date of mailing. If full payment is not
19 received within the 14-day period, the city manager shall record the notice of assessment of lien in the official
20 records of the county. Such assessment shall be a legal, valid, and binding obligation which shall run with the
21 property until paid.

22 (7) After the expiration of one year from the date of recording of the notice of assessment of lien, as provided in
23 this section, a suit may be filed to foreclose the lien. Such foreclosure proceedings shall be instituted,
24 conducted, and enforced in conformity with the procedures for the foreclosure of municipal special assessment
25 liens, as set forth in Chapter 173, Florida Statutes, which provisions are incorporated in this section in their
26 entirety to the same extent as if such provisions were set forth in this section verbatim.

27 (8) The liens for delinquent assessments imposed under this section shall remain liens coequal with the lien of all
28 state, county, district, and municipal taxes, superior in dignity to all other filed liens and claims, until paid as
29 provided in this section.

30 (9) Any appeal of any assessment imposed by the city to correct any violation may be filed with the City Clerk
31 within fourteen (14) days of the date of the notice of assessment of lien provided pursuant to paragraph (6) of
32 this section. Any appeal shall be filed in writing and include all facts and circumstances on which the appeal is
33 based, as well as the payment of the appeal processing fee as established by the city council. Any information
34 not included in the appeal submitted to the City Clerk shall not be considered. Within 45 days of the filing of
35 the appeal, the City Clerk shall provide for the appeal to be heard by the City's special magistrate at a duly
36 scheduled hearing. At the appeal hearing, the special magistrate may grant the appeal or deny the appeal. The
37 special magistrate's decision shall be final.

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40 **Secs. 14-63—14-70. Reserved.**

41 **ARTICLE VII. SUPPLEMENTAL PROVISION**

1 **Sec. 14-71. Supplemental provision.**

2 It is the intent of this chapter and F.S. ch. 162, pts. I and II, to provide an additional or supplemental means of
3 obtaining compliance with local codes and ordinances. Nothing contained in this chapter shall prohibit the city from
4 enforcing its codes by any appropriate civil action, or by referral to the state attorney's office for prosecution in the
5 case of criminal violation, and/or by presentation to any other city board or agency with jurisdiction to hear and act
6 upon the alleged code or ordinance violation.

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