



City of Tarpon Springs, Florida

PLANNING AND ZONING DEPARTMENT
324 EAST PINE STREET
P.O. BOX 5004
TARPON SPRINGS, FLORIDA 34688-5004
(727) 942-5611
FAX (727) 943-465

**PLANNING & ZONING BOARD AGENDA
JANUARY 28, 2019 REGULAR MEETING
CITY HALL AUDITORIUM
324 PINE STREET, TARPON SPRINGS, FLORIDA
7:00 P.M.**

- 1. CALL TO ORDER/ROLL CALL**
- 2. APPROVAL OF MINUTES**
 - a. NOVEMBER 19, 2018**
- 3. ELECTION OF OFFICERS**
 - a. CHAIR**
 - b. VICE CHAIR**
- 4. QUASI-JUDICIAL ANNOUNCEMENT AND SWEARING IN OF SPEAKERS**
- 5. APPLICATION #18-148:** Land Development Code Amendment to Article VI Development Agreements, Section 96.00 Authority and Requirements. *Adjustment to length of the development agreement.*
- 6. APPLICATION #18-149:** Land Development Code Amendment to Article XII Administration & Enforcement, Section 209.00 Conditional Uses. *Adjustments to language and waiver of one year expiration date when conditional use is approved in conjunction with a development agreement.*
- 7. STAFF COMMENTS**
 - a. 2019 Meeting Calendar**
- 8. BOARD COMMENTS**
 - a. Discussion Item: Public Notice Requirements**
- 9. ADJOURNMENT**

If a person decides to appeal any recommendation made by the Planning & Zoning Board with respect to any matter considered at these meetings or hearings, they will need a record of the proceedings, and that, for such purpose, they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. You are invited to attend the meeting to express your views or to present facts in regard to the case. Written comments may be addressed to the Planning & Zoning Department, P.O. Box 5004, Tarpon Springs, Florida 34688-5004, and will become part of the record. All documents submitted with the applications are on file and available for inspection in the Planning & Zoning Department, City Hall. Further information may be obtained from the Planning & Zoning Department, (727) 942-5611. Said hearing may be continued from time to time pending adjournment. Any person with a disability requiring reasonable accommodation in order to participate in these meetings should call (727) 942-5611 or FAX a written request to (727) 943-4651.

City of Tarpon Springs, Florida STAFF REPORT

December 26, 2018

TO: PLANNING AND ZONING BOARD

FROM: PLANNING AND ZONING DEPARTMENT

HEARING DATES: JANUARY 28, 2019 (PLANNING AND ZONING BOARD)
FEBRUARY 12, 2019 (BOARD OF COMMISSIONERS)
FEBRUARY 26, 2019 (BOARD OF COMMISSIONERS)

SUBJECT: APP-18-148: ORDINANCE 2019-02 TO AMEND THE LAND DEVELOPMENT CODE: ARTICLE VI, SECTION 96.00 AUTHORITY AND REQUIREMENTS: AN ORDINANCE OF THE CITY OF TARPON SPRINGS, FLORIDA, AMENDING PARAGRAPH (D) OF SECTION 96.00 OF ARTICLE VI. OF APPENDIX A, COMPREHENSIVE ZONING AND LAND DEVELOPMENT CODE BY INCREASING THE DURATION OF A DEVELOPMENT AGREEMENT, BY PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

I. STAFF RECOMMENDATION

Staff recommends approval of Ordinance 2019-02.

II. BACKGROUND

Florida Statutes 163.3220-163.3243, the Florida Local Government Development Agreement Act (“Act”), recognized that lack of certainty in approval of development can result in a waste of economic and land resources, discourage sound capital improvement planning and financing, escalate the cost of housing and development and discourage commitment to comprehensive planning. Assurance to developers that upon receipt of his or her development permit, he or she may proceed in accordance with existing laws and policies, subject to the conditions of a development agreement strengthens the public planning process, encourages sound capital planning and financing, assists in assuring there are adequate capital facilities for development, encourages private participation in comprehensive planning and reduces the economic costs of development. The State Legislature authorizes local governments to enter into development agreements, subject to the procedures and requirements of ss163.3220-163.3243.

Development is defined as follows in ss 163.3221:

“Development” means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels.

(a) The following activities or uses shall be taken for the purposes of this act to involve “development”:

1. A reconstruction, alteration of the size, or material change in the external appearance of a structure on land.
2. A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land.
3. Alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, including any “coastal construction” as defined in s. [161.021](#).
4. Commencement of drilling, except to obtain soil samples, mining, or excavation on a parcel of land.
5. Demolition of a structure.
6. Clearing of land as an adjunct of construction.
7. Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

ss 163.3229 of the Act provides the maximum duration of a development agreement. Development agreements may not exceed 30 years in duration. The Act provides for periodic review of development agreements by local governments and for the option of extending development agreements prior to expiration via a public hearing process.

List of Exhibits:

- 1) Ordinance 2019-02

ORDINANCE NO. 2019-02

AN ORDINANCE OF THE CITY OF TARPON SPRINGS, FLORIDA, AMENDING PARAGRAPH (D) OF SECTION 96.00 OF ARTICLE VI. OF APPENDIX A, COMPREHENSIVE ZONING AND LAND DEVELOPMENT CODE BY INCREASING THE DURATION OF A DEVELOPMENT AGREEMENT, BY PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes 163.3220-163.3243 authorizes local governments to enter into development agreements with developers; and

WHEREAS, the Board of Commissioners realizes the lack of certainty in the approval of development can result in a waste of economic and land resources and escalate the cost of housing and development; and

WHEREAS, the Board of Commissioners recognizes that providing increased duration of a development agreement will provide additional certainty to developers, and

WHEREAS, the Board of Commissioners of the City of Tarpon Springs has determined that amendments to Article VI of Appendix A, Comprehensive Zoning and Land Development Code are necessary to make such changes.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF TARPON SPRINGS, FLORIDA:

SECTION 1. That paragraph (D) of Section 96.00 of Article VI. of Appendix A, Comprehensive Zoning and Land Development Code is hereby amended as follows:

- (D) The duration of a development agreement shall not exceed 5 10 years. It may be extended by mutual consent of the Board of Commissioners and the developer, subject to a public hearing in accordance with the requirements of this Article and a review for compliance with current City ordinances and regulations.

SECTION 2.

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 3.

This Ordinance shall become effective upon final passage and adoption.

City of Tarpon Springs, Florida STAFF REPORT

December 26, 2018

TO: PLANNING AND ZONING BOARD

FROM: PLANNING AND ZONING DEPARTMENT

HEARING DATES: JANUARY 28, 2019 (PLANNING AND ZONING BOARD)
FEBRUARY 12, 2019 (BOARD OF COMMISSIONERS)
FEBRUARY 26, 2019 (BOARD OF COMMISSIONERS)

SUBJECT: APP-18-149: ORDINANCE 2019-03 TO AMEND THE LAND DEVELOPMENT CODE: SECTION 209.00 CONDITIONAL USES:
AN ORDINANCE OF THE CITY OF TARPON SPRINGS, FLORIDA, AMENDING ARTICLE XII. ADMINISTRATION AND ENFORCEMENT, SECTION 209.00 CONDITIONAL USES OF APPENDIX A, COMPREHENSIVE ZONING AND LAND DEVELOPMENT CODE, OF THE CODE OF ORDINANCES BY PROVIDING THE CORRECT TITLE OF THE PLANNING AND ZONING DEPARTMENT, CHANGING THE WORD “LAPSED” TO “EXPIRED,” ADDING “OR DESIGNEE” TO APPROVAL BY THE CITY MANAGER, AMENDING THE EXPIRATION PROVISION OF AN APPROVED CONDITIONAL USE, ADDING A WAIVER OF THE ONE YEAR EXPIRATION, AND PROVIDING AN ALTERNATE EXPIRATION SCHEDULE WHEN A CONDITIONAL USE IS APPROVED IN CONJUNCTION WITH A DEVELOPMENT AGREEMENT; PROVIDING FOR SEVERABILITY; AND FOR AN EFFECTIVE DATE.

I. STAFF RECOMMENDATION

Staff recommends approval of Ordinance 2019-03.

II. BACKGROUND

The City’s current conditional use approval framework provides for an expiration date of one year from approval unless a building permit has been issued. The City has found that additional flexibility on the continuation of conditional uses is desirable when approval is done in conjunction with a Development Agreement approved pursuant to Section Article VI of the City’s Land Development Code (LDC).

Florida Statutes 163.3220-163.3243, the Florida Local Government Development Agreement Act (“Act”), recognized that lack of certainty in approval of development can result in a waste of economic and land resources, discourage sound capital improvement planning and financing, escalate the cost of housing and development and discourage

commitment to comprehensive planning. Assurance to developers that upon receipt of his or her development permit, he or she may proceed in accordance with existing laws and policies, subject to the conditions of a development agreement strengthens the public planning process, encourages sound capital planning and financing, assists in assuring there are adequate capital facilities for development, encourages private participation in comprehensive planning and reduces the economic costs of development.

The State Legislature authorizes local governments to enter into development agreements, subject to the procedures and requirements of ss163.3220-163.3243, including provision for setting agreement durations, periodic review of agreements, and optional extension of agreements via the public hearing process. By including a provision that allows a conditional use approval to be consistent with and essentially, to track the progress of, an accompanying approved development agreement, the public, the City and the developer all have additional assurances with respect to the terms of the agreement, the provisions of the conditional use approval, and compliance with the land development code.

The remaining recommended changes are to clarify procedures and to provide for updated references.

List of Exhibits:

- 1) Ordinance 2019-03

ORDINANCE NO. 2019-03

AN ORDINANCE OF THE CITY OF TARPON SPRINGS, FLORIDA, AMENDING SECTION 209.00 OF ARTICLE XII. OF APPENDIX A, THE COMPREHENSIVE ZONING AND LAND DEVELOPMENT CODE BY PROVIDING THE CORRECT TITLE OF THE PLANNING AND ZONING DEPARTMENT, CHANGING THE WORD “LAPSED” TO “EXPIRED,” ADDING THE WORDS “OR DESIGNEE” TO APPROVAL BY THE CITY MANAGER, AMENDING THE EXPIRATION PROVISION OF AN APPROVED CONDITIONAL USE, ADDING A WAIVER OF THE ONE YEAR EXPIRATION, AND PROVIDING AN ALTERNATE EXPIRATION SCHEDULE WHEN A CONDITIONAL USE IS APPROVED IN CONJUNCTION WITH A DEVELOPMENT AGREEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Tarpon Springs deems it to be in the best interest of the health, safety, and welfare of its citizens to provide for flexibility in setting the expiration dates of conditional uses when approved in conjunction with a development agreement; and,

WHEREAS, the Board of Commissioners realizes the lack of certainty in the approval of development can result in a waste of economic and land resources and escalate the cost of housing and development; and

WHEREAS, the Board of Commissioners recognizes that providing the ability to waive the one year expiration date of a conditional use when approved in conjunction with a development agreement provides additional certainty to developers, and

WHEREAS, the Board of Commissioners of the City of Tarpon Springs has determined that amendments to Section 209.00 of Article XII of Appendix A, the Comprehensive Zoning and Land Development Code, are necessary to make such changes.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF TARPON SPRINGS, FLORIDA:

SECTION 1. That Section 209.00 of Article XII. of Appendix A, the Comprehensive Zoning and Land Development Code, is hereby amended as follows:

§ 209.00 - CONDITIONAL USES

- (D) Applications for conditional use approval shall be filed with the Planning and Zoning ~~Division~~ Department on forms provided by the Director and shall include the required fee established by this Code.
- (E) The Director shall forward all applications to the City's Technical Review Committee (TRC) for administrative and completeness review to determine compliance with the provisions of this Code, the Comprehensive Plan and all applicable building codes.
- (F) Upon receiving a determination from the TRC that the application is complete and ready for processing the Director shall notice the application for public hearing before the Planning and Zoning Board and Board of Commissioners.

- (G) Notice of public hearing shall constitute written legal notice in accordance with the requirements of this Article.
- (H) The Planning and Zoning Board shall hold a public hearing on the application for the purpose of submitting a written recommendation to the Board of Commissioners. The written recommendation shall contain any provisions of this Code pertaining to the request and determine compliance with those provisions, state the policy considerations of the Comprehensive Plan pertaining to the request and determine compliance with those provisions, and shall include written comments filed pertaining to the application and oral comments entered at the public hearing pertaining to the application.
- (I) The written recommendation from the Planning and Zoning Board shall be for approval, approval with stipulations, or denial; and shall indicate reasons for denial.
- (J) The Board of Commissioners shall review the application and recommendation of the Planning and Zoning Board. Approval by the Board of Commissioners shall be in the form of a Resolution which contains all stipulations of approval.
- (K) Approval of a conditional use shall be by a majority of those Board members voting on the application.
- (L) Any application may be withdrawn at any time. A request for withdrawal shall be made in writing to the Planning and Zoning Director.
- (M) Any final action for denial shall not have another identical application filed on any part of the subject property for a period of six months from the date of such final action.
- (N) If a conditional use approved ceases for any reason, as documented by the owner, lessor, or lessee of the premises, except where governmental action impedes access to the site, re-approval in accordance with the following schedule is required:
 - (1) If a conditional use ceases for less than six months, its approval shall not be considered to have ~~lapsed~~ expired and re-issuance of ~~an occupational license~~ a Local Business Tax Receipt to maintain such use may be approved by the City Manager or designee.
 - (2) If the conditional use ceases for a period greater than six months but less than one year, the required conditional use review shall be abbreviated and shall not require review by the Planning and Zoning Board pursuant to § 209.00(F). Public notice pursuant to § 209.00(G) and an application fee pursuant to § 246.00 shall be required.
 - (3) If the conditional use ceases for any length of time exceeding one year, review by the Planning and Zoning Board in compliance with § 209.00(F), public notice pursuant to § 209.00(G), and an application fee pursuant to § 246.00, shall be required.
 - (4) ~~If an occupational license for an approved conditional use, or a building permit for a site plan approved in conjunction with a conditional use, is not issued within one year of approval, the conditional use approval will be considered to have lapsed and~~ An approved conditional use will be considered expired, if a Local Business Tax Receipt or a building permit for a site plan approved in conjunction with a conditional use, is not issued within one year of approval. Should a conditional use approval lapse expire, re-approval in accordance with § 209.00(N)(3) is required. Conditional uses approved in conjunction with a site plan shall remain in effect provided the site plan complies with § 210.05.
 - (5) The Board of Commissioners may waive the one year expiration date of a conditional use and approve an alternate expiration date/schedule when a conditional use is approved in conjunction with a development agreement. The alternate schedule may not exceed the

maximum duration of the approved development agreement in accordance with § 96.00(D).

SECTION 2

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 3.

This Ordinance shall become effective upon final passage and adoption.

CITY OF TARPON SPRINGS, FLORIDA PLANNING & ZONING DEPARTMENT

2019 PUBLIC HEARING SCHEDULE

PLANNING & ZONING BOARD/LOCAL PLANNING AGENCY* MEETING DATES – 7:00 P.M.		
1/28/2019	2/25/2019	3/18/2019
4/15/2019	5/20/2019	6/17/2019
7/15/2019	8/19/2019	9/16/2019
10/21/2019	11/18/2019	12/16/2019
HERITAGE PRESERVATION BOARD* MEETING DATES – 6:30 P.M.		
1/14/2019	2/4/2019	3/4/2019
4/1/2019	5/6/2019	6/3/2019
7/8/2019	8/5/2019	9/9/2019
10/7/2019	11/4/2019	12/2/2019
BOARD OF ADJUSTMENT* MEETING DATES – 7:00 P.M.		
1/23/2019	2/27/2019	3/27/2019
4/24/2019	5/22/2019	6/26/2019
7/24/2019	8/28/2019	9/25/2019
10/23/2019	11/20/2019	12/18/2019
TECHNICAL REVIEW COMMITTEE* MEETING DATES – 9:00 A.M.		
1/10/2019	1/24/2019	2/14/2019
2/28/2019	3/14/2019	3/28/2019
4/11/2019	4/25/2019	5/9/2019
5/23/2019	6/13/2019	6/27/2019
7/11/2019	7/25/2019	8/8/2019
8/22/2019	9/12/2019	9/26/2019
10/10/2019	10/24/2019	11/7/2019
11/21/2019	12/5/2019	12/19/2019

APPLICATIONS WILL NOT BE SCHEDULED FOR PLANNING & ZONING BOARD, BOARD OF ADJUSTMENT OR BOARD OF COMMISSIONER REVIEW UNTIL ALL REQUIRED INFORMATION OR REVISED PLANS ARE PROVIDED. IF NO ADDITIONAL INFORMATION IS REQUIRED, THE APPLICATION SHOULD BE SCHEDULED FOR THE NEXT AVAILABLE MEETING IF SUFFICIENT TIME IS AVAILABLE TO MEET THE REQUIRED ADVERTISING DEADLINES

***Meeting dates are subject to change**

City of Tarpon Springs, Florida STAFF REPORT

December 26, 2018

TO: PLANNING AND ZONING BOARD

FROM: PLANNING AND ZONING DEPARTMENT

HEARING DATES: JANUARY 28, 2019 (PLANNING AND ZONING BOARD)

SUBJECT: APP-18-169: DISCUSSION ITEM: PUBLIC NOTICE REQUIREMENTS

I. BACKGROUND

As requested by several of the Planning and Zoning Board members, City Staff has attached the relevant Land Development Code sections pertaining to public notice requirements. Staff has attempted to highlight in yellow those paragraphs within the various sections where notice requirements are mentioned.

List of Exhibits:

- 1) LDC Section 98.00
- 2) LDC Sections 108.00 & 109.00
- 3) Article XII Administration & Enforcement

Article VI Development Agreements

§ 98.00 - PUBLIC HEARINGS REQUIREMENTS.

- (A) Before entering into, amending, or revoking a development agreement, the City shall conduct a minimum of 2 public hearings.
- (B) Notice of intent to consider a development agreement shall be advertised approximately 7 days before each public hearing in a newspaper of general circulation and readership in Pinellas County. Notice of intent to consider a development agreement shall also be mailed to all property owners within 200 feet of the entire contiguous property which is the subject of the agreement and the applicant before the first public hearing. The day, time, and place at which the second public hearing will be held shall be announced at the first public hearing.
- (C) The notice shall specify the location of the land subject to the development agreement, the development uses proposed on the property, the proposed population densities, and the proposed building intensities and height and shall specify a place where a copy of the proposed agreement can be obtained.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93)

Article VII Heritage Preservation

§ 108.00 - DESIGNATION OF HISTORIC AND CULTURAL DISTRICTS, LANDMARKS, AND SITES.

- (A) The Board shall have the authority to recommend to the Board of Commissioners the designation of areas, places, buildings, structures, traditional cultural properties, landscape features, archaeological sites, and other improvements or physical features as individual sites or districts, in accordance with the following criteria:
- (1) Sites or districts which are significant to the City of Tarpon Springs' history, architecture, archaeology, or culture and possess an integrity of location, design, setting, materials, workmanship, or association;
 - (2) Sites or districts which are associated with distinctive elements of the social, cultural, political, economic, scientific, religious, prehistoric, and architectural history of the City of Tarpon Springs, the state, or the nation;
 - (3) Sites or districts which are associated with the lives or culture of persons significant in the city's, state's or nation's past;
 - (4) Sites or districts which embody the distinctive characteristics of a type, period, style, or method of construction or work of a master; or that possess high artistic value; or that represent a distinguishable entity whose components may lack individual distinction; or that represent a pattern of land use based on customs, traditions or social practices of the community.
 - (5) Sites or districts which have yielded or are likely to yield information about the prehistory, history or culture of the City of Tarpon Springs; or
 - (6) Sites or districts which are listed in the National Register of Historic Places.
- (B) Certain properties, which include cemeteries, birthplaces, properties owned by religious institutions or used for religious purposes, structures that have been removed from their original locations, properties commemorative in nature, and properties that have achieved significance within the last 50 years, will not normally be considered for designation. Such properties will qualify, however, if they are integral parts of districts that do meet the criteria or if they fall within the following categories:
- (1) A religious property deriving primary significance from cultural, architectural or artistic distinction of historical importance;
 - (2) A building or structure removed from its location but which is primarily significant for architectural or cultural value, or is the surviving structure most importantly associated with a historic event, tradition, custom or person;
 - (3) A birthplace or grave of a historical figure of outstanding importance if there is no other appropriate site or building directly associated with that figure's productive life;
 - (4) A cemetery that derives its primary significance from graves of persons of transcendent importance, from age, distinctive design features, or from association with historic events;
 - (5) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical or cultural significance;
 - (6) A property or district achieving significance within the past 50 years if it is of exceptional importance.
- (C) The following procedure shall apply for the petitioning for designation of structures, landmarks, districts or sites pursuant to this Article:
- (1) A petition for designation shall be made to the City of Tarpon Springs Heritage Preservation Board on a form prepared by the City Planning and Zoning Department.

- (2) A petition may be submitted by a member of the Board, the owner of record of the nominated property or structure, the Board of Commissioners, or the City Planning and Zoning Department.
 - (3) The Board shall hold a public hearing on the petition and shall notify the affected property owner(s) by first class mail at least 15 days in advance of the hearing. Notice of the public hearing shall also be published in a newspaper of general circulation at least 15 days in advance of the hearing.
- (D) The petition for designation shall contain the following minimum information:
- (1) A written description of the historical, cultural, architectural, and archaeological significance of the property or properties recommended for designation, including the dates of construction and names of former owners if available;
 - (2) An identification of all structures within a proposed district, classifying them as contributing or non-contributing, with an explanation of the criteria used in developing the classification;
 - (3) A legal description of the boundaries of the site, structure, or district recommended for designation; an explanation of the reasons for those boundaries; and a map illustrating the boundaries;
 - (4) Photographic documentation of individual sites and structures recommended for designation; and
 - (5) The names and addresses of all property owners of record affected by the application.
- (E) The Board shall hold a public hearing upon every Petition for Designation submitted to the City. At such public hearing, any person may present testimony or documentary evidence concerning the significance of the property under consideration. At the close of the public hearing the Board shall vote on the proposed designation for recommendation to the Board of Commissioners.
- (F) The Board action shall be reported to the Board of Commissioners. Such report shall not require a public hearing before the Board of Commissioners.
- (G) After hearing a report from the Heritage Preservation Board, the Board of Commissioners may direct the preparation of an ordinance providing for the recommended designation. Alternatively, the Board of Commissioners may act to deny the proposed designation without further hearing.
- (H) The Board of Commissioners shall follow normal procedures of public hearing in the adoption of an ordinance providing for such historic designation. In addition, the owner or owners of property proposed for designation shall also be given written notification by first class mail a minimum of 15 days before the scheduled public hearing. Notice of the public hearing shall also be published in a newspaper of general circulation at least 15 days in advance of the meeting.
- (I) After the final adoption of a designation ordinance by the Board of Commissioners, structures, sites and districts shall remain designated as historically, culturally or archaeologically significant unless such designation is removed by subsequent ordinance of the City. A positive finding by the Board of Commissioners in accordance with the criteria of § 108.02 of this Article is required to remove such designation. The public notice requirements of subsection (H) above shall also be followed in the removal of such designation.
- (J) A change to the status of an individual site shall be processed in the same manner as a petition for designation outlined in Sections 108.00 (C) through (I). Petitions for removal of an historic, cultural, or archaeological designation shall also meet the standards of Section 108.02.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93; Am. Ord. 98-18, passed 11-17-98; Am. Ord. 2009-10, passed 11-3-09)

§ 109.00 - CERTIFICATE OF APPROVAL.

- (A) A Certificate of Approval from the Heritage Preservation Board shall be required before the actions enumerated in items (1) through (7) below affecting a designated site or any property within a designated historic or cultural district may be undertaken.
- (1) Any construction, reconstruction, development, redevelopment, alteration, restoration, or rehabilitation which requires a Building Permit from the City and affects the exterior appearance or group occupancy of the structure involved;
 - (2) The construction of any new structures in a historic or cultural district;
 - (3) The relocation of any historic structure, traditional cultural property or any contributing structure located in any historic or cultural district;
 - (4) The demolition of any historic site, traditional cultural property, or any contributing structure located in a historic or cultural district or the removal of any significant historical or cultural feature;
 - (5) Any construction which may potentially affect the integrity of a designated archeological site;
 - (6) Any activity listed as requiring Heritage Preservation Board approval on the "Certificate of Approval Quick Reference Chart" attached as Exhibit "A" to this ordinance. If there is any conflict between the Quick Reference Chart and Sections 109.00(A)(1—5), then Sections (A)(1—5) shall govern the review.
 - (7) This section shall apply equally to construction activity on private property as well as construction activity on public lands, publically owned buildings and sites, even if a building permit would not be required for the construction activity on public lands, publicly owned buildings and sites.

EXHIBIT "A"		
TARPON SPRINGS HERITAGE PRESERVATION BOARD		
Certificate of Approval Quick Reference Chart		
CA ISSUED BY HPB or Staff: Residential & Commercial		
Type of Construction Activity	Contributing, Contributing "but Altered", & Traditional Cultural Properties	Non-contributing Structure/Vacant Lot
Accessory Structure, New	HPB	HPB
Addition to Primary or Accessory Building	HPB	HPB
Carport or Porch Enclosure, New	HPB	HPB
Deck, New Above Grade	HPB	Staff

Demolition	HPB	Staff
Driveway, New	HPB	HPB
Fence/Wall, Repair Existing Consistent w/Design Guidelines Not consistent w/Design Guidelines	Staff HPB	Staff HPB
Fence/Wall, New If visible from Right-Of-Way	HPB, if not consistent with Design Guidelines; Staff if consistent	Staff, if consistent with Design Guidelines; HPB if not consistent
Fire Escape	HPB if visible from street; Staff if not	Staff
Foundation Enclosure	HPB	Staff
Hurricane Shutters	HPB (only if permanent)	Staff
Kiosk, Ticket Booth, etc.	HPB	HPB
Landscaping, Major Plan*	HPB	HPB
Move Structure onto site	HPB	HPB
Paint	Not reviewed	Not reviewed
Parking Lot		
Resurface only (no additional area)	Staff	Staff
New or Expanded Lot	HPB	HPB
New structure parking	HPB	HPB
Patio at grade	HPB	Staff
Pool/Spa, New	Staff	Staff
Pool cage, New	Staff	Staff

Porch Supports/Ornamentation Repair (original materials/style only*)	Staff	Staff
Porch, replace & repair		
With original materials/style	Staff	Staff
With other than original materials/style	HPB	Staff
Primary Structure, including Dormers, New	HPB	HPB
Roof, New		
With original materials/style	Staff	Staff
With other than original Roofs enclosed with no change to existing Parapet, walls exempt	HPB	Staff
Roof, Repair		
With original materials/style	Staff	Staff
With other than original	HPB	Staff
Roofs enclosed with existing parapet walls exempt		
Satellite Dish, Antenna, Security Bars	HPB only if visible from street; Staff if not	Staff
Signs, Awnings, Canopies		
Repair/replace fabric	Staff	Staff
New	HPB	HPB

Site Clearing	Staff	Staff
Skylights	Staff	Staff
Solar Collectors	HPB only if visible from street; Staff if not	Staff
Stucco/siding/brick stone/soffit/fascia, Repair		
With same materials/style	Staff	Staff
Stucco/siding/brick stone/soffit/fascia, Replace/New	HPB	Staff
Window/Door Replacement		
With original materials/style	Staff	Staff
With other than original	HPB	Staff

* See definition of Major Landscape Plan, §107.00(28)

KEY:

HPB APPROVAL: Tarpon Springs Heritage Preservation Board shall review these items prior to granting a Certificate of Approval.

STAFF APPROVAL: Technical Review Committee and/or staff may issue a Certificate of Approval, however staff has the right to refer the item to HPB.

- (B) Written notification for applications for a Certificate of Approval other than for those activities listed in the "Certificate of Approval Quick Reference Chart" for which only Staff approval is required, shall be sent to property owners within 200 feet, no less than 10 days prior to review by the Heritage Preservation Board.
- (C) The Certificate of Approval shall be in addition to any other permits, procedures or approvals which may be required by this Code pertaining to structural additions, new construction, conditional uses, variances, or site development within an historic or cultural district. These processes may run concurrently.
- (D) Ordinary maintenance, repair, exterior painting or interior remodeling of any historic structure or traditional cultural property that does not involve a significant change in material, design, or exterior appearance shall be permitted without prior approval by the Board or TRC.

- (E) Signage shall be permitted pursuant to Article XI of this Code or as otherwise provided in the "Certificate of Approval Quick Reference Chart". The use of neon shall require Heritage Preservation Board review.
- (F) The demolition of a non-contributing structure(s) in an historic or cultural district is permitted.
- (G) The repair or demolition of a contributing structure, on an emergency basis, may be approved when the Building Official certifies in writing that such work is necessary for the purpose of correcting conditions determined to be dangerous to life, health, or property.
- (H) The application for a Certificate of Approval shall be made on a form provided by the Planning and Zoning Department and shall be accompanied by such plans, drawings, materials, photographs or other information describing the proposed alteration, addition or new construction and enable the Board to analyze the effect of the proposed activity on the property, adjacent buildings, traditional cultural properties and streetscapes. If such application involves a designated archaeological site the applicant shall provide full plans and specifications of work that may affect the surface and subsurface of the archaeological site.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93; Am. Ord. 94-30, passed 9-20-94; Am. Ord. 96-01, passed 2-20-96; Am. Ord. 98-18, passed 11-17-98; Am. Ord. 2009-10, passed 11-3-09)

ARTICLE XII. - ADMINISTRATION AND ENFORCEMENT

§ 205.00 - GENERAL PROVISIONS.

- (A) No development activity shall be undertaken unless it conforms to the provisions of this Code.
- (B) The administration and enforcement of this Code shall be the responsibility of the Director of Planning and Zoning for the City.
- (C) The duties of the Director of Planning and Zoning shall include, but not be limited to the following:
 - (1) To determine compliance with the relevant provisions of this Code.
 - (2) To coordinate the required requests for development order approval contained in this Code.
 - (3) To report to the City Manager, City Attorney, and Board of Commissioners regarding the administration of this Code.
 - (4) To notify persons responsible for violations of any of the provisions of this Code.
 - (5) To maintain written records of all official actions related to the administration of this Code.
 - (6) To receive applications for, forward to the appropriate bodies, and review for compliance with all the applicable provisions of this Code for development order approval related to, but not limited to, the following requests:
 - (a) Amendments to the Official Zoning Atlas.
 - (b) Annexations.
 - (c) Certificates of Occupancy.
 - (d) Conditional Uses.
 - (e) Site Plans.
 - (f) Subdivisions.
 - (g) Variances and Appeals.
 - (h) The vacation of streets, plats, or other property.
 - (7) Prepare and submit to the Board of Commissioners for its consideration a schedule of fees.
 - (8) Periodically review the provisions of this Code to evaluate the need for updating the provisions of this Code.
 - (9) To provide administrative, technical, and consultative assistance to the Board of Adjustment, Planning and Zoning Commission, and Historic Preservation Board.
 - (10) To perform such other duties and functions required to administer the provisions of this Code.
- (D) Every application required under the provisions of this Code, unless otherwise specified, shall be filed with the Planning and Zoning Department of the City. No application shall be deemed complete unless all the information and materials required by this Code and the City have been submitted.
- (E) The Building Official shall administer the building, construction, and sign codes of the City and determine that conditions attached to all development orders are met prior to the issuance of a Certificate of Occupancy.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93)

§ 206.00 - PUBLIC NOTICE REQUIREMENTS.

- (A) No public hearing shall be held unless the required notice has been satisfied and an affidavit documenting such is in the applicable file.
- (B) All hearings shall be open to the public. Any person may appear and testify, either in person, or in writing, or by an authorized agent or attorney.
- (C) The hearing body may prescribe the exact procedures for the conduct of hearings; however, the order of public hearings shall be generally as follows:
 - (1) Statement of subject matter;
 - (2) Comments by staff;
 - (3) Applicant presentation;
 - (4) Public comment for;
 - (5) Public comment against;
 - (6) Rebuttal;
 - (7) Closure of public comment;
 - (8) Questions by the Board; and
 - (9) Vote.
- (D) A hearing may adjourn to a date certain within 60 days without the necessity of additional notice.
- (E) A hearing adjourned to a date uncertain or to a date not within 60 days shall require additional notice.
- (F) An official record shall be kept of all public hearings. Copies may be made available to the public upon request.
- (G) All legal notice, whether by publication or mail, shall contain substantially the following information:
 - (1) Date, time, and place of all scheduled hearings;
 - (2) The subject matter to be discussed;
 - (3) Where the application or subject matter may be inspected by the public;
 - (4) That interested parties may appear and be heard;
 - (5) That written comments will become part of the record;
 - (6) That the hearing may be continued as necessary; and
 - (7) That transcripts of the proceedings are required to appeal.
- (H) Where required by this Code, the posting of property shall occur at least 15 days prior to the hearing date(s).
- (I) Written legal notice shall be constituted by the following:
 - (1) Mailed notice to each property owner or authorized agent whose real property is the subject of a request.
 - (2) Mailed notice to each property owner within 200 feet of the entire contiguous property which is owned by the person or persons whose property is to be affected by the request, regardless of what portion of such land is involved in the request.
 - (3) Written legal notice shall be by first class mail.

(4) Determination of property ownership shall be by reference to the latest available tax records of the Pinellas County Property Appraiser's Office.

(5) Written legal notice shall occur a minimum of 15 days prior to the first scheduled hearing on the request, and shall include the dates of any subsequent scheduled hearings.

(J) Where required by this Code, legal notice publication shall occur as follows:

(1) In a newspaper of general circulation as defined by F.S. Ch. 50.

(2) Ordinance publication shall occur in accordance with the requirements of F.S. Ch. 166.

(3) Land use plan amendments to the Comprehensive Plan shall be noticed in accordance with the requirements of F.S. Ch. 163 as outlined by the Plan Administrative Element of the Comprehensive Plan.

(4) Amendments initiated by the City to the Official Zoning Atlas or the text of this Code shall be noticed a minimum of 14 days prior to the Planning and Zoning Board hearing, shall include the dates of any subsequent scheduled hearings, and shall be noticed in accordance with the requirements of F.S. § 166.041.

(K) Absence of the applicant or the applicant's authorized agent at any hearing may constitute grounds for a continuance or deferral at the discretion of the acting Board.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93; Am. Ord. 94-32, passed 9-20-94)

§ 207.00 - AMENDMENTS.

(A) Amendments to this Code or the Comprehensive Plan shall follow the procedures established by this section, which supplement the mandatory requirements of State law.

(B) An amendment to the Zoning Map, this Land Development Code and/or the Comprehensive Plan may be initiated as follows:

(1) Amendments to the Zoning Map and Future Land Use Map Series may be initiated by the property owner of record.

(2) The Board of Commissioners may initiate an atlas or text amendment to this Code, the Zoning Map and /or the Comprehensive Plan by motion at a public meeting.

(3) The Planning and Zoning Board may initiate an atlas or text amendment to this code and/or the Comprehensive Plan by adopting a motion at a public meeting.

(4) The City may initiate a text amendment to this Code, the Zoning Map and/or the Comprehensive Plan when necessary.

(5) The property owners of an area may request an atlas amendment by filing a petition by the owners of 50 percent or more of the area involved with the City Manager. The Board of Commissioners shall consider the merits of said petition at a public meeting and initiate or not initiate the request by motion.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93; Am. Ord. 97-01, passed 3-4-97)

§ 207.01 - Procedure for Amendments.

(A) Applications for map and text amendments shall be filed with the Planning and Zoning Department on forms provided by the Director and shall include the required fee established by this Code.

- (B) The Director shall forward all applications to the City's Technical Review Committee (TRC) for an administrative and completeness review to determine compliance with the provisions of this Code, the Comprehensive Plan and all applicable codes.
- (C) Upon receiving a determination from the Technical Review Committee (TRC) that the application is complete and ready for processing the Director shall notice the application for public hearing before the Planning and Zoning Board and Board of Commissioners.
- (D) Notice for public hearing shall be as elsewhere provided in this Code or the Florida Statutes.
- (E) The Planning and Zoning Board shall hold a public hearing on the application for the purpose of submitting a recommendation to the Board of Commissioners.
- (F) The recommendation from the Planning and Zoning Board shall be for approval, approval with modifications, or denial; and shall include its reasons for denial.
- (G) The Board of Commissioners shall review the application and recommendation of the Planning and Zoning Board and render a decision regarding same. Approval shall be in the form of an ordinance.
- (H) Any application may be withdrawn at any time. A request for withdrawal shall be made in writing to the Planning and Zoning Director.
- (I) Any final action for denial shall not have another substantially similar application filed on any part of the subject property for a period of six months from the date of such final action.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93; Am Ord. 97-01, passed 3-4-97)

§ 207.02 - Procedure for Amendments to the Comprehensive Plan.

- (A) Any application for amendment of the Comprehensive Plan, or any element or portion thereof, shall follow the procedures set forth by § 207.01(A) through (F), thence continue the process of this section as outlined below.
- (B) Upon review and recommendation by the Local Planning Agency, the Board of Commissioners shall hold a transmittal public hearing for the purpose of making a recommendation to the Pinellas Planning Council (PPC), if applicable, and State Department of Community Affairs (DCA). The Director will transmit copies of the proposed amendment as required by law.
- (C) Upon receipt of objections, recommendations, and comments by the State Department of Community Affairs (DCA) the Director shall submit same application to the Board of Commissioners with an updated summary of all action for final adoption.
- (D) Notice for public hearings shall be in accordance with the requirements of F.S. Ch. 163.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93; Am. Ord 97-01, passed 3-4-97)

§ 207.03 - Standards for Review of Amendments.

- (A) *Zoning Map Amendments.* All requested amendments shall meet the following standards:
 - (1) The amendment is consistent with the goals, objectives and policies of the Tarpon Springs Comprehensive Plan.
 - (2) The available uses to which the property may be put are appropriate to the property in question and are compatible with the existing and planned uses in the area.
 - (3) The amendment shall provide for efficient and orderly development considering the impact upon growth patterns and the cost to the City to provide public facilities.

- (4) The amendment will not adversely impact nor exceed the capacity or the fiscal ability of the City to provide available public facilities, including transportation, water and sewer, solid waste, drainage, recreation, education, fire protection, library service and other similar public facilities. Compliance with the adopted Levels of Service standards can be demonstrated if necessary.
- (B) *Land Development Code Text Amendments.* All requested amendments shall meet the following standards:
 - (1) The amendment is consistent with the goals, objectives and policies of the Comprehensive Plan.
- (C) *Comprehensive Plan Amendments.*
 - (1) The amendment meets the standards of F.S. Ch. 163, Part II, and Florida Administrative Code Rule 9J-5.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93; Am. Ord. 97-01, passed 3-4-97)

§ 208.00 - ANNEXATIONS.

- (A) This section is intended to supplement the requirements of F.S. Ch. 171.
- (B) Voluntary applications to annex shall be filed by the property owner of record and shall be filed with the Planning and Zoning Department on forms provided by the Director and shall include the required fee established by this Code.
- (C) The Director shall forward all applications to the City's Technical Review Committee (TRC) for an administrative and completeness review.
- (D) Upon receiving a determination from the Technical Review Committee (TRC) that the application is complete and ready for processing the Director shall notice the application for public hearing before the Planning and Zoning Board and Board of Commissioners.
- (E) Notice for public hearing shall constitute written legal notice in accordance with the requirements of this Article.
- (F) The Planning and Zoning Board shall hold a public hearing on the application for the purpose of submitting a written recommendation to the Board of Commissioners.
- (G) The Board of Commissioners shall review the application and recommendation of the Planning and Zoning Board and render a decision based upon the following factors and approval shall be in the form of an ordinance:
 - (1) Whether the property in question would create a municipal or County enclave upon annexation.
 - (2) The impact of the property in question upon public facilities and the ability of the City to serve the property in question with public facilities upon annexation.
 - (3) Whether the property in question is consistent with the City's Future Land Use Map Series and the terms of the City's Interlocal Planning Agreement with Pinellas County.
- (H) Upon annexation the area annexed shall be subject to all laws, ordinances, and regulations in force in the City and shall be entitled to the same privileges and benefits of other parts of the City.
- (I) The area annexed shall be subject to the regulations of the Pinellas County land use plan and zoning code until the area is zoned and designated with a land use district by the City to comply with its Comprehensive Plan.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93)

§ 208.01 - Compliance of annexations with the City/County Interlocal Planning Agreement.

- (A) The property subject to an annexation may be zoned and designated with a land use district at the time of annexation provided the district shown in the City's Future Land Use Map Series and proposed zoning is equal to or less intensive than the restrictions of the current County designations for same property.
- (B) Existing or proposed designations more intensive than the restrictions of the current County designations shall require the processing of a zoning and land use plan amendment in accordance with the procedures contained in this Article.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93)

§ 209.00 - CONDITIONAL USES.

- (A) Conditional uses shall be established by the use restrictions of the various zoning districts in this Code and shall be subject to the approval procedures of this section.
- (B) All conditional uses other than a conditional use granted in connection with a nonconforming lot application as herein provided shall be subject to the following requirements:
 - (1) Compliance with the provisions of this Code.
 - (2) Site plan approval in accordance with the provisions of this Code.
 - (3) Compliance with the use, dimensional, and other restrictions of the zoning district in which it is located.
 - (4) Compliance with the provisions of the City Comprehensive Plan.
- (C) In connection with the approval of any Conditional Use the Board of Commissioners may make the granting conditional upon such restrictions, stipulations, and safeguards it deems necessary to ensure compliance with the provisions of this Code and the Comprehensive Plan. Violation of such conditions shall be deemed a violation of this Code to be enforced as such.
- (D) Applications for conditional use approval shall be filed with the Planning and Zoning Division on forms provided by the Director and shall include the required fee established by this Code.
- (E) The Director shall forward all applications to the City's Technical Review Committee (TRC) for administrative and completeness review to determine compliance with the provisions of this Code, the Comprehensive Plan and all applicable building codes.
- (F) Upon receiving a determination from the TRC that the application is complete and ready for processing the Director shall notice the application for public hearing before the Planning and Zoning Board and Board of Commissioners.
- (G) Notice of public hearing shall constitute written legal notice in accordance with the requirements of this Article.
- (H) The Planning and Zoning Board shall hold a public hearing on the application for the purpose of submitting a written recommendation to the Board of Commissioners. The written recommendation shall contain any provisions of this Code pertaining to the request and determine compliance with those provisions, state the policy considerations of the Comprehensive Plan pertaining to the request and determine compliance with those provisions, and shall include written comments filed pertaining to the application and oral comments entered at the public hearing pertaining to the application.
- (I) The written recommendation from the Planning and Zoning Board shall be for approval, approval with stipulations, or denial; and shall indicate reasons for denial.

- (J) The Board of Commissioners shall review the application and recommendation of the Planning and Zoning Board. Approval by the Board of Commissioners shall be in the form of a Resolution which contains all stipulations of approval.
- (K) Approval of a conditional use shall be by a majority of those Board members voting on the application.
- (L) Any application may be withdrawn at any time. A request for withdrawal shall be made in writing to the Planning and Zoning Director.
- (M) Any final action for denial shall not have another identical application filed on any part of the subject property for a period of six months from the date of such final action.
- (N) If a conditional use approved ceases for any reason, as documented by the owner, lessor, or lessee of the premises, except where governmental action impedes access to the site, re-approval in accordance with the following schedule is required:
 - (1) If a conditional use ceases for less than six months, its approval shall not be considered to have lapsed and re-issuance of an occupational license to maintain such use may be approved by the City Manager.
 - (2) If the conditional use ceases for a period greater than six months but less than one year, the required conditional use review shall be abbreviated and shall not require review by the Planning and Zoning Board pursuant to § 209.00(F). Public notice pursuant to § 209.00(G) and an application fee pursuant to § 246.00 shall be required.
 - (3) If the conditional use ceases for any length of time exceeding one year, review by the Planning and Zoning Board in compliance with § 209.00(F), public notice pursuant to § 209.00(G), and an application fee pursuant to § 246.00, shall be required.
 - (4) If an occupational license for an approved conditional use, or a building permit for a site plan approved in conjunction with a conditional use, is not issued within one year of approval, the conditional use approval will be considered to have lapsed and re-approval in accordance with § 209.00(N)(3) is required. Conditional uses approved in conjunction with a site plan shall remain in effect provided the site plan complies with § 210.05.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93; Am. Ord. 95-10, passed 5-2-95; Am. Ord. 2006-48, passed 2-6-07)

§ 209.01 - Standards for review of conditional uses.

No conditional use other than a conditional use granted in connection with a nonconforming lot application as herein provided shall be recommended for approval or receive a final action of approval unless a positive finding, based upon substantial competent evidence presented at a public hearing held by the Board is made on each of the following standards:

- (A) Conformance with the requirements of this Code.
- (B) The use to which the property may be put is appropriate to the property in question and is compatible with existing and planned uses in the area.
- (C) The conditional use is consistent with the goals, objectives, and policies of all Elements of the City Comprehensive Plan.
- (D) The conditional use will not result in significant adverse impacts to the environment or historical resources.
- (E) The conditional use will not adversely affect adjoining property values.
- (F) The conditional use will not adversely impact nor exceed the capacity or the fiscal ability of the City to provide available public facilities, including transportation, water and sewer, solid waste,

drainage, recreation, education, fire protection and emergency services, police protection, library service, and other similar public facilities. Compliance with the adopted Levels of Service standards can be demonstrated if necessary.

- (G) The conditional use shall provide for efficient and orderly development considering the impact upon growth patterns and the cost to the City to provide public facilities.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93; Am. Ord. 2006-48, passed 2-6-07)

§ 209.02 - Reserved.

Editor's note— Ord. No. 2012-09, passed May 15, 2012, repealed § 209.02 which pertained to conditional uses for nonconforming lots and derived from Ord. No. 2006-48, passed February 6, 2007.

§ 209.03 - Standards for review of conditional uses for nonconforming lots.

No Conditional Use Permit granted in connection with a nonconforming lot application as herein provided shall be recommended for approval or receive a final action of approval unless a positive finding is made that is based upon substantial competent evidence presented at a public hearing held by the Board of Commissioners on each of the following standards:

- (A) The use to which the property may be put is appropriate to the property in question and must be found to be (1) compatible with existing and planned uses in the area and (2) compatible with development patterns in the neighborhood in terms of lot size, frontage, and setbacks and (3) aesthetically compatible with the surrounding neighborhood.
- (B) The Conditional Use is consistent with the goals, objectives, and policies of all elements of the City Comprehensive Plan.
- (C) The Conditional Use will not result in significant adverse impacts to the environment or historical resources.
- (D) The Conditional Use will not adversely affect adjoining property values.

(Ord. 2006-48, passed 2-6-07)

§ 209.04 - Formula based uses.

- (A) Findings and Purpose.
 - (1) The City of Tarpon Springs is a City of distinct neighborhoods with a character unique to its heritage as a working waterfront community. Its character is also defined by its location on the Anclote River and its proximity to the Gulf. The City has a defined and unique Historic District and a small-town feel that it desires to preserve for aesthetic, historic, and economic reasons. Its economy is dependant on tourism and it is a bedroom community for much of North Pinellas County. It is identified in large part by the character of its commercial areas.
 - (2) The City of Tarpon Springs needs to protect its vibrant small business sector and create a supportive environment for new small business innovations. Goal 5, Objective 5.2 of the City's Comprehensive Plan states "Ensure that small, locally owned independent businesses, unique to Tarpon Springs are able to compete with large retail chains"
 - (3) Retail uses are the land uses most critical to the success of the City's commercial districts.

- (4) Formula Businesses are increasing in number in The City of Tarpon Springs and in Pinellas County, as they are in cities and towns across the country.
- (5) Money earned by independent businesses is more likely to circulate within the local neighborhood and City economy than the money earned by Formula Businesses which often have corporate offices and vendors located outside of The City of Tarpon Springs either within or without the state of Florida.
- (6) Formula Businesses can have a competitive advantage over independent operators because they are typically better capitalized and can absorb larger startup costs, pay more for lease space, and commit to longer lease contracts. This can put pressure on existing businesses and potentially price out new startup independent businesses.
- (7) Notwithstanding the marketability of a retailer's goods or services or the visual attractiveness of the storefront, the standardized architecture, color schemes, decor and signage of many Formula Businesses can detract from the distinctive character of certain Neighborhoods and Commercial Districts.
- (8) The City of Tarpon Springs has adopted a Multi Modal Transportation District and adopted Goals, Objectives, and Policies within the Future Land Use Element of the Comprehensive Plan which encourages housing, shops, work places, schools, parks and civic facilities intimately co-existing to create and maintain strong identifiable neighborhoods that invite walking and bicycling and the City's mix of architecture contributes to a strong sense of community.
- (9) The increase of Formula Business Uses in the City, if not monitored and regulated, will hamper the City's goal of a diverse retail base, design criteria for commercial buildings, and aesthetically pleasing commercial areas with distinct neighborhood retailing personalities comprised of a mix of businesses. Specifically, the unregulated and unmonitored establishment of additional Formula Business Uses may unduly limit or eliminate business establishment opportunities for smaller or medium-sized businesses, many of which tend to be non-traditional or unique, thereby decreasing the diversity of merchandise available to residents and visitors and the diversity of purveyors of merchandise.

(B) Definitions.

- (1) "Formula Business Use" is hereby defined as a type of retail sales activity or retail sales establishment which, along with fifteen (15) or more other retail sales establishments located in the United States, maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark.
- (2) "Formula Restaurant Use" is hereby defined in the same way as a Formula Business Use except that in the case of a restaurant one of the features referenced in (1) above is that the restaurant maintains a prescribed menu that is substantially the same as fifteen (15) or more restaurants.
- (3) "Standardized array of merchandise" shall be defined as 50% or more of in-stock merchandise from distributors bearing uniform markings.
- (4) "Trademark" shall be defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.
- (5) "Servicemark" shall be defined as word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.
- (6) "Decor" shall be defined as the style of interior finishings, which may include but is not limited to, style of furniture, wallcoverings or permanent fixtures.

- (7) "Color Scheme" shall be defined as selection of colors used throughout, such as on the furnishings, permanent fixtures, and wallcoverings, or as used on the facade.
 - (8) "Facade" shall be defined as the face or front of a building, including awnings, looking onto a street or an open space.
 - (9) "Uniform Apparel" shall be defined as standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and pins (other than name tags) as well as standardized colors of clothing.
 - (10) "Signage" shall be defined as within the Sign Code.
- (C) Regulations For Formula Based Uses (meaning Formula Business and Formula Restaurant Uses as defined above).
- (1) Formula Based Uses located or to be located along the US Highway 19 corridor bounded by Live Oak Street to the north, Klosterman Road to the south, the north-south alignment of Huey Avenue to the west and the north-south alignment of Japonica Avenue to the east shall be permitted and reviewed in accordance with the applicable zoning district regulations found elsewhere in this code (see Figure 1 below).

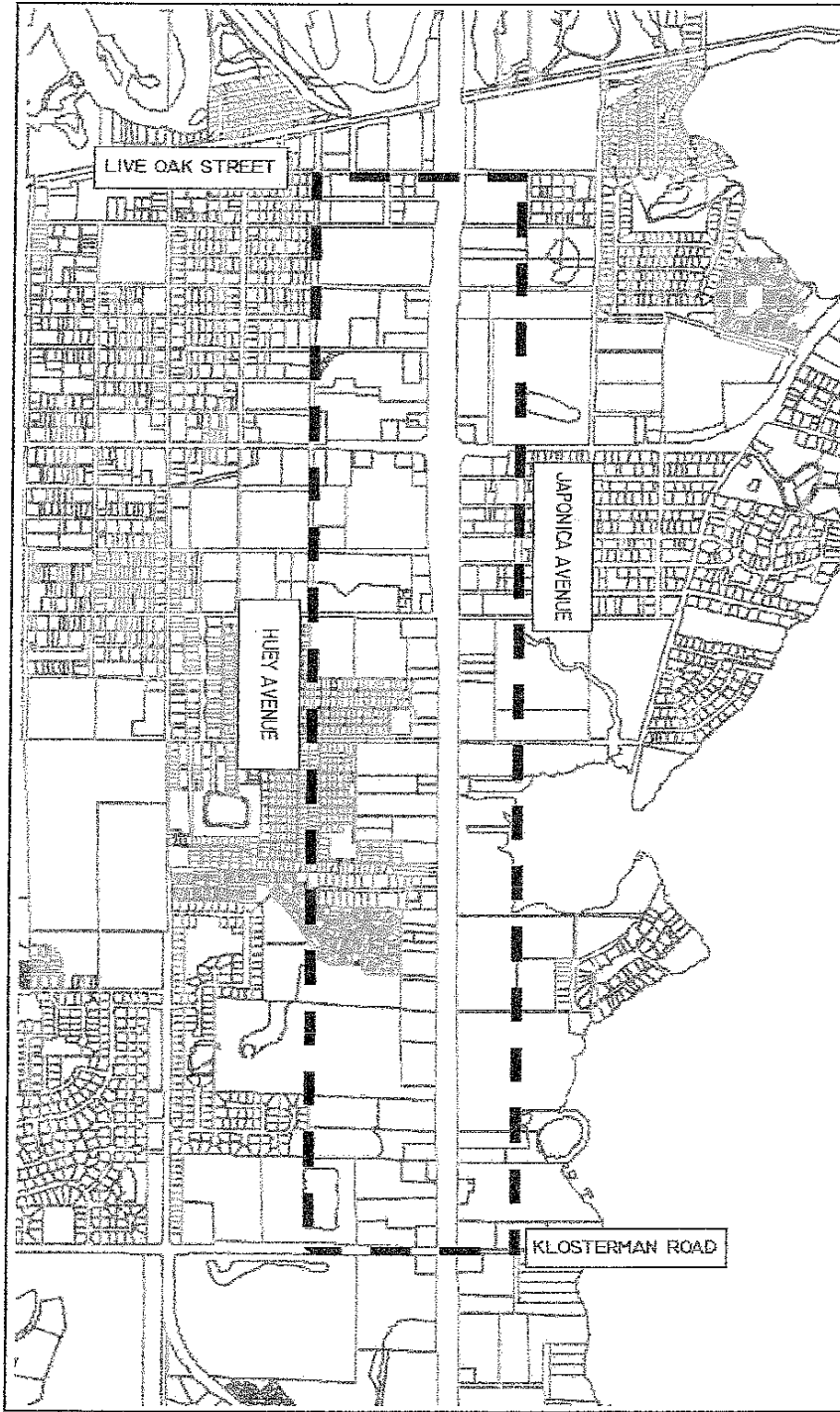


Figure 1

- (2) All new Formula Based Uses and expansions of such uses by 500 or more square feet of floor area that are not within the boundaries described in Figure (1) above shall require a conditional use review in accordance with Section 209.00 and the following review criteria set out in (D) below.

- (3) Change of ownership of an existing Formula Based Use shall not, by itself, require obtaining a conditional use permit.
 - (4) The Formula Based Use shall be compatible with existing surrounding uses, and shall be designed and shall be operated in a non-obtrusive manner to preserve the community's character and ambiance. All Formula Based Uses shall be evaluated for compatibility with surrounding uses and furthering the intent of the District it is located in as it relates to promoting the City's tourist oriented economy. When uses under this Code Section are evaluated for compatibility such factors as scale, mass, intensity, location, size, height, style and aesthetics shall be taken into account. This list of factors to be considered is not exclusive and the reviewing body may consider other relevant factors in making a compatibility determination. The use in order to be compatible shall be found to preserve the character of the adjacent neighborhoods and the overall character of the City.
 - (5) Approval of the Formula Based Use will be consistent with the policies and standards of the City's Comprehensive Plan.
 - (6) The Board of Commissioners shall make a finding before approval of the Use that the proposed intensity of use on the site proposed is appropriate given any other uses permitted on the site and on adjoining sites.
 - (7) The Board of Commissioners shall further make a finding before approval of the Use that approval of the Formula Based Use will contribute to an appropriate balance of small, medium and large-sized businesses in the community.
- (D) Review Criteria for Formula Based Uses (meaning Formula Business and Formula Restaurant Uses as defined above).
- (1) In determining compatibility with the surrounding neighborhood the following factors shall be evaluated:
 - a. Form and mass of all structures.
 - b. Placement of all structures on the site and integration (or buffering where appropriate) with adjoining neighborhood.
 - c. Internal circulation and interaction of pedestrians, bicycles, and vehicles.
 - d. Ability to accommodate mixed uses, either horizontally or vertically, on the site.
 - e. Architecture and site design shall compliment or improve upon the surrounding area.
 - f. Storefronts greater than 50' in width shall be detailed to appear as multiple storefronts.
 - g. Buildings shall be oriented to the street with interior/rear parking and streetscapes shall included pedestrian friendly amenities such as wider sidewalks, enhanced landscaping, pedestrian scale lighting, and street furnishings. Where these requirements may conflict with other regulations of this code the requirements herein shall apply.
 - h. Buildings oriented toward the street with interior parking shall be allowed a wall sign for the road frontage elevation in accordance with sign regulations elsewhere and an equal size or smaller wall sign for the parking frontage elevation. Such building elevations along the street, regardless of store front width, shall provide architectural detail to break up expanses of single-plane blank walls. This detail shall included variation in facade setbacks to create the appearance of multiple buildings elevations.
 - i. Parking lots shall be screened from street frontages in accordance with Figure 2 below or similar screening methods as approved during the site plan review process. Adjustments to the dimensions of Figure 2 may be altered during the site plan review process to accommodate specific site conditions.

- (2) Formula Based Uses that are part of a unified or planned development that exceeds 40 acres or are located on parcels of land that exceed 40 acres shall also adhere to the requirements of Policy 1.1.11 of the Future Land Use Element of the Comprehensive Plan.

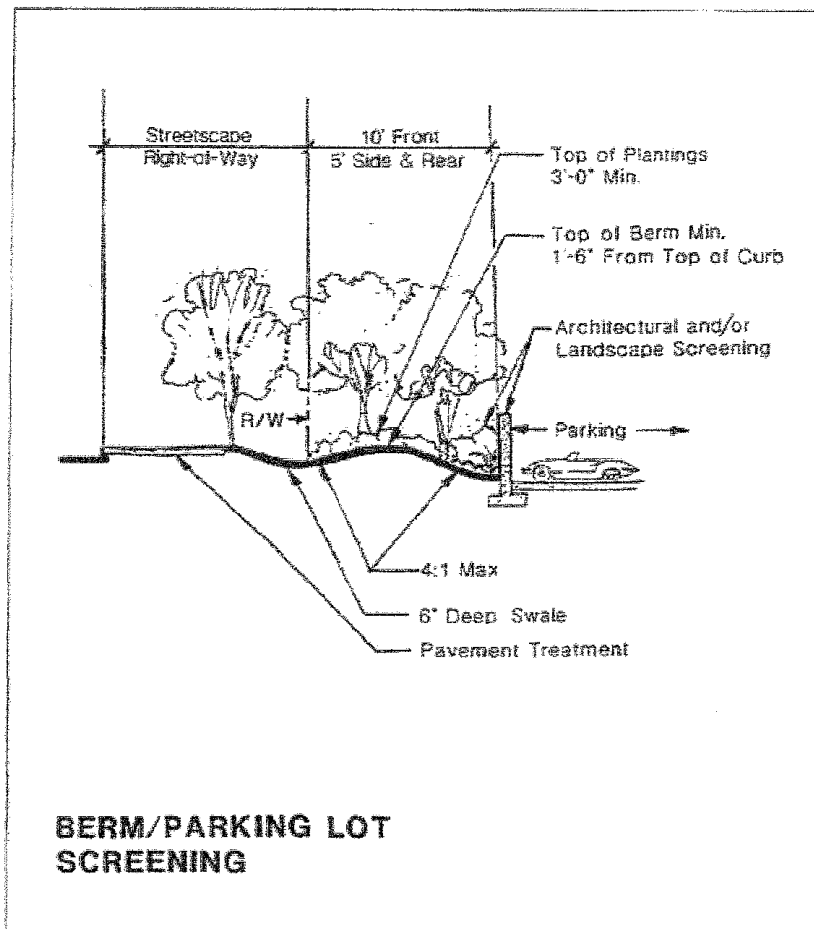


Figure 2

- (E) Burden of Proof. If the City determines that a building permit application or building permit subject to this Section of the Code is for a Formula Business Use or a Formula Restaurant Use, the building permit applicant or holder bears the burden of proving to the City that the proposed or existing use is not a Formula Business Use or a Formula Restaurant Use.
- (F) All Formula Business Uses including Formula Restaurant Uses shall file a Site Plan and obtain Site Plan Approval as may be required elsewhere in this code.
- (G) Formula Business Uses which are located within the City's designated historic district boundary shall also comply with the requirements of Article VII (Heritage Preservation) of this code.

(Ord. 2009-12, passed 10-6-09)

§ 210.00 - SITE PLANS.

- (A) Site plan approval shall be required prior to the issuance of any building permit, construction permit, Certificate of Occupancy or Occupational License, in accordance with the following:
 - (1) The approval of a Subdivision in accordance with the requirements of Article X of this Code.
 - (2) The establishment or expansion of any conditional use.
 - (3) The establishment, expansion, or change of any use, activity or structure pursuant to the provisions of §§ 210.00 through 210.05.
- (B) Prior to application for site plan approval a pre-application conference with the Planning and Zoning Department Staff is recommended.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93)

§ 210.01 - Site plan exemptions.

The activities and improvements listed below shall be specifically exempt from the requirement to obtain site plan approval in accordance with the provisions of §§ 210.00 through 210.05:

- (A) The installation of mobile homes and recreational vehicles in mobile home and recreational vehicle parks where the infrastructure is installed and site plan approval has been previously granted and has not expired.
- (B) Where Final Development Plan approval has been granted in accordance with the provisions of Article V of this Code.
- (C) One and two family dwellings on a lot of record or in an approved and constructed subdivision.
- (D) Any change of use to existing structures when such change requires no additional parking pursuant to the provisions of this Code.
- (E) Temporary uses established pursuant to the requirements of this Code.
- (F) Additions, improvements, or alterations to existing uses and structures when such changes result in a one time only increase in gross floor area of 500 square feet or less and do not require Board of Commissioners approval under § 210.03.
- (G) Any request for Sign Permit in accordance with the provisions of Article XI of this Code.

(Ord. 90-10, passed 5-1-90; Am. Ord. 90-52, passed 12-18-90; Am. Ord. 93-33, passed 10-19-93)

§ 210.02 - Site plan contents.

- (A) All site plans shall be prepared under the direction of a Florida Registered Engineer and sealed by same.
- (B) All submittals for site plan approval shall include a completed application form with proof of ownership and designation of agent, if applicable, and provide the following information unless otherwise determined by the Director that the context of the application clearly requires less:
 - (1) All required information shall be submitted on standard sheets (24" × 36"). Site Plan submissions requiring more than one sheet shall include match lines and consecutive numbering.

- (2) An accurate boundary survey sealed by a Registered Surveyor containing the complete legal description, plus easements, encroachments, existing structures, and rights-of-way affecting the property shall accompany the site plan. The survey shall also include the name, location and width of existing or platted streets and street rights-of-way within or contiguous to the site. Total site area is required (upland and submerged) with the limits of any jurisdictional wetlands and MHW levels clearly identified.
 - (3) Site plans shall be prepared at a scale of one inch equals 60 feet or larger. As necessary, a smaller scale may be used for large projects. All drawings shall show the scale at which they are drawn, north arrow, vicinity map, the date they were drawn, and the date of all revisions.
 - (4) In addition to all proposed buildings and parking areas, the site plan must show all proposed utilities including sanitary sewer service, and potable water supply, including the location of proposed fire hydrants.
 - (5) The location, size, and type of all storm water management facilities with calculations signed and sealed by an engineer.
 - (6) The location, description, and terms of any proposed easements, reservations, or dedications, together with any necessary legal instruments.
 - (7) A tree survey with overlay of proposed development indicating size, type, location of trees to remain.
 - (8) Existing contours and proposed grades at one foot intervals.
 - (9) Flood zone and required first floor elevation(s).
 - (10) Complete screening details, including fences or walls and landscaping provided by size, type, spacing, location with the method of irrigation.
 - (11) A table of land use showing total area plus a breakdown of all open space (permeable surface) areas, pavement, building, etc.
 - (12) Lot dimensions including curve data.
 - (13) Proposed setback dimensions.
 - (14) Gross floor area by type for non-residential uses.
 - (15) Gross density for residential uses and number and types of units.
 - (16) The proposed architectural elevations and floor plans with accurate dimensions.
 - (17) Proposed private and public streets with right-of-way dimensions.
 - (18) Proposed phasing plan by anticipated commencement and completion date.
 - (19) Dumpster location and screening.
 - (20) Required parking calculations (parking provided and required).
 - (21) Size and location of required loading zones.
 - (22) Required (proposed) sidewalks and internal walkways.
 - (23) Driveways and access improvements.
 - (24) Location and type of site lighting including pole height and fixture type.
 - (25) Description of the maintenance of common facilities for residential projects.
 - (26) The location, type, height, and size of proposed signs.
- (C) Construction drawings shall be submitted to the Engineering Department within one year following site plan approval.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93; Am. Ord. 2000-22, passed 6-20-00)

§ 210.03 - Site plan procedure.

- (A) The expansion of an activity or use which exceeds the thresholds of the following schedule shall be approved by the Board of Commissioners:

Expansion in Square Feet	Percentage of Existing Structure
0 to 10,000	30%
10,001 to 20,000	25%
20,001 to 30,000	20%
in excess of 30,000	15%

- (B) The expansion of an activity or use which does not exceed the thresholds of the above schedule or otherwise requires the approval of a site plan may be approved by the Technical Review Committee (TRC).
- (C) Applications for Site Plan approval shall be filed with the Planning and Zoning Department on forms provided by the Director, shall include the required fee established by this Code, and shall be processed as follows:
- (1) The Director shall forward all applications to the City's Technical Review Committee (TRC) for an administrative and completeness review to determine compliance with the provisions of this Code, the Comprehensive Plan, and all applicable building codes. Approval may be granted by the TRC where authorized by this Code.
 - (2) Where approval by the TRC is not authorized by this Code, the Director shall, upon receiving a determination from the TRC that the application is complete and ready for processing, forward the application to the Planning and Zoning Board.
 - (3) The Planning and Zoning Board shall review the application for compliance with the provisions of this Code, the Comprehensive Plan, and the City's building codes and shall make a written recommendation to the Board of Commissioners. The written recommendation shall be for approval, approval with stipulations, or denial; and shall cite the Code, Plan, or building code provisions which are violated where denial is recommended.
 - (4) The Board of Commissioners shall review the application and recommendation of the Planning and Zoning Board. The Board of Commissioners shall approve, approve with stipulations, or deny the application; and shall cite the Code, Plan, or building code provisions which are violated where the application is denied.
 - (5) All Board actions shall carry by a majority vote of those members voting on the application.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93)

§ 210.04 - Standards for site plan review.

No site plan shall be recommended for approval or receive a final action of approval unless said application has been found to comply with all of the following:

- (A) All the applicable provisions of this Code.
- (B) The Comprehensive Plan.
- (C) The City's concurrency management system.
- (D) All other applicable City building codes.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93)

§ 210.05 - Site plan expirations, extensions, and revisions.

- (A) Approval of a site plan shall expire in one year on the date of original approval unless a building permit has been applied for, except that the Board of Commissioners may approve an alternate phasing plan at the time of site plan approval.
- (B) One extension for up to one additional year may be granted by the Board of Commissioners for good cause. The review of extension requests shall include an evaluation of the effect of new or current regulations on the project. Requests for a time extension shall be submitted a minimum of 30 days prior to the expiration date in writing.
- (C) Minor revisions to an approved site plan may be authorized by the Technical Review Committee (TRC) upon the review of a revised site plan submitted by the original applicant. Major revisions shall only be authorized in the same manner as originally approved. The following criteria shall identify a major modification:
 - (1) Any increase in density.
 - (2) Any increase in floor area exceeding 500 square feet or the threshold for Board of Commissioners approval under § 210.03.
 - (3) Any change in land use.
 - (4) Any change in project phasing.
 - (5) Any change which would require an amendment to approval conditions.
 - (6) Structural alterations significantly affecting the basic size and form of the building(s).
 - (7) Any reduction in the amount of open space of more than five percent or any substantial change in the location or characteristics of open space.
 - (8) Any increase in traffic generation by more than ten percent.
 - (9) Any change in structure height.
 - (10) Any change in the number of vehicular access points.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93)

§ 211.00 - CONSTRUCTION DRAWINGS.

- (A) Where construction drawings are required by this Code or any applicable building code the drawings shall be submitted to, reviewed by, and approved by the City Engineer in a form and procedure required by the City Engineer.
- (B) Construction drawings shall comply with the provisions of this Code, the applicable building code and the conditions of any previous approvals granted by the City.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93)

§ 212.00 - BUILDING PERMITS.

- (A) Valid building and construction permits are required prior to the commencement of any development activity.
- (B) Applications for building and construction permit shall be made through the Building Official. Construction permits shall only be issued after authorization by the City Engineer.
- (C) No application for building or construction permit shall be approved by the Building Official unless it is accompanied by, and complies with the following minimum information:
 - (1) An approved site plan or subdivision where such are required.
 - (2) The application for building permit complies with all previous stipulations of approval.
 - (3) The proposed development complies with the provisions of this Code, the City's concurrency management system, the Official Zoning Atlas designation, and the Future Land Use Map Series designations.
 - (4) A valid tree removal permit or notarized affidavit of no tree removal or no tree verification where required, and the conditions of said permit.
 - (5) The City's Flood Damage Prevention Ordinance, the requirements of FEMA, and the latest FIRM maps.
 - (6) A copy of approved SWFWMD permits.
 - (7) A copy of all applicable approvals from the Pinellas County Health Department.
 - (8) All necessary variances have been obtained and a copy of the approval letter is submitted.
 - (9) A copy of a nonconforming lot of record opinion where one is required.
 - (10) Compliance with all other applicable federal, state, and local building codes is demonstrated.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93)

§ 213.00 - CERTIFICATES OF OCCUPANCY.

- (A) A certificate of occupancy shall be issued by the Building Official prior to the occupancy and use of any site which has undergone development, renovation, or redevelopment.
- (B) No certificate of occupancy shall be issued by the Building Official until the following has been submitted to the City's satisfaction:
 - (1) As-built drawings where required by this Code or the City Engineer.
 - (2) A certificate of completion in substantial compliance with all approved plans and specifications for required improvements by the engineer of record where one is required.
 - (3) A signoff from the Pinellas County Health Department where applicable.

- (4) A signoff from the Fire Marshal.
- (5) A signoff by the Building Official regarding satisfaction of the final inspection.
- (6) A signoff from the Utilities Director where applicable.
- (7) A signoff from the City Engineer and Planning and Zoning Director where site plan approval has been required.
- (8) Compliance with the provisions of this Code and all applicable building codes has been demonstrated.
- (9) All required inspections have been made and satisfied.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93)

§ 214.00 - OCCUPATIONAL LICENSES.

All applications for occupational license approval shall comply with the provisions of this Code, all other applicable building codes, and federal, state, or local laws.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93)

§ 215.00 - VARIANCES AND APPEALS.

The Board of Adjustment is authorized to:

- (A) Hear and decide appeals of administrative decisions where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative official in the interpretation or enforcement of this Code.
- (B) Grant variances to the zoning dimensional regulations when special conditions exist and all standards for the granting of a variance, as set forth in § 215.02(B), have been proven by competent substantial evidence; grant variances to the development regulations of this Code only where specifically authorized and when special conditions exist and all standards for the granting of a variance as set forth in § 215.02(B) have been proven by competent substantial evidence.

The legislative purpose in providing for variances to be granted is to provide for a procedure to give relief from the literal terms of this Code in certain limited circumstances and upon a specific standard set forth in § 215.02(B) having been met where literal enforcement of the requirements of this Code would have the effect of denying the applicant reasonable use of the property, buildings, or other structures. It is the legislative intent of this provision that variances shall be granted only when:

- (1) The standards for variances are all specifically met; and
- (2) The standards are proven by competent substantial evidence; and
- (3) The conditions surrounding the request for the variance are so unusual or particular to the property that the literal enforcement of the standards otherwise applicable to other property owners in the city would result in the denial of substantial and important property rights, and
- (4) A structure or use was constructed or commenced lawfully and with the proper permits; and
- (5) Such a variance would not be contrary to the public interest or give a special benefit to the property owner requesting such a variance.

- (C) Grant adjustments from the FAR and ISR standards of this Code. An adjustment under this subsection shall only be allowed or granted when substantial competent evidence in the official record of the hearing supports the following findings:
- (1) A literal interpretation of the provisions of the FAR and ISR standards of these Rules will deprive the applicant of rights commonly enjoyed by other properties in the same future land use category and will work unnecessary and undue hardship on the applicant.
 - (2) The alleged hardship is unique and singular with regard to the property for which the variance is sought and is not that suffered in common with other property similarly located.
 - (3) The alleged hardship is not self-imposed by the applicant, and the situation sought to be relieved by the adjustment does not result from an illegal act or result from the actions of the applicant, resulting in self-imposed hardship.
 - (4) The adjustment, if allowed, will not substantially interfere with or injure the rights of others' whole property would be affected by allowance of adjustment.
 - (5) The adjustment, if allowed, will be in harmony with, serves the general intent and purpose of, and is consistent with the Countywide Future Land Use Plan and Rules, the City's Comprehensive Plan, and these regulations.
 - (6) The adjustment, if allowed, will be the minimum adjustment that will make possible the reasonable use of the land, building, or structure.
 - (7) The adjustment, if allowed, will not confer on the applicant any special privilege that is denied by the Countywide Future Land Use Plan and Rules, the City's Comprehensive Plan, or these regulations, to other lands, buildings, or structures in the same land use classification.
 - (8) The adjustment, if allowed, shall not constitute an amendment to the City's Comprehensive Plan, land development regulations, or to the Countywide Comprehensive Plan.
 - (9) An amendment to another land use category under the City and Countywide Future Land Use Plan has been considered by the applicant and the city and it has been determined that such an amendment would not meet the objective of the adjustment and would not be appropriate.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-31, passed 11-16-93; Am. Ord. 93-33, passed 10-19-93; Am. Ord. 2004-08, passed 5-18-04; Am. Ord. 2006-32, passed 9-19-06)

§ 215.01 - Appeals.

- (A) In exercising its powers to hear and decide appeals, the Board may reverse or affirm, wholly or partly or may modify the order, requirement, decision, or determination made by the administrative official.
- (B) A request for an appeal must be initiated by the aggrieved person within 60 days of the decision rendered by an administrative official that is being appealed. If the aggrieved person fails to file an appeal within such period, the Board has no authority to hear the appeal.
- (C) The Board, in determining whether the administrative official's decision was correct, can only consider the specific code provision considered by the administrative official, and the papers, documents, and maps provided to the administrative official before making his decision. The Board shall not consider the fairness of the application of the specific Code provision in deciding the appeal.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93)

§ 215.02 - Variances.

- (A) The City shall not accept an application for, and neither the Board, nor the City acting under subsection (N) of this section, has the authority to consider or grant, the following variances:
- (1) Variances which permit the establishment of a use in a zone or district in which such use is not permitted by the regulations of the zoning district involved;
 - (2) Variances which permit the establishment of a lot or parcel which must be combined under the terms of the City of Tarpon Springs Code of Ordinances or which is part of a larger parcel which when established does not meet the area or width requirements of the applicable zoning district except as provided for in Section 215.02.5.
 - (3) Variances which permit an increase in density above that allowed by the applicable zoning district or Comprehensive Plan designation, or that purport to modify any definition set forth in the Tarpon Springs Code ("Code") or Comprehensive Zoning and Land Use Code ("LDC"), or that do not conform to the general intent and spirit of the Code and the policies of the LDC, or conflict with any other applicable law.
 - (4) Variances which increase or modify in any way a nonconforming use.
 - (5) Variances that arise from a request for after-the-fact relief from the provisions of the Code where a building or other structure has been built in violation of the Code and no building permit was issued for such construction, except as provided in § 215.02(E) herein.
- (B) The Board of Adjustment shall grant no variance unless all of the following standards are met and are proven by competent substantial evidence:
- (1) The need for the requested variance arises out of the physical surroundings, shape, topographical conditions, or other physical or environmental conditions that are unique to the specific property involved, and which do not apply generally to property located in the same zoning district.
 - (a) Preservation of a Protected Tree(s) or Native Tree(s), but not an Invasive tree(s), as defined in Sections 133, Tree Protection and Preservation, and 134, Landscaping and Screening, of the LDC, may be considered as a relevant environmental condition under this subsection.
 - (b) Location of the property in the Historic District within the City may also be considered as a unique physical condition. However, any variance applied for within the Historic District shall be found to be compatible with the character of the properties within that District before any variance may be granted;
 - (2) The conditions or special circumstances peculiar to the property have not been self-created or have resulted from an action by the applicant or with prior knowledge or approval of the applicant. Specifically, no variance may be granted arising from illegal construction of a structure or an illegal use of the premises which would have otherwise required a building permit or other specific permit to be issued and which construction or which use was commenced unlawfully. Under such conditions, the property owner shall have no legal right to apply for a variance and the Board will have no legal right to grant such a variance;
 - (3) Literal enforcement of the requirements of the City of Tarpon Springs' Comprehensive Land Development Code would have the effect of denying the applicant reasonable use of the property, or legally conforming buildings or other structures, and the requested variance is the minimum variance that will make possible the reasonable use of the property; and
 - (4) Granting the variance will not confer any special privilege that is not allowed for other lands, buildings or structures in the same zoning district; no variance will be granted that

extends to the applicant a use of property that is not commonly enjoyed by other persons in similar circumstances.

- (5) Granting the variance will not substantially diminish property values in the surrounding area, substantially interfere with, or injure the rights of others whose property would be affected by approval of the variance, alter the essential character of the neighborhood, or create a nuisance.
- (C) In determining whether to grant a variance the Board shall not consider any evidence:
- (1) That is based upon conditions, including financial or health conditions, which are personal to the applicant or any other member of the applicant's family or household;
 - (2) That is otherwise irrelevant to meeting the standards set forth herein;
 - (3) Regarding the presence of a nonconforming use (legal or otherwise) of neighboring lands, structures, or buildings in the same zoning district, or evidence of the permitted use of lands, structures, or buildings in zoning districts other than the zoning district in which the applicant's property at issue is located.
- (D) The Board of Adjustment shall make findings, regarding variances to FAR and ISR standards, that all of the requirements of § 215.00(C) shall have been met.
- (E) In the highly unusual circumstance where:
- (1) The property owner or contractor has made a mistake in the construction of a structure, and it would be economically impracticable to correct the mistake at the time it was discovered;
 - (2) The appropriate building permit or other use permit had been issued;
 - (3) Such mistake could not have been avoided by the application of normal construction or business practices; and
 - (4) Such case is proven before the Board by competent substantial evidence.
- Then and only then, may the Board grant the minimum variance that will achieve a result that is fair to the applicant and the public alike.
- (F) In circumstances where it can be demonstrated to the Board by competent and substantial evidence that a violation of the Code has occurred during the time of ownership of a previous property owner without the actual or constructive knowledge of the current property owner who could not have known of such violation by reasonable inquiry prior to the purchase or other acquisition of the property, the Board of Adjustment may grant the following relief to the applicant:
- (1) The minimum relief necessary to preserve the enjoyment of a legally recognized property right;
 - (2) Only for such time as is necessary to appropriately amortize any unlawfully built and nonconforming structure for such limited time as is necessary to amortize its useful life; and
- (G) Under no circumstances may the Board grant a property owner the right to intrude into a public right-of-way, easement, or other dedication to the public without the concurrence of the Board of Commissioners through the Board of Commissioners granting such limited right through the mechanism of a revocable license agreement.
- (H) At the conclusion of the hearing, the Board will issue a written order including findings of law, findings of fact, and a Board decision. Such order will be in a form as approved by the City Attorney.

- (I) In granting a variance, the Board may prescribe conditions deemed necessary to protect public interest and to ensure compliance with applicable codes and the Comprehensive Plan of the City.
- (J) The variance granted under the provision of this section shall expire within two (2) years from the date the Board heard the application and granted the variance unless a building permit for construction has been issued in accordance with the plans and conditions upon which the variance was granted. The variance shall not expire after two (2) years from the date of issuance if a building permit issued in accordance with the plans and conditions upon which the variance was granted is active or is renewed pursuant to the applicable provisions regarding renewal of building permits.
- (K) Upon receiving a request in writing at least 30 days prior to the scheduled expiration date, the Board of Adjustment may grant one six-month extension provided proper public notification by mail has been given.
- (L) The Board may reconsider a decision or a variance application only if a request for rehearing is made within 30 days of the date of the original action taken by the Board, and shall be advertised for the next available Board of Adjustment meeting. Before reconsidering one of its decisions, the Board of Adjustment, after hearing testimony, must make a finding that evidence not previously considered by the Board exists and will be presented. The action to rehear shall be authorized only upon a motion of a Board member who voted on the prevailing side in the original Board action, and upon an affirmative vote by a majority of the Board members present and voting upon the original Board action. Upon an affirmative vote to rehear the decision or variance application the Board must reconsider the request in accordance with the terms of this section. The rehearing shall be scheduled upon receipt of a new application fee and due public notice.
- (M) The violation of the terms of an order granting a variance, including conditions and safeguards which may be made a part thereof, shall be deemed a violation of the Tarpon Springs Comprehensive Zoning and Land Use Code and punishable as provided in that Code.
- (N) For de minimus variance applications of five percent or less of normal zoning requirements, and for which no letters of objection are received from all adjacent property owners after due notification, then such application shall be promptly considered by the City Manager or his or her designee without review by the Board of Adjustment. In such cases, the application fee shall be \$50.00. If the City Manager or his or her designee denies such an application then the applicant may proceed to hearing before the Board of Adjustment as provided in this Section, and without needing to pay an additional application fee. De minimus variances shall only be granted if:
 - (1) A structure or use at issue was constructed or commenced lawfully and with the proper permits; and
 - (2) Such a variance would not be contrary to the public interest or give a special benefit to the property owner requesting such a variance; and
 - (3) The variance if granted would not be in violation of the City's Comprehensive Plan.
- (O) Notwithstanding the other provisions of this Ordinance to the contrary, the Board of Adjustment may grant the minimum variance necessary in order to avoid a clear violation of the Americans with Disabilities Act, Public Law 336 of the 101st Congress, enacted July 26, 1990.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-31, passed 11-16-93; Am. Ord. 93-32, passed 12-7-93; Am. Ord. 93-33, passed 10-19-93; Am. Ord. 2004-08, passed 5-18-04; Am. Ord. 2006-32, passed 9-19-06; Am. Ord. 2012-09, passed 5-15-12)

§ 215.02.5 - Variances for nonconforming lots of record.

- (A) Notwithstanding the requirements of Section 24.02, the Board of Adjustments may grant a variance to allow a nonconforming lot of record to be built upon if the following standards are met and proven by competent substantial evidence:
 - (1) The lot consists of at least one entire lot of record on the effective date of this Code.
 - (2) The lot was not created in violation of a previous zoning ordinance.
 - (3) The lot was not combined with a neighboring lot under common ownership in order to allow the existing improvements on the neighboring developed lot to meet applicable setbacks.
- (B) The Board of Adjustment may not grant a variance under this section if it will reduce the area or width of a nonconforming lot of record.
- (C) The purchase of a non-conforming lot of record shall not constitute a self-created hardship.

(Ord. 2012-09, passed 5-15-12)

§ 215.03 - Public notification.

Notice of public hearing shall be given at least 15 days in advance thereof, by posting the property, by first class mail to the applicant and to each property owner within 200 feet of the subject property, and advertisement in the Saint Petersburg Times, or other appropriate publication of general circulation.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-32, passed 12-7-93; Am. Ord. 93-33, passed 10-19-93; Am. Ord. 2006-32, passed 9-19-06)

§ 215.04 - Authorization of variance or appeal.

No action shall be valid unless authorized by a majority of the full membership.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93)

§ 215.05 - Judicial review of decisions.

Any person or persons, firm, or corporation, or any officer, department, board, or bureau of a governing body aggrieved by any decision of the Board of Adjustment, may seek judicial review in the Circuit Court for Pinellas County, Florida of a Board decision by filing a petition for certiorari within 45 days after the decision of the Board.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93)

§ 216.00 - VACATION OF STREETS, PLATS OR OTHER PROPERTY.

- (A) An application to vacate any street rights-of-way, plats, or other property shall be filed with the Planning and Zoning Department on forms provided by the Director and shall include the required fee established by this Code.
- (B) The Director shall forward all applications to the City's Technical Review Committee (TRC) for an administrative and completeness review to determine compliance with the provisions of this Code, the Comprehensive Plan, and all applicable building codes.
- (C) Upon receiving a determination from the Technical Review Committee that the application is complete and ready for processing the Director shall notice the application for public hearing before the Board of Commissioners.

(D) Notice for public hearing shall constitute written legal notice in accordance with the requirements of this Article.

(E) The Board of Commissioners shall review the application and render a decision regarding same. Approval shall be in the form of an ordinance.

(F) Prior to the vacation of any right-of-way, the applicant shall tender an application fee equal to 50 percent of the appraised value of the right-of-way proposed to be vacated, less the fair market value of any property or interest therein conveyed to or reserved by the City. All such values shall be determined by the Pinellas County Property Appraiser. If such application is denied, the entire application fee, less the sum of \$200.00 to defray costs for the processing of such application, shall be refunded to the applicant. All such application fees, less the \$200.00 to be deposited in the General Fund, shall be placed in a segregated account, the proceeds of which shall be utilized solely for the purpose of acquisition of future rights-of-way by the City.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-26, passed 9-7-93; Am. Ord. 93-33, passed 10-19-93)

§ 216.01 - Standards for review of vacations.

(A) No vacation shall be approved unless a positive finding, based upon substantial competent evidence, either presented at a public hearing held by the Board or reviewed personally by the Board members is made on each of the following standards:

(1) That the subject property is not needed for the distribution, expansion, or maintenance of existing or future utility services is obtained from the following agencies:

(a) General Telephone and Electric (GTE).

(b) Florida Power.

(c) The cable franchise holder.

(d) Clearwater Gas.

(e) The City water and sewer provider.

(f) The City Engineer for drainage service.

(2) The property does not provide the sole means of access to an adjoining property.

(3) The property is not needed to implement the future circulation plans of the Traffic Circulation Element of the Comprehensive Plan.

(4) The property does not provide the adjoining neighborhood with a viable usable access or vista to the City's shoreline.

(B) Any easement documents necessary from the applicant for the satisfactory completion of a vacation shall be executed and submitted to the Clerk prior to any final action by the Board of Commissioners on the application.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93)

§ 217.00 - ENFORCEMENT OF CODE PROVISIONS.

(A) The provisions of this Code shall be enforced by the City Manager or his designee(s).

(B) Personnel of the City, in the performance of their duties or functions to enforce this Code, may enter upon any property during normal work hours of the City and make examinations to determine Code compliance that do not occasion damage or injury to private property.

- (C) The violation of any stipulations attached to any permit, variance, conditions, use or other approval granted by the City shall constitute a violation of this Code.
- (D) The procedure for enforcement of this Code shall be in accordance with the requirements established by Chapter 2, Article VIII of the Code of Ordinances for the City of Tarpon Springs, or any other applicable legal means.

(Ord. 90-10, passed 5-1-90; Am. Ord. 93-33, passed 10-19-93)

§ 218.00 - PROCEDURE FOR REHEARINGS.

- (A) The Board of Commissioners may reconsider an application required under this Code only if a request for rehearing is made within 30 days of the date of the original action taken by the Board of Commissioners.
- (B) Before reconsidering one of its decisions, the Board of Commissioners, after considering additional evidence or argument presented by the person making the request, must make a finding that evidence not previously considered, or a factual mistake related to the evidence considered exists.
- (C) The request to rehear shall be authorized only upon a motion of a member of the Board of Commissioners who voted on the prevailing side in the original Board of Commissioners action, and upon an affirmative vote of a majority of those present and voting.
- (D) Upon an affirmative vote granting the request to rehear, application shall be scheduled upon due public notice in accordance with the requirements for said application.

(Ord. 90-33, passed 9-5-90; Am. Ord. 93-33, passed 10-19-93)

(§§ 219.00 through 225.00 - reserved)