

Subpart B - LAND DEVELOPMENT REGULATIONS

Chapter 122 ZONING

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**Cross reference**— Any land development or zoning ordinance or amendment to the zoning map saved from repeal, § 1-7(9); buildings and building regulations, ch. 14; alcoholic beverages proximity to churches, schools, cemeteries and funeral homes, § 18-28; environment, ch. 26; floods, ch. 34; planning and development, ch. 54; streets and sidewalks, ch. 62; waterways, ch. 82; historic preservation, ch. 102; performance standards, ch. 106; planning and development, ch. 108; resources protection, ch. 110.

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ARTICLE I. IN GENERAL

**ARTICLE I. IN GENERAL**

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**Secs. 122-1—122-25. Reserved.**

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ARTICLE II. NONCONFORMITIES

**ARTICLE II. NONCONFORMITIES** <sup>[2]</sup>

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**Sec. 122-26. Definitions.**

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

*Acquiring authority* means the governmental entity proposing to acquire private property for a public transportation or other public purpose, pursuant to eminent domain action or by voluntary conveyance. Acquiring authorities include, but are not limited to, Monroe County, the City of Key West, and the Florida Department of Transportation ("FDOT").

*Cure plan* means a site plan submitted by an acquiring authority or a private property owner for a site subject to an eminent domain action or a voluntary conveyance for public transportation or other public purpose. The cure plan shall show proposed changes to structures or other features of the remainder parcel necessary to make the remainder parcel comply with the applicable land development regulations or, comply to the degree feasible.

*Dwelling unit.* See [section 86-9](#).

*Eminent domain action* means one or a series of actions taken by an acquiring authority to obtain fee simple title to all or some part of privately held real property for a public use.

*Eminent domain/public purpose waiver* means authorization from the City of Key West for the continued use and enjoyment of a remainder parcel subsequent to an eminent domain action or a voluntary conveyance for public transportation or other public purpose. An eminent domain/public purpose waiver shall not be issued where the remainder parcel and the existing structures located thereon conform with the applicable zoning district land development regulations as of the date that title transferred to an acquiring authority under an eminent domain action or through a voluntary conveyance.

*Noncomplying building or structure* means any building or other structure, for which the use is lawful (permitted or nonconforming), but the building or other structure does not comply with all applicable sections of the land development regulations, including, but not limited to, size and dimension regulations, off-street parking requirements, landscape requirements, nuisance abatement standards, or height requirements, either on the effective date of the ordinance from which this section derives or as a result of any subsequent amendment.

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*Nonconforming density* means the number of dwelling or living units per acre greater than the number allowed by the land development regulations, which were legally established or licensed prior to the effective date of the ordinance from which this section derives.

*Nonconforming use* means a use of a building or structure or a tract of land which does not, on the effective date of the ordinance from which this section derives or amendment thereto, conform to any one of the current permitted uses of the zoning district in which it is located, but which was legally established in accordance with the zoning in effect at the time of its inception or which use predates all zoning codes and which use has not changed or been abandoned. This definition shall not operate to make legal an unlicensed transient rental accommodation located in a residential structure.

*Owner of a remainder parcel* means the owner in fee simple title of a remainder parcel who is a successor in interest to a private property owner's interest in the remainder parcel; or, the owner in fee simple title of a remainder parcel whose title to the remainder parcel is derived from the private property owner or the private property owner's successors in title.

*Parent tract* means the parcel of land that existed prior to an acquiring authority's acquisition of some portion of the parcel through eminent domain action or voluntary conveyance for public transportation or other public purpose.

*Private property owner* means the owner in fee simple title of a parent tract.

*Remainder parcel* means that portion of the parent tract remaining in private ownership following an eminent domain action or a voluntary conveyance for public transportation or other public purpose.

*Voluntary conveyance* means the transfer of title to any portion of a parent tract by the private property owner to an acquiring authority for public transportation or other public purpose in lieu of an eminent domain action.

(Ord. No. 00-10, § 3, 6-6-2000; Ord. No. 12-18, § 1, 7-17-2012)

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

#### **Sec. 122-27. Intent.**

The intent of this article is to permit a nonconforming use and a noncomplying structure or building to be continued, to be reconstructed or replaced, or to be repaired or maintained under certain conditions, but not to encourage their expansion. Nonconforming densities may also be continued, reconstructed, replaced, repaired or maintained, although a distinction is made for reconstruction or replacement purposes between transient and permanent residential densities.

(Ord. No. 00-10, § 4, 6-6-2000)

#### **Sec. 122-28. Replacement or reconstruction.**

- (a) *Applicability*. This section applies both to voluntary reconstruction or replacement of dwelling units and involuntary reconstruction or replacement of dwelling units. Nothing in this section is intended to supersede applicable Federal Emergency Management Agency requirements for elevation in flood zones.
- (b) *Dwelling units (residential)*. Residential dwelling units may be replaced at their existing nonconforming density. Except as provided in subsection (f) of this section, dwelling units involuntarily destroyed do not require variances to be reconstructed or replaced. If a voluntary reconstruction or replacement occurs, if the dwelling units exist or existed in a noncomplying building or structure, the reconstruction or replacement that exceeds 66 percent of the assessed or appraised

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value of the building or structure shall require a variance granted by the planning board. In a voluntary reconstruction of a structure on a corner lot, the property owner must apply to the planning board for all necessary setback variances. All noncomplying accessory structures to the principal building or structure (e.g., a shed, pool, fence, etc., but not including a condominium clubhouse) shall also require a variance in order to be reconstructed or replaced, either voluntarily or involuntarily. If a proposed reconstruction or replacement would not otherwise require a variance but would add a new building or structure to the site to accommodate density, a variance shall be required for the additional building or structure. A residential building in which one or more units hold a residential transient use business tax receipt shall be deemed residential for the purposes of this section.

- (c) *Dwelling units (transient)*. Transient dwelling units may be replaced at their existing nonconforming density so long as the reconstruction or replacement complies with all zoning district regulations, review procedures and performance criteria contained in the land development regulations. No variances shall be granted to accommodate such reconstruction or replacement; provided, however, that a variance may be granted to setbacks only if existing setback regulations would create undue hardship.
- (d) *Properties without dwelling units*. For a proposed reconstruction or replacement of a property without dwelling units, where that property is either a nonconforming use or a noncomplying building or structure, (i) if the property is involuntarily destroyed, reconstruction or replacement does not require a variance; and (ii) if voluntarily destroyed to the extent that reconstruction or replacement would exceed 50 percent of the property's appraised or assessed value, the applicant must apply to the planning board for a variance.
- (e) *Mixed use properties*. If a property contains both a dwelling unit and a commercial use, its reconstruction or replacement shall be governed, separately, under each applicable subsection set forth in this section.
- (f) *Historic district*. Notwithstanding any other subsection contained in this section, if a noncomplying building or structure is a contributing building or structure according to the historic architectural review commission (HARC) and it is involuntarily destroyed, such building or structure may be reconstructed or replaced without a variance so long as it is to be rebuilt in the three-dimensional footprint of the original building and built in the historic vernacular as approved by the historic architectural review commission.
- (g) *Miscellaneous*. With respect to subsections (a) through (f) of this section, the development review committee and the planning board, in evaluating petitions for variance, shall balance the need to protect life and property with the need to preserve the economic base of the community. Under no circumstances shall a voluntarily or involuntarily destroyed nonconforming use or noncomplying building or structure be replaced to a degree or level that increases or expands the prior existing nonconforming use or noncomplying building or structure.

(Ord. No. 00-10, § 5, 6-6-2000; Res. No. 06-292, § 1, 9-6-2006; Ord. No. 08-04, § 24, 5-20-2008)

#### **Sec. 122-29. Repairs and maintenance.**

- (a) *Generally*. Any building or structure devoted in whole or in part to a nonconforming density or nonconforming use may be repaired and maintained as provided in this section. If repair or maintenance shall exceed the criteria set forth in this section, renovation of the building or structure shall be governed by [section 122-28](#)
- (b) *Residential or transient dwelling units*. For residential or transient dwelling units, work may be done in any period of 12 consecutive months for repairs and maintenance to an extent not exceeding 66 percent of the current assessed or appraised value.

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- (c) *Property without dwelling units or mixed use (commercial)*. For property without dwelling units or mixed use (commercial), work may be done in any period for 12 consecutive months on ordinary repairs and maintenance to an extent not exceeding 50 percent of the current assessed or appraised value.

(Ord. No. 00-10, § 6, 6-6-2000)

**Sec. 122-30. Abandonment of nonconforming use.**

If a nonconforming use ceases, except when government action impedes access to the premises, any and every future use of the building or structure and/or premises shall be in conformity with the use sections of the land development regulations. All material and equipment associated with the abandoned nonconforming use shall be completely removed from the premises by its owner. No new structure or addition that does not conform to the requirements of this article shall be erected in connection with such nonconforming use. A nonconforming use shall be considered abandoned when such use has ceased for a period of 24 months. If a dispute occurs with the city about whether a use has been abandoned, the owner shall be entitled to a hearing before the planning board.

(Ord. No. 00-10, § 7, 6-6-2000; Ord. No. 08-04, § 25, 5-20-2008)

**Sec. 122-31. Noncomplying lots or building sites of record.**

- (a) In any district in which single-family dwellings are allowed, a single-family dwelling and customary accessory buildings may be erected on any legal nonconforming single lot that is in existence on January 1, 1994, and that is in different ownership from the adjoining property. This subsection shall apply even though such lot fails to meet the requirements for area, depth or width, provided that all other zoning requirements shall apply.
- (b) If two or more adjoining lots or portions of lots in single ownership on January 1, 1994, do not meet the requirements for building site width, depth and area as established by this article, the land involved shall be considered to be an undivided parcel, and no portion of the parcel shall be used or sold that does not meet building site width, depth and area requirements, nor shall any division of the parcel be made that leaves remaining any lot with substandard width, depth, area, parking, open space or stormwater retention. Notwithstanding anything to the contrary in this subsection, two or more adjoining lots or building sites shall not be considered to be an undivided parcel, and may be sold or used for single-family dwellings, if allowed by applicable district regulations, so long as each lot or building site is at least 75 percent of the minimum lot size of the applicable district regulations and is not otherwise required to provide required parking for the adjacent parcel.

(Ord. No. 00-10, § 8, 6-6-2000)

**Sec. 122-32. Additional regulations.**

- (a) A nonconforming use, nonconforming density or a noncomplying building or structure may be continued, subject to this article.
- (b) A casual, intermittent, temporary or illegal use of land, building or structure shall not be sufficient to establish the existence of a nonconforming use, nonconforming density or noncomplying building or structure.
- (c) Should any noncomplying building or structure be moved for any reason from its location, it shall thereafter conform to the regulations or the zoning district of its new location.

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- (d) A nonconforming use shall not be extended, expanded, enlarged, or increased in intensity. This prohibition shall include but not be limited to the extension of a nonconforming use within a building or structure or to any other building or structure.
- (e) A nonconforming use of a building or structure may be changed to another nonconforming use if the planning board finds that:
  - (1) The new use is equally or more appropriate to the zoning district; and
  - (2) The change of use would not intensify the use of the premises by increasing the need for parking facilities; increasing vehicular traffic to the neighborhood; increasing noise, dust, fumes or other environmental hazards; or by having an adverse impact on drainage.
- (f) This article shall apply to signs, consistent with [chapter 114](#)  
(Ord. No. 00-10, § 9, 6-6-2000; Ord. No. 08-04, § 26, 5-20-2008)

**Sec. 122-33. Eminent domain/public purpose waiver.**

An eminent domain/public purpose waiver is intended to provide private property owners and owners of remainder parcels a viable and fair alternative to the adverse impact on their real property, as a result of an eminent domain action or voluntary conveyance to an acquiring authority. It allows the continued use of the remainder parcel in a manner similar to its pre-acquisition, pre-taking, or pre-conveyance condition. Waivers provided pursuant to this [section 122-33](#) can be obtained for nonconforming lots and structures. Waivers cannot be granted for nonconforming uses.

- (a) Applicability.
  - (1) Vacant parcels, whether conforming or nonconforming lots, shall be eligible for an eminent domain/public purpose waiver from land development regulations including, but not limited to, minimum lot size, setbacks, parking, open space, pervious versus impervious area, density, floor area ratios, landscaping and landscape buffers, and signage setbacks, pursuant to sections [122-33](#)(c), (d), and (e).
  - (2) Developed parcels. Where an eminent domain action or voluntary conveyance for public transportation or other public purpose reduces the lot size and creates a nonconforming remainder parcel but does not require the relocation of site features, said parcel shall be eligible for an eminent domain/public purpose waiver from land development regulations including, but not limited to, minimum lot size, setbacks, parking, open space, pervious versus impervious area, floor area ratios, density, landscaping and landscape buffers, and signage setbacks, pursuant to sections [122-33](#)(c), (d) and (e).
  - (3) Developed parcels. Where an eminent domain action or voluntary conveyance for public transportation or other public purpose requires the relocation of site features including, but not limited to, buildings, parking spaces, landscaping, stormwater facilities, dumpsters, light poles and signs, such a parcel shall be eligible for an eminent domain/public purpose waiver, pursuant to sections [122-33](#)(c) and (e).
- (b) An acquiring authority, a private property owner, and an owner of a remainder parcel are each hereby granted the authority to apply for a waiver from the land development regulations on a remainder parcel that has resulted or will result from an eminent domain action or voluntary conveyance for public transportation or other public purpose. The application may be made prior to or after the acquiring authority has obtained title to some part of the parent tract. The city planner shall have authority to grant eminent domain/public purpose waivers pursuant to sections [122-33](#)(c), (d) and (e).

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- (c) Procedure for an acquiring authority or private property owner to apply for an eminent domain/public purpose waiver.
- (1) An acquiring authority or a private property owner may apply in writing to the city planner for a waiver pursuant to sections [122-33\(c\)](#) and (e). The applicable fee, established by resolution, shall be submitted with the following documents:
    - a. An as-built drawing of the parent tract and a legal description of the portion to be acquired by or transferred to the acquiring authority and the remainder parcel shall be submitted for those circumstances described in sections [122-33\(a\)\(1\)](#), (2) and (3) above. The as-built drawing must show the parent tract and the remainder parcel with the proposed changes to the site including, but not limited to, buildings, parking, landscaping, stormwater facilities, topographic data and adjacent right-of-way; and
    - b. A site plan (a cure plan as defined herein) showing the parent tract and the remainder parcel with the proposed changes to the site including, but not limited to, buildings, parking, landscaping, stormwater facilities, topographic data and adjacent right-of-way. Submittal of a cure plan shall not be necessary on a vacant parcel but shall be required for those parcels described in [section 122-33\(a\)\(3\)](#) above.
  - (2) If an application for a waiver is submitted by an acquiring authority, the private property owner shall be notified via certified mail (return receipt requested) by the city planner within ten days of the application submittal date. Likewise if the private property owner applies for a waiver, the acquiring authority shall be notified via certified mail (return receipt requested) by the city planner within ten days of the application submittal date.
  - (3) The city planner shall grant or deny a waiver pursuant to [section 122-33\(c\)](#) in accordance with the standards set forth in [section 122-33\(e\)](#) below. A certified letter (return receipt requested) shall be issued within 30 days to the acquiring authority and the private property owner following the decision. The private property owner shall not be required to accept the waiver or implement a cure plan, as approved by the city planner.
- (d) Procedure for an owner of a remainder parcel to apply for an eminent domain/public purpose waiver.
- (1) An owner of a remainder parcel may apply in writing to the city planner for a waiver pursuant to sections [122-33\(d\)](#) and (e). The applicable fee, established by resolution, shall be submitted with the following documents:
    - a. An as-built drawing depicting the remainder parcel and that portion of the parent tract previously acquired by or transferred to the acquiring authority following an eminent domain action or as a result of a voluntary conveyance shall be submitted for those circumstances described in [section 122-33\(a\)\(1\)](#) and (2) above; and
    - b. A certified copy of the recorded document evidencing the acquiring authority's acquisition of a portion of the parent tract following an eminent domain action or a certified copy of the deed of conveyance wherein the private property owner conveyed a portion of the parent tract to the acquiring authority as a result of a voluntary conveyance for public transportation or other public purpose.
  - (2) The city planner shall grant or deny a waiver pursuant to [section 122-33\(d\)](#) in accordance with the standards set forth in [section 122-22\(e\)](#) below. A certified letter (return receipt requested) shall be issued within 30 days to the owner of a remainder parcel following the decision.
- (e) Standards for issuance of eminent domain/public purpose waivers.

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- (1) If an existing lot, parcel or structure becomes nonconforming (or an existing nonconformity becomes less conforming) as a result of a voluntary conveyance to an acquiring authority or an eminent domain action, a waiver may be granted by the city planner, provided a determination is made by the city planner that:
  - a. The requested waiver will not adversely affect safety, aesthetic or environmental conditions of neighboring properties; and
  - b. The requested waiver shall not adversely affect the safety of pedestrians or operations of motor vehicles; and
  - c. The requested waiver will not encourage or promote the continuation of existing uses of the property which have been or will be rendered unfeasible or impractical due to the impacts of the taking, conveyance, and/or construction of the roadway or other facility including, but not limited to, aesthetic, visual noise, dust, vibration safety, land use compatibility, environmental or other impacts.

(Ord. No. 12-18, § 2, 7-17-2012)

**Sec. 122-34. Status of parcels during or after acquisition by eminent domain action or voluntary conveyance for public transportation or other public purpose.**

- (a) Where a waiver is issued pursuant to [section 122-33\(c\)](#) and (d), the waiver shall become effective and the remainder parcel shall be considered compliant to the degree feasible after an acquiring authority takes title to any portion of real property subject to an eminent domain action or voluntary conveyance for public transportation or other public purpose.
- (b) Where a private property owner accepts a waiver on a remainder parcel that was also a vacant parcel or where no cure plan was necessary, the waiver shall remain valid and applicable to the remainder parcel indefinitely. However, future site plan and building permit approvals shall comply with all provisions in the land development regulations except those listed in the waiver.
- (c) Where a private property owner accepts a waiver based upon a cure plan, the physical changes to the remainder parcel, specified in the cure plan, shall occur within two years of the waiver and cure plan being approved. Future site plan and building permit approvals shall comply with all provisions in the land development regulations except those listed in the waiver.
- (d) Waivers issued pursuant to this section may be appealed in the manner provided for appeals of administrative interpretations of the city planner pursuant to [section 90-430](#)
- (e) The city planner shall cause waivers issued pursuant to this section to be filed with the city clerk and recorded in the public records of Monroe County no later than 30 days from the effective date of the waiver.
- (f) The provisions of sections [122-33\(c\)](#), (d), and (e) shall not be interpreted to allow for the continued existence of building or safety code violations that are determined to be an immediate threat to the public health, safety or welfare.
- (g) The appropriate city staff are hereby authorized to take any necessary steps to enforce all applicable building and safety codes though the subject property is part of a pending governmental acquisition.

(Ord. No. 12-18, § 3, 7-17-2012)

**Secs. 122-35—122-60. Reserved.**

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FOOTNOTE(S):

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**Cross reference**— Buildings and building regulations, ch. 14. [\(Back\)](#)

ARTICLE III. CONDITIONAL USES

**ARTICLE III. CONDITIONAL USES**

[Sec. 122-61. Purpose and intent.](#)

[Sec. 122-62. Specific criteria for approval.](#)

[Sec. 122-63. Review; enforcement.](#)

[Sec. 122-64. Notification procedures.](#)

[Sec. 122-65. Appeals of actions.](#)

[Secs. 122-66—122-90. Reserved.](#)

**Sec. 122-61. Purpose and intent.**

The purpose of this article is to ensure that a conditional use shall only be permitted on specific sites where the proposed use may be adequately accommodated without generating adverse impacts on properties and land uses within the immediate vicinity. This article sets forth provisions and criteria for consideration of conditional uses on specific sites. Conditional uses shall be permitted only upon a finding that the proposed use satisfies this article.

(Ord. No. 97-10, § 1(2-6.1), 7-3-1997)

**Sec. 122-62. Specific criteria for approval.**

- (a) *Findings.* A conditional use shall be permitted upon a finding by the planning board that the proposed use, application and, if applicable, development plan comply with the criteria specified in this section, including specific conditions established by the planning board and or the city commission during review of the respective application in order to ensure compliance with the comprehensive plan and land development regulations. If the proposed conditional use is a major development pursuant to sections 108-165 and 108-166, the city commission shall render the final determination pursuant to [section 122-63](#). A conditional use shall be denied if the city determines that the proposed use does not meet the criteria provided in this section and, further, that the proposed conditional use is adverse to the public's interest. An application for a conditional use shall describe how the specific land use characteristics proposed meet the criteria described in subsection (c) of this section and shall include a description of any measures proposed to mitigate against possible adverse impacts of the proposed conditional use on properties in the immediate vicinity.
- (b) *Characteristics of use described.* The following characteristics of a proposed conditional use shall be clearly described as part of the conditional use application:
  - (1) Scale and intensity of the proposed conditional use as measured by the following:
    - a. Floor area ratio;
    - b. Traffic generation;
    - c. Square feet of enclosed building for each specific use;
    - d. Proposed employment;
    - e. Proposed number and type of service vehicles; and
    - f. Off-street parking needs.

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- (2) On- or off-site improvement needs generated by the proposed conditional use and not identified on the list in subsection (b)(1) of this section including the following:
    - a. Utilities;
    - b. Public facilities, especially any improvements required to ensure compliance with concurrency management as provided in [chapter 94](#)
    - c. Roadway or signalization improvements, or other similar improvements;
    - d. Accessory structures or facilities; and
    - e. Other unique facilities/structures proposed as part of site improvements.
  - (3) On-site amenities proposed to enhance site and planned improvements. Amenities including mitigative techniques such as:
    - a. Open space;
    - b. Setbacks from adjacent properties;
    - c. Screening and buffers;
    - d. Landscaped berms proposed to mitigate against adverse impacts to adjacent sites; and
    - e. Mitigative techniques for abating smoke, odor, noise, and other noxious impacts.
- (c) *Criteria for conditional use review and approval.* Applications for a conditional use shall clearly demonstrate the following:
- (1) *Land use compatibility.* The applicant shall demonstrate that the conditional use, including its proposed scale and intensity, traffic-generating characteristics, and off-site impacts are compatible and harmonious with adjacent land use and will not adversely impact land use activities in the immediate vicinity.
  - (2) *Sufficient site size, adequate site specifications, and infrastructure to accommodate the proposed use.* The size and shape of the site, the proposed access and internal circulation, and the urban design enhancements must be adequate to accommodate the proposed scale and intensity of the conditional use requested. The site shall be of sufficient size to accommodate urban design amenities such as screening, buffers, landscaping, open space, off-street parking, efficient internal traffic circulation, infrastructure (i.e., refer to [chapter 94](#) to ensure concurrency management requirements are met) and similar site plan improvements needed to mitigate against potential adverse impacts of the proposed use.
  - (3) *Proper use of mitigative techniques.* The applicant shall demonstrate that the conditional use and site plan have been designed to incorporate mitigative techniques needed to prevent adverse impacts to adjacent land uses. In addition, the design scheme shall appropriately address off-site impacts to ensure that land use activities in the immediate vicinity, including community infrastructure, are not burdened with adverse impacts detrimental to the general public health, safety and welfare.
  - (4) *Hazardous waste.* The proposed use shall not generate hazardous waste or require use of hazardous materials in its operation without use of city-approved mitigative techniques designed to prevent any adverse impact to the general health, safety and welfare. The plan shall provide for appropriate identification of hazardous waste and hazardous material and shall regulate its use, storage and transfer consistent with best management principles and practices. No use which generates hazardous waste or uses hazardous materials shall be located in the city unless the specific location is consistent with the comprehensive plan and land development regulations and does not adversely impact wellfields, aquifer recharge areas, or other conservation resources.

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- (5) *Compliance with applicable laws and ordinances.* A conditional use application shall demonstrate compliance with all applicable federal, state, county, and city laws and ordinances. Where permits are required from governmental agencies other than the city, these permits shall be obtained as a condition of approval. The city may affix other conditions to any approval of a conditional use in order to protect the public health, safety, and welfare.
- (6) *Additional criteria applicable to specific land uses.* Applicants for conditional use approval shall demonstrate that the proposed conditional use satisfies the following specific criteria designed to ensure against potential adverse impacts which may be associated with the proposed land use:
- a. *Land uses within a conservation area.* Land uses in conservation areas shall be reviewed with emphasis on compliance with [section 108-1](#) and articles III, IV, V, VII and VIII of [chapter 110](#) pertaining to environmental protection, especially compliance with criteria, including land use compatibility and mitigative measures related to wetland preservation, coastal resource impact analysis and shoreline protection, protection of marine life and fisheries, protection of flora and fauna, and floodplain protection. The size, scale and design of structures located within a conservation area shall be restricted in order to prevent and/or minimize adverse impacts on natural resources. Similarly, public uses should only be approved within a wetland or coastal high hazard area V zone when alternative upland locations are not feasible on an upland site outside the V zone.
  - b. *Residential development.* Residential development proposed as a conditional use shall be reviewed for land use compatibility based on compliance with divisions 2 through 14 of article IV and divisions 2 and 3 of article V of this chapter pertaining to zoning district regulations, including size and dimension regulations impacting setbacks, lot coverage, height, mass of building, building coverage, and open space criteria. Land use compatibility also shall be measured by appearance, design, and land use compatibility criteria established in [chapter 102](#); articles III, IV and V of [chapter 108](#); [section 108-956](#); and article II of [chapter 110](#); especially protection of historic resources; subdivision of land; access, internal circulation, and off-street parking; as well as possible required mitigative measures such as landscaping and site design amenities.
  - c. *Commercial or mixed use development.* Commercial or mixed use development proposed as a conditional use shall be reviewed for land use compatibility based on compliance with divisions 2 through 14 of article IV and divisions 2 and 3 of article V of this chapter pertaining to zoning district regulations, including size and dimension regulations impacting floor area ratio, setbacks, lot coverage, height, mass of buildings, building coverage, and open space criteria. Land use compatibility also shall be measured by appearance, design, and land use compatibility criteria established in [chapter 102](#); articles I, II, IV and V of [chapter 108](#); [section 108-956](#); and article II of [chapter 110](#); especially protection of historic resources; subdivision of land; access, pedestrian access and circulation; internal vehicular circulation together with access and egress to the site, and off-street parking; as well as possible required mitigative measures such as landscaping, buffering, and other site design amenities. Where commercial or mixed use development is proposed as a conditional use adjacent to U.S. 1, the development shall be required to provide mitigative measures to avoid potential adverse impacts to traffic flow along the U.S. 1 corridor, including but not limited to restrictions on access from and egress to U.S. 1, providing for signalization, acceleration and deceleration lanes, and/or other appropriate mitigative measures.
  - d. *Development within or adjacent to historic district.* All development proposed as a conditional use within or adjacent to the historic district shall be reviewed based on applicable criteria stated in this section for residential, commercial, or mixed use development and shall also comply with appearance and design guidelines for historic

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#### ARTICLE III. CONDITIONAL USES

structures and contributing structures and/or shall be required to provide special mitigative site and structural appearance and design attributes or amenities that reinforce the appearance, historic attributes, and amenities of structures within the historic district.

- e. *Public facilities or institutional development.* Public facilities or other institutional development proposed as a conditional use shall be reviewed based on land use compatibility and design criteria established for commercial and mixed use development. In addition, the city shall analyze the proposed site location and design attributes relative to other available sites and the comparative merits of the proposed site, considering professionally accepted principles and standards for the design and location of similar community facilities and public infrastructure. The city shall also consider compliance with relevant comprehensive plan assessments of community facility and infrastructure needs and location impacts relative to service area deficiencies or improvement needs.
- f. *Commercial structures, uses and related activities within tidal waters.*  
The criteria for commercial structures, uses and related activities within tidal waters are as provided in [section 122-1186](#).
- g. *Adult entertainment establishments.* The criteria for adult entertainment establishments are as provided in division 12 of article V of this chapter.

(Ord. No. 97-10, § 1(2-6.2), 7-3-1997; Ord. No. 01-13, § 1, 9-18-2001)

#### **Sec. 122-63. Review; enforcement.**

- (a) The application for a conditional use shall be on a form provided by the city planning office and shall be submitted to the city planning office. Required attachments, as stated on the application form, shall be submitted with the application. The development review committee shall perform a technical review of each proposed conditional use and provide comments to the planning department.
- (b) Upon receipt of the comments of the development review committee, the planning department shall review the project and provide a report with recommendations to the planning board. The planning board shall consider applications for a conditional use at a regularly scheduled board meeting. The planning board shall approve, approve with conditions or deny a proposed conditional use.
- (c) On all development, except major developments as defined in sections 108-165 and 108-166, the planning board's decision shall be final unless that decision is appealed to the city commission within ten days following the planning board's action. Refer to [section 122-65](#). Where a conditional use is proposed as part of a major development as defined in sections 108-165 and 108-166, the planning board's decision regarding the conditional use approval is advisory only, and the final decision shall be rendered by the city commission when the major development plan is considered by the city commission.
- (d) A written record of findings by the planning board shall be maintained, including a written statement of all the following:
  - (1) Conditions of approval; and
  - (2) Findings supporting denial of a conditional use.
- (e) Revisions or additions to a conditional use shall be reviewed based on the criteria of [section 122-62](#)(b) and (c). The procedures governing such reviews shall be identical to the procedures identified for the respective development plan which are presented in article II of [chapter 108](#). A conditional use shall expire if construction has not commenced within 12 months of approval. A conditional use may be extended only one time for 12 months by a favorable vote of the planning board or city commission, when the project is a major development, if the applicant submits a petition for such

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extension prior to the development plan's expiration and demonstrated reasonable cause for the extension. The burden of proof in justifying reasonable cause shall rest with the applicant.

- (f) A conditional use approval shall run with the land and is transferable to successors in ownership. The use must remain compliant with all applicable rules and regulations, including any specific conditions duly mandated by the city as a condition of the original conditional use approval. At the city's option, it may enforce an alleged violation of a conditional use approval either in a court of law or in the proceedings of the code enforcement special magistrate pursuant to the procedures set forth in [chapter 2](#), article VI of the Code of Ordinances. For the purposes of this subsection, the terms "conditional use" and "special exception" are of equal meaning. Such a violation shall be enforceable under, and subject to the penalties provided in, [chapter 86](#) and [section 1-15](#) of the Code of Ordinances, or in accordance with any other applicable provision of the Code of Ordinances or of state law.

(Ord. No. 97-10, § 1(2-6.3), 7-3-1997; Ord. No. 02-26, § 5, 11-6-2002; Ord. No. 06-12, § 1, 7-5-2006)

#### **Sec. 122-64. Notification procedures.**

Prior to taking any action under [section 122-63](#) regarding conditional use approval, the planning board shall be required to notify the public in accordance with division 2 of article VIII of [chapter 90](#). Such notice shall also be published before any action is taken on appeals to the city commission pursuant to [section 122-65](#).

(Ord. No. 97-10, § 1(2-6.4), 7-3-1997; Ord. No. 00-04, § 14, 2-1-2000)

#### **Sec. 122-65. Appeals of actions.**

Any applicant for conditional use approval or any other aggrieved person having an interest therein may file an appeal to the city commission to review the action of the planning board in allowing or disallowing the application for a conditional use approval as provided in [section 90-427](#) pertaining to final decisions of the planning board. The notice of appeal shall be in writing and filed with the city clerk within ten calendar days from the date of final action of the planning board. The city clerk shall place the matter of appeal on the city commission agenda as expeditiously as possible. The city commission shall thereupon set a date for a public hearing with regard to such appeal. After giving public notice thereof in such manner as the city commission shall prescribe, at which time all interested parties shall have the right to appear before the city commission in regard thereto, the city commission shall thereupon render its decision therein. The decision of the city commission shall be final, unless otherwise appealed to the courts. Where an appeal to an approved conditional use is upheld, any construction activity shall be stayed pursuant to the provisions of the city's building code. For a conditional use involving a major development, the final action rests with the city commission. Appeals to actions of the city commission shall be to the courts.

(Ord. No. 97-10, § 1(2-6.5), 7-3-1997)

#### **Secs. 122-66—122-90. Reserved.**

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**ARTICLE IV. DISTRICTS**

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**Sec. 122-91. Comprehensive plan implementation.**

In order to implement the comprehensive plan in a manner consistent with F.S. § 163.3201, the land development regulations in this division are established. They are intended to assist in managing comprehensive planning issues surrounding the use and/or development of specific lots, parcels, and tracts of land or any combination thereof within the city.

(Ord. No. 97-10, § 1(2-4.1), 7-3-1997)

**Sec. 122-92. Future land use map designations and zoning districts.**

The following table references adopted future land use map designations contained in the land use element of the city comprehensive plan and identifies corresponding zoning districts which are established in order to implement the future land use map designations, respectively:

FUTURE LAND USE MAP DESIGNATIONS AND ZONING DISTRICTS

<i>Residential</i>	
LDR-C	Low density residential—coastal
SF	Single-family units
MDR-C	Medium density residential—coastal
MDR	Medium density residential
HDR	High density residential

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<i>Commercial Development</i>	
CL	Limited commercial
CG	General commercial
CT	Salt Pond tourist commercial
<i>Mixed Use New Town Development</i>	
RO	Residential/office
PRD	Planned redevelopment and development
<i>Old Town Historic Preservation</i>	
HRO	Historic residential/office
HRCC-1	High density residential/commercial core: Bay side
HRCC-2	High density residential/commercial core: Key West Bight
HRCC-3	High density residential/commercial core: Atlantic side
HMDR	Medium density residential
HSMDR	Historic special medium density residential
HPRD	Planned development and redevelopment
HNC-1	Neighborhood commercial: Simonton, Truman, and S. White Street corridors
HNC-2	Neighborhood commercial: Old Town northeast and southeast
HNC-3	Neighborhood commercial: Bahama Village

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HCT	Tourist commercial
HPS	Public service, including recreation and open space
HHDR	High density residential
<i>Institutional</i>	
PS	Public services <sup>(1)</sup>
A	Airport
<i>Conservation</i>	
C	Conservation <sup>(2)</sup>
(1)	"Public services" includes all lands designated "public services" or "military" on the comprehensive plan future land use map series which are located within the city limits.
(2)	"Conservation" incorporates all lands designated "conservation" on the comprehensive plan future land use map series, including tidal and freshwater wetlands, mangroves, upland hammocks, and waters of the state, including an area extending 600 feet into the tidal waters adjacent to the corporate city limits.

(Ord. No. 97-10, § 1(2-4.2), 7-3-1997; Ord. No. 12-33, § 1, 9-18-2012)

**Sec. 122-93. Official zoning map and district boundaries.**

- (a) *Map adoption.* The boundaries of each zoning district are on the official zoning map for the city. The boundaries of the districts, together with all explanatory statements thereon, are adopted and incorporated as a part of this subpart B. Pursuant to Laws of Fla. ch. 78-540, § 8, the city shall exercise extraterritorial zoning powers within an area extending 600 feet into the tidal waters adjacent to the corporate city limits. Accordingly, the official zoning map of the city shall apply a zoning classification of "conservation-outstanding waters of the state (C-OW)" district to the described tidal waters. These tidal waters are designated "conservation-outstanding waters of the state (C-OW)" on the future land use map and are part of the designated National Marine Sanctuary.
- (b) *Map amendment.* Procedures for amendment of the official zoning map are as follows:

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- (1) No changes or amendments to the official zoning map shall be made except in compliance and conformity with all procedures set forth in this subpart B. If changes or amendments are made to district boundaries or other subject matter portrayed on the official zoning map, such changes or amendments shall be made promptly after official adoption of the change or amendment as provided for in this subsection. The city clerk shall be responsible for ensuring that the physical updating and amendment of the official zoning map is carried out in a timely manner.
- (2) Where a proposed rezoning affects a large portion of the land area of the city, it shall be considered to be legislative in nature and shall be enacted in accordance with legislative standards contained in the state constitution, the state statutes, the city's comprehensive plan and the city land development regulations.
- (3) Where a proposed rezoning affects a limited number of persons or property owners or is contingent on a fact arrived at from distinct alternatives presented at a hearing and where the decision can be functionally viewed as policy application rather than policy setting, it shall be considered to be quasijudicial in nature, and the rules contained in this subsection shall apply. The property owner shall have the burden of proving that the rezoning proposal is consistent with the comprehensive plan and that it complies with all procedural requirements of the zoning ordinances. Should the property owner prove these elements, the burden shifts to the city commission to show that maintenance of the existing zoning classification with respect to the property accomplishes a legitimate public purpose and to show that denial of rezoning approval is not arbitrary, discriminatory, or unreasonable. In rendering a decision, the city commission shall not be required to make a finding of fact. City commission action on a rezoning request for a limited number of persons or property owners shall be reviewable by petition for writ of certiorari in accordance with the Florida Rules Appellate Procedure. The standard for review shall be "strict scrutiny," by which is meant the same standard as that used in the review of other quasijudicial decisions and not constitutional cases. The city commission's decision should be upheld if the city can show that there was competent substantial evidence presented to the city commission to support its ruling.
- (4) The new official zoning map may correct drafting and clerical errors or omissions in the prior official zoning map, but no such corrections shall have the effect of amending this subpart B or any subsequent amendment thereto without duly noticed public hearings as provided in this subsection.
- (5) When any official zoning map is replaced, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption and amendment.

(Ord. No. 97-10, § 1(2-4.3), 7-3-1997)

**Sec. 122-94. Interpretation of district boundaries.**

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

- (1) *Centerlines.* Boundaries indicated as approximately following the centerlines of streets, highways and alleys shall be construed as following such lines.
- (2) *Lot, section and tract lines.* Boundaries indicated as approximately following platted lot lines or section or tract lines shall be construed as following such lines.
- (3) *Political boundaries.* Boundaries indicated as approximately following political boundaries shall be construed as following such political boundaries.

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- (4) *Shorelines.* Boundaries indicated as following shorelines shall be construed as following the mean high water line (MHW), and if the mean high water line changes, the shoreline shall be construed as moving with the mean high water line. Boundaries indicated as approximately following the centerline of streams, rivers, canals, or other bodies of water shall be construed to follow such centerlines.
- (5) *Parallel lines.* Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (4) of this section shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- (6) *Bisecting lines.* Where district boundary lines approximately bisect blocks, the boundaries are the median line of such blocks, between the centerlines of boundary streets.
- (7) *Uncertainties.* Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map or if any other uncertainty exists, the city commission shall interpret the intent of the official zoning map as to the location of district boundaries.
- (8) *Street abandonments.* Where a public road, street or alley is officially vacated or abandoned, the regulations applicable to the property to which it reverted shall apply to such vacated or abandoned road, street, or alley.
- (9) *Excluded areas.* Where parcels of land and water areas have been inadvertently excluded from a zoning district classification in any manner, such parcels shall be classified in conformance with the most restrictive zoning district which abuts the excluded area until or unless changed pursuant to amendment procedures contained in this division.

(Ord. No. 97-10, § 1(2-4.4), 7-3-1997)

**Sec. 122-95. Compliance required.**

No building or structure shall be erected, reconstructed or structurally altered, nor shall any building, land or water be used for any purpose other than a use permitted in the district in which such building, land or water is located. No building or land shall be used so as to produce greater heights, smaller yards, less unoccupied area, or higher density or intensity than is prescribed for such building or land within the district regulations in which the building or land is located. No lot which is or which may be built upon shall be so reduced in area so that the yards and open spaces will be smaller than prescribed by this subpart B.

(Ord. No. 97-10, § 1(2-4.5), 7-3-1997)

**Sec. 122-96. Procedures and criteria for review of similar uses.**

In the classification of uses stipulated by zoning district in divisions 2 through 14 of article IV and divisions 2 and 3 of article V of this chapter, wherever reference is made to the term "other similar uses," the planning board and city commission shall apply the following procedures and criteria in the review of such uses:

- (1) The criteria for review shall be the same general criteria used in review of conditional uses.
- (2) Procedures for review shall be the same procedures used in review of a conditional use.
- (3) In addition, the planning board and city commission shall determine:
  - a. Whether the use is similar in character to other uses cited in the specific land use classification; and

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- b. Whether the impacts generated by the use are similar in character to the impact generated by other uses cited in the specific land use classification.

(Ord. No. 97-10, § 1(2-4.6), 7-3-1997)

**Sec. 122-97. Scope.**

This article and divisions 2 and 3 of article V of this chapter describe the purposes and intent of each zoning district, identify permitted and conditional uses by zoning district, and provide size and dimensional regulations for respective zoning districts. All proposed new development shall be required to comply with performance criteria of chapters [94](#), [102](#) and [106](#); articles I and III through IX of [chapter 108](#); site plan review requirements of article II of [chapter 108](#); and chapters 110 and [114](#). Divisions 2 through 14 of this article and divisions 2 and 3 of article V of this chapter present the basic purpose and intent of each zoning district and the uses permitted therein.

(Ord. No. 97-10, § 1(art. V), 7-3-1997)

**Secs. 122-98—122-125. Reserved.**

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***DIVISION 2. CONSERVATION DISTRICT (C)***

[Sec. 122-126. Intent.](#)

[Sec. 122-127. Transfer of development rights.](#)

[Sec. 122-128. Uses permitted.](#)

[Sec. 122-129. Conditional uses.](#)

[Sec. 122-130. Prohibited uses.](#)

[Sec. 122-131. Dimensional requirements.](#)

[Sec. 122-132. Additional criteria for commercial structures, uses and related activities within tidal waters—Generally.](#)

[Sec. 122-133. Same—Additional criteria applicable to required development plans.](#)

[Sec. 122-134. Same—Required intergovernmental coordination.](#)

[Sec. 122-135. Same—Location criteria—Generally.](#)

[Sec. 122-136. Same—Same—Location of commercial water-sport structures and uses potentially disruptive to the quality of shoreline aesthetics or waterfront vistas.](#)

[Sec. 122-137. Same—Regulations on personal watercraft—Generally.](#)

[Sec. 122-138. Same—Same—Definitions.](#)

[Sec. 122-139. Same—Same—Safety standards.](#)

[Sec. 122-140. Same—Same—Licensing and insurance requirements applicable to personal watercraft for hire.](#)

[Sec. 122-141. Same—Same—Franchise and lease agreements.](#)

[Sec. 122-142. Same—Same—Other restrictions applicable to personal watercraft rental.](#)

[Sec. 122-143. Same—Same—Conditions for approving location of structures and uses hazardous to living marine resources within tidal waters.](#)

[Secs. 122-144—122-170. Reserved.](#)

**Sec. 122-126. Intent.**

- (a) The purpose of this division is to implement the comprehensive plan policies for preserving areas designated "conservation" on the comprehensive plan future land use map. These conservation district areas primarily consist of environmentally sensitive natural resources and systems, including but not limited to the Salt Ponds, tidal wetlands, mangroves, freshwater wetlands, transitional wetlands, upland hammocks, and waters of the state including an area extending 600 feet into the tidal water adjacent to the corporate city limits. The intent of this district is to provide for the longterm preservation of environmentally sensitive natural resources systems designated "conservation" on the comprehensive plan future land use map.
- (b) No development shall be permitted within the conservation district and/or within waters below mean high water, wetlands, upland habitats or yellow heart hammocks unless the applicant for such

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development provides proof of permits or proof of exemptions from all applicable state or federal agencies having jurisdiction. Where the city determines that development should be allowed to occur for purposes of avoiding a taking, the density in no case shall exceed one unit per ten acres, and site alteration shall be limited to ten percent of the entire site.

- (c) The developer/applicant of lands within the conservation (C) district shall be required to provide a site-engineered delineation of all environmentally sensitive lands, including but not limited to wetlands and upland habitat and shall also indicate the location of lands or waters within the jurisdiction of the state and/or federal government. The applicant shall bear the burden of proof in determining that development plans required pursuant to article II of [chapter 108](#) include appropriate mitigative techniques to prevent/minimize adverse impacts to wetlands, transitional wetlands, upland habitat, yellow heart hammocks, tidal waters, including benthic communities, such as seagrass beds and algal beds, as well as other live bottom communities such as reef systems, or other environmentally fragile natural systems. An on-site survey by environmental professionals shall be submitted by the applicant. Such determinations shall be based on physical and biological data obtained from specific site investigations and provided with the earliest application for city development approval. These determinations shall be predicated on findings rendered by professionals competent in producing data and analyses necessary to support impact assessments, including findings regarding the impacts of potential development on the physical and biological function and value of environmentally sensitive lands. Any development within the conservation districts shall be required to comply with all performance criteria of chapters [94](#), [102](#) and [106](#); articles I and III through IX of [chapter 108](#); and chapters 110 and [114](#), especially [section 108-1](#); article III of [chapter 110](#); and articles IV, V, VII and VIII of [chapter 110](#) pertaining to environmental protection, as well as all other applicable land development regulations.

(Ord. No. 97-10, § 1(2-5.1(A)), 7-3-1997)

**Sec. 122-127. Transfer of development rights.**

- (a) A transfer of development rights (TDR) shall be provided for all land within the conservation district at a density of one unit per one acre. These environmentally sensitive sites shall be designated as "sending areas," and landowners within such "sending areas" shall be able to sell their density rights on the open market to landowners of specific parcels of land within the Key West Bight Redevelopment Area which are identified by the city as "receiving areas."
- (b) In executing the transfer of development rights program, during the initial two-year period following adoption of the comprehensive plan, sending areas shall be exclusively restricted to environmentally sensitive wetlands located within the South A1A-Atlantic Boulevard Corridor, including but not limited to the salt pond area. However, following the initial two-year period, other sites may be identified as sending areas based on a thorough analysis of the effectiveness of the transfer of development rights program. The addition of new sending areas shall require amendment to the land development regulations. Specific receiving areas must be identified in the comprehensive plan. These receiving areas shall be limited to approved sites in the Key West Bight Redevelopment Area designated "HRCC-2" on the future land use map.
- (c) The addition of any area other than the HRCC-2 area as a receiving area shall require a comprehensive plan amendment. The city must approve site plans for development of such receiving areas prior to commencement of activity. All transfers of development rights shall be recorded in the official records of the county in a deed, contract for deed, or other legal document conveying property. Density in the Key West Bight receiving areas shall be consistent with comprehensive plan policy 1-2.3.3. In the Key West Bight area, clustering of residential units is encouraged to preserve waterfront views and open space.

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- (d) The specific receiving area threshold must be approved by the city. Similarly, the city must approve each transfer of development rights from a sending area to a receiving area. Prior to approving the transfer of development rights, the city shall render a finding that the owner of land in the impacted sending area has provided the city with legal instruments acceptable to the city attorney which dedicate conservation easements. The conservation easements shall prohibit any development right from being transferred more than one time. In addition, the conservation easement shall prohibit all future development of the respective sending area. When only a portion of transferrable units are transferred, the sending area applicant/owner shall be entitled to reapply for additional transfer of development rights until whichever of the following first occurs:
- (1) The applicant/owner has exhausted all transfers of development rights on the subject sender site;
  - (2) The city's capacity to absorb transfers of development rights at approved Key West Bight Redevelopment Area receiving sites has been exhausted; or
  - (3) The city's building permit allocation has been exhausted.
- (e) The city shall prepare and maintain a system for tracking the sale and acquisition of development rights transferred from sending areas to receiving areas. The transfer of development rights tracking system shall serve as an official ledger of density transfers and, as a minimum, shall record each approved transfer of development rights by real estate parcel citing landowners, zoning, land area, base density allowed by zoning, as well as dwelling unit capacity after each transfer of development rights is approved.

(Ord. No. 97-10, § 1(2-5.1(B)), 7-3-1997)

**Sec. 122-128. Uses permitted.**

All development within the conservation district shall be by conditional use due to the environmental sensitivity of lands within the conservation district.

(Ord. No. 97-10, § 1(2-5.1(C)), 7-3-1997)

**Sec. 122-129. Conditional uses.**

Prior to any development within a conservation district, all state or federal agencies having jurisdiction shall have granted requisite permits, including but not limited to dredge and fill permits. As stated in article III of this chapter pertaining to conditional uses, applicants for a conditional use must demonstrate that the proposed uses and facilities identified in this section are compliant with all applicable criteria and relevant mitigative measures for conditional use approval, including but not limited to wetland preservation, coastal resource impact analysis and shoreline protection, protection of marine life and fisheries, protection of flora and fauna, and floodplain protection. The design of proposed conditional use facilities shall be required to apply mitigative measures to prevent and/or minimize adverse impacts on natural systems, including but not limit to habitats, water quality, and the physical and biological functions of wetlands. The size and scale of such development shall be restricted. The proposed uses and facilities that shall be compliant with all applicable criteria and relevant mitigative measures for conditional use approval are as follows:

- (1) *Areas below mean high water.* Within areas below mean high water only water-dependent facilities are permitted, including the following:
  - a. Fishing piers, docks and related boardwalks not exceeding a width of five feet; and

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- b. Watercraft.
- (2) *Areas above mean high water.* Within areas above mean high water the following uses are permitted:
- a. Boardwalks not exceeding a width of five feet which shall be elevated in order to reduce adverse impacts on hydrologic functions of wetlands.
  - b. Water-related facilities as follows:
    - 1. Hiking trails not exceeding a width of four feet to avoid adverse impacts on upland habitats and those portions traversing waterways shall be elevated in order to reduce adverse impacts on hydrologic functions.
    - 2. Picnic areas.
    - 3. Observation towers which shall be elevated in order to reduce adverse impacts on hydrologic functions of wetlands.
  - c. Residential development is restricted as follows:
    - 1. The maximum density shall be one unit per ten acres. No residential development shall be approved on a site within the conservation district unless a development plan incorporating appropriate mitigation procedures and environmentally sensitive design techniques has been submitted and approved by the city pursuant to article II of [chapter 108](#) and performance criteria of chapters [94](#), [102](#) and [106](#); articles I and III through IX of [chapter 108](#); and chapters 110 and [114](#), especially environmental protection criteria of [section 108-1](#); article III of [chapter 110](#); and articles IV, V, VII and VIII of [chapter 110](#)
    - 2. Where isolated uplands or disturbed areas are located on a site proposed for development within the conservation district, all development shall be directed to such uplands or disturbed areas; however, the city may determine that, due to the specific size, shape or location of such uplands, less disturbance to environmentally sensitive land will occur if development is allowed within a portion of the wetlands. On-site residential development shall be required to apply cluster design techniques so that the development minimizes disturbance of wetland and upland habitat buffering wetlands.
    - 3. Where on-site residential is approved by the city, no transfer of development shall be approved on the subject site. If a proposed development lies within a conservation district and another zoning district, the total density and intensity shall not exceed the weighted average provided for in the specific district regulation impacting the site. Once a specific area to be developed has been determined, a conservation easement shall be prepared by the applicant, approved by the city, and filed with the county court clerk. The conservation easement shall preserve in perpetuity all on-site wetlands and upland habitat together with any required upland buffer as open space. The development plan, including the conservation easement, shall be the subject of a development agreement pursuant to article IX of [chapter 90](#)
  - d. Transfer of development rights is restricted pursuant to the terms of an approved development agreement, as provided in article IX of [chapter 90](#), at a density of one unit per one acre from an approved conservation district sender site to an approved HRCC-2 receiving site. Transfers of development rights together with the required conservation easement shall be duly recorded with the county court clerk as provided in [section 122-127](#). The conservation easements shall prohibit any development right from being

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transferred more than one time. For further limitations, refer to [section 122-127](#) and division 6 of article V of this chapter.

- e. Public and private utilities are permitted where such facilities are essential to the public health, safety and welfare.

(Ord. No. 97-10, § 1(2-5.1(D)), 7-3-1997)

**Sec. 122-130. Prohibited uses.**

All uses not specifically or provisionally provided for in this division are prohibited in the conservation district.

(Ord. No. 97-10, § 1(2-5.1(E)), 7-3-1997)

**Sec. 122-131. Dimensional requirements.**

The dimensional requirements in the conservation district are as follows:

- (1) Maximum density: one dwelling unit per ten acres (0.1 du/acre).
- (2) Maximum floor area ratio: 0.01.
- (3) Maximum height: 25 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: five percent.
  - b. Maximum impervious surface ratio: five percent.
  - c. Maximum site alteration: ten percent.
- (5) Minimum lot size: ten acres.
- (6) Minimum setbacks: All development, excepting permitted water-dependent uses, must comply with requirements for setbacks from wetlands and open waters established in sections [110-91](#) and [122-1148](#)

(Ord. No. 97-10, § 1(2-5.1(F)), 7-3-1997)

**Sec. 122-132. Additional criteria for commercial structures, uses and related activities within tidal waters—Generally.**

Pursuant to Laws of Fla. ch. 78-540, § 8 and comprehensive plan objective 1-2.4 and comprehensive plan policies 1-2.4.1 and 5-1.1.4, the city shall regulate the location as well as the intensity and character of permanent and temporary commercial water-sport structures, uses, and related activities within an area extending 600 feet into the tidal waters adjacent to the corporate city limits. This section and sections [122-133](#) through [122-143](#) do not apply to watercraft located within a duly permitted marina. Applicants desiring to develop, establish or expand temporary or permanent structures, uses, and related activities of a commercial nature within the subject tidal waters, including but not limited to commercial water-sport operations with a clientele which is usually transported from the shoreline into tidal waters, shall be required to file a major development plan pursuant to procedures set forth in article II of [chapter 108](#). The applicant shall be required to submit a plan compliant with applicable performance criteria set forth in [chapter 94](#); chapters [102](#) and [106](#); articles I and III through IX of [chapter 108](#); and

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chapters 110 and [114](#), including but not limited to article IV of [chapter 110](#) pertaining to coastal resource impact analysis and article VII of [chapter 108](#) pertaining to off-street parking and loading requirements. In addition, the applicant shall comply with the location criteria, design and aesthetic criteria and safety standards cited in sections [122-133](#) through [122-143](#).

(Ord. No. 97-10, § 1(2-5.1(G)), 7-3-1997)

**Sec. 122-133. Same—Additional criteria applicable to required development plans.**

In addition to the coastal impact analysis criteria set forth in article IV of [chapter 110](#), the coastal impact analysis required in [section 122-132](#) shall include the following:

- (1) *Description of potential adverse impacts.* The coastal impact analysis shall include a description of the potential adverse impacts on hardbottom biological communities caused by the following:
  - a. Any proposed construction activity; and
  - b. Uses accommodated by the proposed structure, including but not limited to proposed recreational activities involving motorized watercraft.
- (2) *Map of tidal waters potentially impacted by the structure and related uses.* The analysis shall include a map delineating the location of the proposed structure as well as the area to which related activities associated with the structure shall be restricted.
- (3) *Proposed signs associated with commercial use.* The application shall include proposed signs to be placed on the subject property, including any signs to be placed on floating platform docks. Any such sign shall be subject to review and approval pursuant to [chapter 114](#)

(Ord. No. 97-10, § 1(2-5.1(G)(1)), 7-3-1997)

**Sec. 122-134. Same—Required intergovernmental coordination.**

The applicant desiring to develop, establish or expand temporary or permanent structures, uses, and related activities of a commercial nature within the tidal waters shall be responsible for obtaining all applicable permits from state and/or federal agencies having jurisdiction. The city shall coordinate with appropriate state and federal agencies having jurisdiction and/or knowledge of living marine resources within the subject tidal waters. The applicant shall bear the cost of any field analysis, expert testimony, and related work required to ascertain the location of and mitigative measures required to protect and/or restore benthic communities, including seagrass beds, algal beds, and other live bottom communities such as reef systems, that will potentially be impacted by the proposed structure as well as the uses accommodated by the structure. The city shall retain to power to select appropriate professionals to perform required field analysis and other technical work required in the review of the application, including technical evaluation of disputed issues.

(Ord. No. 97-10, § 1(2-5.1(G)(2)), 7-3-1997)

**Sec. 122-135. Same—Location criteria—Generally.**

The location of temporary and permanent commercial water-sport structures in the tidal waters subject to sections [122-132](#) through [122-143](#) shall comply with location criteria set forth in [section 122-136](#) and the following:

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- (1) *Location of commercial structures and uses potentially hazardous to swimmers within designated swimming areas.* Temporary and permanent water-sport structures principally designed to accommodate water-sport vehicles, including but not limited to personal watercraft, and other water-sport uses which are potential hazards to swimmers shall not be located within 600 feet of city-, county- or state-designated public beaches and/or designated swimming areas within an area extending 600 feet into tidal water adjacent to the corporate city limits.
- (2) *Location of commercial structures and uses potentially hazardous to watercraft operating in designated channels.* Temporary and permanent commercial water-sport structures principally designed to accommodate water-sport vehicles, including but not limited to personal watercraft, and other water-sport uses which are potential hazards to watercraft operating in designated channels shall not be located within 1,000 feet of designated channels for watercraft.
- (3) *Location of commercial structures and uses potentially hazardous to living marine resources within tidal waters.* The location of temporary or permanent commercial water-sport structures as well as related water-sport vehicles, including but not limited to personal watercraft, and other water-sport uses potentially hazardous to living marine resources such as reef systems and benthic communities, including seagrass beds, algal beds, and other live bottom communities, shall be restricted in order to protect living marine resources.

(Ord. No. 97-10, § 1(2-5.1(G)(3)), 7-3-1997)

**Sec. 122-136. Same—Same—Location of commercial water-sport structures and uses potentially disruptive to the quality of shoreline aesthetics or waterfront vistas.**

The location of temporary and permanent commercial water-sport structures as well as related water-sport vehicles, including but not limited to personal watercraft, and other water-sport uses potentially disruptive to the quality of shoreline aesthetics, waterfront vistas, or views of tidal waters shall not be permitted to locate within the subject tidal waters under the city's extraterritorial zoning jurisdiction unless the city commission renders a finding that the proposed structure and/or related uses comply with the following criteria:

- (1) *Accessory to approved principal use.* The proposed commercial water-sport structure and related activities shall be permitted only if the proposed structure is an accessory use to an approved principal use which is located on the upland adjacent to the subject tidal waters. In such case the application shall include verification that the owner of the upland principal use, and the landowner if the landowner is different from the owner of the principal use, agrees to the terms of the application.
- (2) *Visual exposure of commercial water-sport structures.* Any proposed commercial water-sport platform, including but not limited to any floatation devices, shall comply with all building codes applicable to such waterfront docks. Similarly, any structure designed to store water-sport vehicles shall comply with all applicable building codes. Commercial water-sport platforms shall only be permitted as a component of an approved dock. Similarly, no free floating platform, raft, or similar structure shall be permitted within the subject tidal waters. The intent and purpose is to prohibit the proliferation of commercial floating structures on the subject tidal waters. The cumulative impact of such structures on tidal waters is to cause visual pollution of tidal waters which may be characterized as:
  - a. Outstanding waters of the state;
  - b. A part of a National Marine Sanctuary; and
  - c. Highly scenic marine ecosystem which is an international tourist destination point.

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(Ord. No. 97-10, § 1(2-5.1(G)(3)(d)), 7-3-1997)

**Sec. 122-137. Same—Regulations on personal watercraft—Generally.**

In order to avoid adverse impacts on living marine resources and hazardous conflict with other water-dependent activities, including swimming, boating within main channels, nonmotorized boats and sailboats, in the tidal waters subject to sections [122-132](#) through [122-143](#), personal watercraft shall comply with the safety standards and other regulations governing licensing as well as franchise or lease requirements identified in sections [122-138](#) through [122-142](#).

(Ord. No. 97-10, § 1(2-5.1(G)(4)), 7-3-1997)

**Sec. 122-138. Same—Same—Definitions.**

The following words, terms and phrases, when used in sections [122-137](#) through [122-142](#), shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Approved flotation device* means any United States Coast Guard approved type I, II, III, or V personal flotation device.

*Headway speed* means the minimum speed necessary to maintain steerage and control of a personal watercraft while such personal watercraft is moving.

*Personal watercraft* means a small class A-1 or A-2 vessel which uses an outboard motor or an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on or being towed behind the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

(Ord. No. 97-10, § 1(2-5.1(G)(4)(a)), 7-3-1997)

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

**Sec. 122-139. Same—Same—Safety standards.**

(a) Safety standards for personal watercraft in the tidal waters subject to sections [122-132](#) through [122-143](#) are as follows:

- (1) *Flotation device*. A person may not operate a personal watercraft unless each person riding on or being towed behind such vessel is wearing an approved flotation device.
- (2) *Lanyard-type engine cutoff switch*. A person operating a personal watercraft equipped by the manufacturer with a lanyard-type engine cutoff switch must attach such lanyard to his person, clothing, or personal flotation device as is appropriate for the specific vessel.
- (3) *Hours of operation*. A person may not operate a personal watercraft at any time between the hours from one-half hour after sunset to one-half hour before sunrise.
- (4) *Safe operation*. A personal watercraft must at all times be operated in a reasonable and prudent manner, having a regard for other waterborne traffic, posted speed and wake restrictions, the presence of a divers-down flag, and all other attendant circumstances so as not to endanger the life, limb, or property of any person. Any person who violates this subsection [122-139\(a\)\(4\)](#) shall be guilty of a second degree misdemeanor, punishable as provided in F.S. § 775.082 or

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775.083. Maneuvers which unreasonably or unnecessarily endanger life, limb, or property, shall include but not limited to the following:

- a. Weaving through congested vehicle traffic.
  - b. Jumping or attempting to jump the wake of another vessel within 100 feet of such other vessel, or when visibility around such other vessel is obstructed.
  - c. Following within 100 feet of a water skier.
  - d. Swerving at the last possible moment to avoid collision.
  - e. Approaching within 600 feet of a designated swimming area, diver-down flag, or an area of wading birds.
- (5) *Operator age restriction.* No person under the age of 14 shall operate a personal watercraft on the waters of this state.
- (6) *Responsibility of owner or person in charge of personal watercraft.* It is unlawful for the owner of any personal watercraft or any person having charge over or control of a personal watercraft to authorize or knowingly permit the watercraft to be operated in violation of any subsection of this section.
- (7) *Speed regulation.* No person shall operate a personal watercraft at any speed greater than headway speed while within or at the entrance to a marina or other place used as an anchorage.
- (8) *Required city approval of placement, launch, and operation of commercial personal watercraft.* No person shall bring into, launch or operate any commercial personal watercraft, including rentals, upon any watercourse within the jurisdiction of the city, including an area extending 600 feet into the tidal waters adjacent to the city, except at such places as are or may be designated for such use or purposes by the city commission.
- (b) *Exemptions.* This section shall not apply to any performer engaged in a professional exhibition or a person preparing to participate or participating in a regatta, race, marine parade, tournament, or exhibition held in compliance with F.S. § 327.40.

(Ord. No. 97-10, § 1(2-5.1(G)(4)(b)), 7-3-1997)

**Sec. 122-140. Same—Same—Licensing and insurance requirements applicable to personal watercraft for hire.**

- (a) Before any person shall conduct or maintain a business of renting, leasing or providing any personal watercraft for hire within the city, including the extraterritorial zoning jurisdiction within an area extending 600 feet into the tidal waters adjacent to the corporate city limits, such person shall make application with the city manager for a license to operate such business. No such business shall be conducted or maintained unless applicable license fees are paid and the required license is duly issued in conformance with the requirements of the land development regulations and unless the applicant has caused to be executed a liability insurance policy for each personal watercraft in the amounts prescribed, the terms of which shall provide protection for all persons or property suffering injury, damage or loss because of the negligent operation of such vehicle by any person. The applicant shall maintain the subject liability insurance policy in full force and effect, and the insurer shall notify the city upon cancellation of the insurance policy. Licenses granted pursuant to this section shall be renewed from year to year; however, any license not renewed by September 30 will become void and of no further use whatsoever to the license holder.

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- (b) Every insurance policy required by this section shall be executed by an insurance company authorized to do business in the state. Such policy shall insure the operation of each personal watercraft in a sum acceptable to the city for life and property. A duly authenticated copy of every such insurance policy, covering all personal watercraft used in such business, shall be filed with the city clerk. All such policies shall remain in full force and effect at all times during the operation of such business.

(Ord. No. 97-10, § 1(2-5.1(G)(4)(c)), 7-3-1997)

**Sec. 122-141. Same—Same—Franchise and lease agreements.**

No person engaged in renting, leasing or providing any personal watercraft for hire pursuant to [section 122-140](#) shall operate such business or moor, tie up, or anchor the place of business within 600 feet of any shoreline or public beach or public park in the city or within the confines of city or state park wetland habitats within the city unless specifically authorized in a valid franchise or lease agreement with the city or other proprietary entity or when located in a marina or on private property or in a channel marked for navigation.

(Ord. No. 97-10, § 1(2-5.1(G)(4)(d)), 7-3-1997)

**Sec. 122-142. Same—Same—Other restrictions applicable to personal watercraft rental.**

Other restrictions applicable to personal watercraft rental pursuant to sections [122-140](#) and [122-141](#) are as follows:

- (1) *Valid automobile driver's license required.* No person shall rent a personal watercraft to any person who does not hold a valid automobile driver's license.
- (2) *Disclosure of areas of operation.* No person shall rent a personal watercraft to any person without explaining to the person the areas where the personal watercraft is and is not allowed to be operated.
- (3) *Vessel equipped to render assistance required.* No person shall rent a personal watercraft to any person without providing, at the site where such personal watercraft is rented, a vessel equipped to render assistance, guidance and policing of rented personal watercraft.
- (4) *Provision of information and written acknowledgment thereof.* No person shall rent a personal watercraft to any person without providing the following information to the person and obtaining from the person a written acknowledgment that the person has read and understands the following information:
  - a. A printed map or chart of the area where the person is permitted to operate the personal watercraft.
  - b. A booklet or manual relating to personal watercraft safety which is accepted or recognized by the Personal Watercraft Industry Association.
  - c. A summary of sections [122-137](#) through this section.

(Ord. No. 97-10, § 1(2-5.1(G)(4)(e)), 7-3-1997)

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**Sec. 122-143. Same—Same—Conditions for approving location of structures and uses hazardous to living marine resources within tidal waters.**

As part of the development plan review process, the city shall coordinate with appropriate federal, and state agencies to ascertain appropriate conditions, including compensatory mitigative measures, which should be imposed to protect and/or restore benthic communities, including seagrass beds, algal beds, and other live bottom communities such as reef systems, that will potentially be impacted by the proposed structure as well as the uses accommodated by the structure in the tidal waters subject to sections [122-132](#) through [122-143](#). The city commission shall either approve, approve with conditions, or deny the proposed development plan based on development plan approval criteria contained in the land development regulations, in addition to criteria included or referenced in sections [122-132](#) through this section.

(Ord. No. 97-10, § 1(2-5.1(G)(5)), 7-3-1997)

**Secs. 122-144—122-170. Reserved.**

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***DIVISION 3. RESIDENTIAL DISTRICTS***

[Subdivision I. - In General](#)

[Subdivision II. - Coastal Low Density Residential District \(LDR-C\)](#)

[Subdivision III. - Single-Family Residential District \(SF\)](#)

[Subdivision IV. - Medium Density Residential District \(MDR\)](#)

[Subdivision IV.1. - Medium Density Residential District-1 \(MDR-1\)](#)

[Subdivision V. - Coastal Medium Density Residential District \(MDR-C\)](#)

[Subdivision VI. - High Density Residential District \(HDR\)](#)

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Subdivision I. In General

Subdivision I. In General

[Sec. 122-171. Purpose and intent.](#)

[Secs. 122-172—122-200. Reserved.](#)

**Sec. 122-171. Purpose and intent.**

- (a) The overall purpose and intent of the residential districts as provided in this division is to provide a management framework for implementing comprehensive plan residential development objectives and policies directed toward:
- (1) Protecting the quality and character of existing neighborhoods, including compatibility of land use and structures;
  - (2) Preserving open space;
  - (3) Maintaining densities which are compatible with existing and anticipated future developments;
  - (4) Promoting compatibility with natural features of the land; and
  - (5) Minimizing the burden on supportive public services and facilities within the area.
- (b) All residential development shall comply with the comprehensive plan, performance criteria in chapters [94](#), [102](#) and [106](#); articles I and III through IX of [chapter 108](#); and chapters 110 and [114](#), as well as all other applicable land development regulations. This division contains a description of the intended purpose of each zoning district established in this division, including reference to the comprehensive plan future land use map designations which shall be implemented through the land development regulations.

(Ord. No. 97-10, § 1(2-5.2), 7-3-1997)

**Secs. 122-172—122-200. Reserved.**

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Subdivision II. Coastal Low Density Residential District (LDR-C)

Subdivision II. Coastal Low Density Residential District (LDR-C)

[Sec. 122-201. Intent.](#)

[Sec. 122-202. Uses permitted.](#)

[Sec. 122-203. Conditional uses.](#)

[Sec. 122-204. Prohibited uses.](#)

[Sec. 122-205. Dimensional requirements.](#)

[Secs. 122-206—122-230. Reserved.](#)

**Sec. 122-201. Intent.**

- (a) The coastal low density residential district (LDR-C) is established to implement comprehensive plan policies for areas designated "LDR-C" on the comprehensive plan future land use map. These areas are situated on the north side of South Roosevelt Boulevard on the very narrow strip of uplands lying between the "bridle path" easement and jurisdictional waters and lands of the state as well as certain undeveloped lands east of Atlantic Boulevard which are located fully within the coastal high hazard velocity (VE) zone as delineated by the Federal Emergency Management Agency. These areas are restricted to residential development with a maximum density of one unit per acre and shall not include transient lodging or guesthomes. Supportive public community facilities and accessory land uses also may be located within areas designated for coastal low density residential use.
- (b) The coastal low density residential (LDR-C) designation is established to:
- (1) Provide an equitable development right for the LDR-C designated areas;
  - (2) Protect remaining coastal wetlands;
  - (3) Maintain water quality;
  - (4) Protect marine habitats; and
  - (5) Preserve a significant amount of open space for purposes of reducing surface water runoff and maintaining water quality in a major environmentally sensitive coastal area.

(Ord. No. 97-10, § 1(2-5.2.1(A)), 7-3-1997)

**Sec. 122-202. Uses permitted.**

Uses permitted in the coastal low density residential district (LDR-C) are as follows:

- (1) Single-family residential dwellings.
- (2) Group homes with less than or equal to six residents as provided in [section 122-1246](#)

(Ord. No. 97-10, § 1(2-5.2.1(B)), 7-3-1997)

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Subdivision II. Coastal Low Density Residential District (LDR-C)

**Sec. 122-203. Conditional uses.**

Conditional uses in the coastal low density residential district (LDR-C) are as follows:

- (1) Parks and recreation, passive.
- (2) Protective services.
- (3) Public and private utilities where such facilities are essential to the public health, safety and welfare.

(Ord. No. 97-10, § 1(2-5.2.1(C)), 7-3-1997)

**Sec. 122-204. Prohibited uses.**

In the coastal low density residential district (LDR-C), all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 97-10, § 1(2-5.2.1(D)), 7-3-1997)

**Sec. 122-205. Dimensional requirements.**

The dimensional requirements in the coastal low density residential district (LDR-C) are as follows:

- (1) Maximum density: one dwelling unit per acre (1 du/acre).
- (2) Maximum floor area ratio: not applicable.
- (3) Maximum height: 30 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 40 percent.
  - b. Maximum impervious surface ratio: 50 percent.
- (5) Minimum lot size: 1 acre.
  - a. Minimum lot width: 100 feet.
  - b. Minimum lot depth: 100 feet.
- (6) Minimum setbacks. All development must comply with requirements for setbacks from wetlands and open waters established in sections [110-91](#) and [122-1148](#), in addition to the following:
  - a. Front: 30 feet.
  - b. Side: the greater of 15 feet or 10 percent of the lot width to a maximum of 20 feet.
  - c. Rear: 25 feet or 20 feet when abutting an alley.
  - d. Street side: 15 feet.

(Ord. No. 97-10, § 1(2-5.2.1(E)), 7-3-1997)

**Secs. 122-206—122-230. Reserved.**

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Subdivision III. Single-Family Residential District (SF)

Subdivision III. Single-Family Residential District (SF)

[Sec. 122-231. Intent.](#)

[Sec. 122-232. Accessory units.](#)

[Sec. 122-233. Special criteria applicable to accessory units.](#)

[Sec. 122-234. Potential increase in accessory unit threshold size.](#)

[Sec. 122-235. Uses permitted.](#)

[Sec. 122-236. Conditional uses.](#)

[Sec. 122-237. Prohibited uses.](#)

[Sec. 122-238. Dimensional requirements.](#)

[Secs. 122-239—122-265. Reserved.](#)

**Sec. 122-231. Intent.**

- (a) The single-family residential district (SF) is established to implement comprehensive plan policies for areas designated "SF" on the comprehensive plan future land use map, especially comprehensive plan policy 1-2.1.3. The SF district is designed to accommodate single-family permanent residential development and may also include one accessory attached or detached unit per principal dwelling unit.
- (b) The SF district shall not include transient accommodations. Supportive community facilities and accessory land uses may be located within areas designated for single-family residential uses.
- (c) The single-family residential (SF) designation is established to:
  - (1) Protect the quality and character of existing single-family neighborhoods;
  - (2) Preserve open space;
  - (3) Encourage densities which are compatible with existing and anticipated future developments;
  - (4) Promote compatibility with natural features of the land; and
  - (5) Minimize the burden on supportive public services and facilities within the area.

(Ord. No. 97-10, § 1(2-5.2.2(A)), 7-3-1997)

**Sec. 122-232. Accessory units.**

The single-family residential district (SF) shall accommodate one accessory attached or detached unit per principal dwelling unit so long as the accessory unit is duly approved pursuant to the building permit allocation system, as provided in article IV of [chapter 54](#), and meets the criteria cited in this subdivision. The building permit allocation methodology includes a permit formula in which one accessory unit equals 0.55 dwelling unit. Accessory units shall meet all size and dimension requirements of a principal structure and shall not be excluded from impact fee provisions.

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Subdivision III. Single-Family Residential District (SF)

(Ord. No. 97-10, § 1(2-5.2.2(A)(1)), 7-3-1997)

**Sec. 122-233. Special criteria applicable to accessory units.**

- (a) Accessory units proposed within the single-family residential district (SF) shall meet the following criteria:
- (1) Each unit shall have a rental rate, including utilities, not exceeding 15 percent of the median household income in the county. This affordability criteria shall be duly recorded as a deed restriction in perpetuity.
  - (2) Accessory units shall be restricted to occupancy by permanent residents.
  - (3) Accessory units shall not be sold separately as a condominium.
  - (4) When an accessory unit permit is originally initiated, the principal unit must be owned and occupied by a permanent resident.
  - (5) Accessory units shall not take up more than 40 percent of the principal structure.
  - (6) Accessory units shall comply with maximum impervious surface regulation within the SF district. Parking surfaces shall not be counted as open space.
  - (7) Accessory units shall comply with applicable landscaping requirements.
  - (8) Accessory units shall comply with the maximum threshold for lot coverage by impervious surfaces.
  - (9) Parking requirements shall be satisfied by both the principal and accessory unit.
  - (10) Density shall be calculated based only upon the number of principal units on a site.
  - (11) Accessory units shall not exceed 600 square feet and the minimum size shall be 300 square feet.
- (b) Any application for accessory units shall include deed restrictions which shall be filed with the city and the clerk of the circuit court. The deed restrictions shall incorporate mandatory compliance with the criteria cited in subsection (a) of this section.

(Ord. No. 97-10, § 1(2-5.2.2(A)(2)), 7-3-1997)

**Sec. 122-234. Potential increase in accessory unit threshold size.**

No accessory unit in the single-family residential district (SF) shall have more than one bedroom unless an additional bedroom is approved as a variance by the planning board. If such variance is approved, the total square footage shall not exceed 600 square feet. The permit allocation system shall be coordinated with the county's analysis of evacuation clearance times in order to maintain or decrease the standard time for such clearance.

(Ord. No. 97-10, § 1(2-5.2.2(A)(3)), 7-3-1997; Ord. No. 08-04, § 27, 5-20-2008)

**Sec. 122-235. Uses permitted.**

Uses permitted in the single-family residential district (SF) are as follows:

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Subdivision III. Single-Family Residential District (SF)

- (1) Single-family residential dwellings and accessory residential units.
- (2) Group homes with less than or equal to six residents as provided in [section 122-1246](#)  
(Ord. No. 97-10, § 1(2-5.2.2(B)), 7-3-1997)

**Sec. 122-236. Conditional uses.**

Conditional uses in the single-family residential district (SF) are as follows:

- (1) Two-family residential dwellings (duplexes). Note: Duplexes shall not be located within the following portions of the SF district:
  - a. The Venetian Subdivision located south of the Riviera Canal; and
  - b. The area bounded on the north by Flagler Drive, on the south by Casa Marina Court, on the east by White Street and on the west by Reynolds Street.
- (2) Educational institutions and day care.
- (3) Parks and recreation, active or passive.
- (4) Places of worship.
- (5) Protective services.
- (6) Public and private utilities.

(Ord. No. 97-10, § 1(2-5.2.2(C)), 7-3-1997)

**Sec. 122-237. Prohibited uses.**

In the single-family residential district (SF), all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 97-10, § 1(2-5.2.2(D)), 7-3-1997)

**Sec. 122-238. Dimensional requirements.**

The dimensional requirements in the single-family residential district (SF) are as follows:

- (1) Maximum density: eight dwelling units per acre (8 du/acre).
- (2) Maximum floor area ratio: not applicable.
- (3) Maximum height: 25 feet plus an additional five feet for nonhabitable purposes if the structure has a pitched roof.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 35 percent, except that in the following areas the maximum building coverage shall be 30 percent:
    1. The Venetian Subdivision located south of the Riviera Canal; and
    2. The area bounded on the north by Flagler Drive, on the south by Casa Marina Court, on the east by White Street and on the west by Reynolds Street.

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Subdivision III. Single-Family Residential District (SF)

- b. Maximum impervious surface ratio:
  - 1. Single-family: 50 percent.
  - 2. Community facilities: 60 percent.
- (5) Minimum lot size:
  - a. Single-family and two-family units: 6,000 square feet, except that in the following areas the minimum lot area shall be 8,000 square feet:
    - 1. The Venetian Subdivision located south of the Riviera Canal; and
    - 2. The area bounded on the north by Flagler Drive, on the south by Casa Marina Court, on the east by White Street and on the west by Reynolds Street.
  - b. Two-family dwelling units (duplexes) are permitted as a conditional use in all portions of the SF district, excepting the area defined below, but only if the land area comprised a minimum area of 10,890 square feet in order to satisfy minimum density requirements. Two-family dwellings shall not be allowed within the areas described in subsections (5)a.1 and (5)a.2 of this section.
  - c. The minimum lot size for educational institutions and community facilities, including places of worship areas, follows:
    - 1. Community facilities including places of worship: one-half acre; and
    - 2. Educational institutions: 1 acre.
  - d. Minimum width: 50 feet.
  - e. Minimum depth: 100 feet.
  - f. Minimum width: 100 feet.
  - g. Minimum depth: 100 feet.
- (6) Minimum setbacks:
  - a. Single-family:
    - 1. Front: 30 feet or the average depth of front yards on developed lots within 100 feet each side, but not less than 20 feet.
    - 2. Side: 5 feet.
    - 3. Rear: 25 feet or 20 feet when abutting an alley.
    - 4. Street side: 10 feet.
  - b. Community facilities:
    - 1. Front: 30 feet.
    - 2. Side: 15 feet.
    - 3. Rear: 25 feet.
    - 4. Street side: 20 feet.

(Ord. No. 97-10, § 1(2-5.2.2(E)), 7-3-1997; Ord. No. 09-06, § 2, 4-7-2009)

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Subdivision III. Single-Family Residential District (SF)

**Secs. 122-239—122-265. Reserved.**

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Subdivision IV. Medium Density Residential District (MDR)

Subdivision IV. Medium Density Residential District (MDR)

[Sec. 122-266. Intent.](#)

[Sec. 122-267. Uses permitted.](#)

[Sec. 122-268. Conditional uses.](#)

[Sec. 122-269. Prohibited uses.](#)

[Sec. 122-270. Dimensional requirements.](#)

[Secs. 122-271—122-275. Reserved.](#)

**Sec. 122-266. Intent.**

- (a) The medium density residential district (MDR) is established to implement comprehensive plan policies for areas designated "MDR" on the comprehensive plan future land use map. The MDR district shall provide sufficient land area for medium density residential development adequately supported by public services and facilities and compatible with existing and anticipated future land uses. The MDR district shall accommodate a mixture of single-family and multiple-family structure types. Supportive community facilities and accessory land uses may be located within areas designated "MDR." This district shall not accommodate transient lodging and guesthomes, commercial uses or freestanding office buildings. However, accessory uses, including approved home occupations, conducted within the residential structures are permitted so long as all such accessory uses are customarily incidental to and subordinate to the residential use. Other customary accessory uses and community facilities may also be located in areas designated MDR.
- (b) Review of specific densities of developments shall be directed toward preserving stability of established residential areas. Sites for medium density residential developments should be located so that they provide a smooth transition between lower density residential areas and areas developed and/or designated for other more intense uses. Generally, medium density areas should be located between the perimeter of low density residential areas and areas of high density residential concentrations or other less restrictive uses.

(Ord. No. 97-10, § 1(2.5.2.3(A)), 7-3-1997)

**Sec. 122-267. Uses permitted.**

Uses permitted in the medium density residential district (MDR) are as follows:

- (1) Single-family and two-family residential dwellings.
- (2) Multiple-family residential dwellings.
- (3) Group homes with less than or equal to six residents as provided in [section 122-1246](#)

(Ord. No. 97-10, § 1(2.5.2.3(B)), 7-3-1997)

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Subdivision IV. Medium Density Residential District (MDR)

**Sec. 122-268. Conditional uses.**

Conditional uses in the medium density residential district (MDR) are as follows:

- (1) Group homes with 7 to 14 residents as provided in [section 122-1246](#)
- (2) Educational institutions and day care.
- (3) Nursing homes, rest homes and convalescent homes.
- (4) Parks and recreation, active and passive.
- (5) Places of worship.
- (6) Protective services.
- (7) Public and private utilities.

(Ord. No. 97-10, § 1(2.5.2.3(C)), 7-3-1997)

**Sec. 122-269. Prohibited uses.**

In the medium density residential district (MDR), all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 97-10, § 1(2.5.2.3(D)), 7-3-1997)

**Sec. 122-270. Dimensional requirements.**

The dimensional requirements in the medium density residential district (MDR) are as follows:

- (1) Maximum density: 16 dwelling units per acre (16 du/acre).
- (2) Maximum floor area ratio: not applicable.
- (3) Maximum height: 35 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage:
    1. Single-family and two-family: 35 percent.
    2. Multiple-family and community facilities: 40 percent.
  - b. Maximum impervious surface ratio:
    1. Single-family and two-family: 50 percent.
    2. Multiple-family and community facilities: 60 percent.
- (5) Minimum lot size:
  - a. Single-family and two-family: one-half acre.
  - b. Multiple-family and community facilities: 1 acre.
  - c. Minimum width:

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1. Single-family and two-family: 70 feet or the prevailing lot width on developed lots within 200 feet of the subject lot but not less than 50 feet.
  2. Multiple-family and community facilities: 80 feet.
  - d. Minimum depth: 100 feet.
- (6) Minimum setbacks:
- a. Single-family and two-family:
    1. Front: 30 feet or the average depth of front yards within 100 feet of the subject lot but not less than 20 feet.
    2. Side: 7 feet.
    3. Rear: 20 feet or 15 feet when abutting an alley.
    4. Street side: 10 feet.
  - b. Multiple-family and community facilities:
    1. Front: 30 feet.
    2. Side: 25 feet.
    3. Rear: 25 feet or 20 feet when abutting an alley.
    4. Street side: 25 feet.

(Ord. No. 97-10, § 1(2.5.2.3(E)), 7-3-1997)

**Secs. 122-271—122-275. Reserved.**

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Subdivision IV.1. Medium Density Residential District-1 (MDR-1)

Subdivision IV.1. Medium Density Residential District-1 (MDR-1)

[Sec. 122-276. Intent.](#)

[Sec. 122-277. Uses permitted.](#)

[Sec. 122-278. Conditional uses.](#)

[Sec. 122-279. Prohibited uses.](#)

[Sec. 122-280. Dimensional regulations.](#)

[Secs. 122-281—122-295. Reserved.](#)

**Sec. 122-276. Intent.**

The MDR-1 district is established to implement comprehensive plan policies for areas designated "MDR-1" on the comprehensive plan future land use map. The MDR-1 district shall provide the Poinciana Housing Parcel with a designation appropriate to the existing medium density multiple-family development on the site and compatible with the existing and future land uses. The MDR-1 district shall accommodate a mixture of multiple-family structure types, supportive community facilities, and accessory land uses. This district shall not accommodate guest homes, commercial uses or freestanding office buildings. However, accessory uses, including approved home occupations, conducted within the residential structures are permitted so long as all such accessory uses are customarily incidental to and subordinate to the residential use. Other customary accessory uses and community facilities may also be located in areas designated MDR-1.

(Ord. No. 99-18, § 1 (Exh. A(2-5.2.3(1)(A))), 9-8-1999)

**Sec. 122-277. Uses permitted.**

Uses permitted in the medium density residential district-1 (MDR-1) are as follows:

- (1) Single- family and two-family residential dwellings.
- (2) Places of worship.
- (3) Multiple-family residential dwellings.
- (4) Community centers.
- (5) Group homes with less than or equal to six residents as provided in [section 122-1246](#)
- (6) Parks and recreation, active and passive.
- (7) Special needs social services.
- (8) Protective services.

(Ord. No. 99-18, § 1 (Exh. A(2-5.2.3(1)(B))), 9-8-1999)

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Subdivision IV.1. Medium Density Residential District-1 (MDR-1)

**Sec. 122-278. Conditional uses.**

Conditional uses in the medium density residential district-1 (MDR-1) are as follows:

- (1) Group homes with 7 to 14 residents as provided in [section 122-1246](#)
- (2) Educational institutions and day care.
- (3) Nursing homes, rest homes and convalescent homes.
- (4) Public and private utilities.

(Ord. No. 99-18, § 1 (Exh. A(2-5.2.3(1)(C))), 9-8-1999)

**Sec. 122-279. Prohibited uses.**

In the medium density residential district-1 (MDR-1), all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 99-18, § 1 (Exh. A(2-5.2.3(1)(D))), 9-8-1999)

**Sec. 122-280. Dimensional regulations.**

The dimensional requirements in the medium density residential district-1 (MDR-1) are as follows:

- (1) Maximum density: Eight dwelling units per acre (8 du/acre).
- (2) Maximum FAR: 1.0.
- (3) Maximum height: 35 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 50 percent.
    1. Single-family and two-family: 35 percent.
    2. Multiple-family and community facilities: 40 percent.
  - b. Maximum impervious surface ratio:
    1. Single-family and two-family: 50 percent.
    2. Multiple-family and community facilities: 60 percent.
- (5) Minimum lot size:
  - a. Multiple-family: 10,000 square feet.
  - b. Single-family: 5,000 square feet.
  - c. Minimum width:
    1. Multiple-family and community facilities: 80 feet.
  - d. Minimum depth: 100 feet.
- (6) Minimum setbacks:
  - a. Multiple-family and community facilities:

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b. Single-family and two-family:

1. Front: 10 feet.
2. Side: 55 feet or 10 percent of lot width to a maximum of 15 feet, whichever is greater.
3. Rear: 20 feet.
4. Street side: 20 feet.

(Ord. No. 99-18, § 1 (Exh. A(2-5.2.3(1)(E))), 9-8-1999)

**Secs. 122-281—122-295. Reserved.**

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Subdivision V. Coastal Medium Density Residential District (MDR-C)

Subdivision V. Coastal Medium Density Residential District (MDR-C)

[Sec. 122-296. Intent.](#)

[Sec. 122-297. Uses permitted.](#)

[Sec. 122-298. Conditional uses.](#)

[Sec. 122-299. Prohibited uses.](#)

[Sec. 122-300. Dimensional requirements.](#)

[Secs. 122-301—122-325. Reserved.](#)

**Sec. 122-296. Intent.**

The coastal medium density residential district (MDR-C) is established to implement comprehensive plan policies for areas designated "MDR-C" on the comprehensive plan future land use map. The purpose of the MDR-C district is to reinforce state policies mandating that concentrations of populations be directed away from coastal high hazard areas in order to protect against loss of life. No transient use shall be allowed in the MDR-C district.

(Ord. No. 97-10, § 1(2-5.2.4(A)), 7-3-1997)

**Sec. 122-297. Uses permitted.**

Uses permitted in the coastal medium density residential district (MDR-C) are as follows:

- (1) Single-family residential dwellings.
- (2) Two-family residential dwellings.
- (3) Multiple-family residential dwellings.
- (4) Group homes with less than or equal to six residents as provided in [section 122-1246](#)

(Ord. No. 97-10, § 1(2-5.2.4(B)), 7-3-1997)

**Sec. 122-298. Conditional uses.**

Conditional uses in the coastal medium density residential district (MDR-C) are as follows:

- (1) Group homes with seven to 14 residents as provided in [section 122-1246](#)
- (2) Parks and recreation, passive.
- (3) Protective services.
- (4) Public and private utilities.

(Ord. No. 97-10, § 1(2-5.2.4(C)), 7-3-1997)

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Subdivision V. Coastal Medium Density Residential District (MDR-C)

**Sec. 122-299. Prohibited uses.**

In the coastal medium density residential district (MDR-C), all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 97-10, § 1(2-5.2.4(D)), 7-3-1997)

**Sec. 122-300. Dimensional requirements.**

The dimensional requirements in the coastal medium density residential district (MDR-C) are as follows:

- (1) Maximum density: Eight dwelling units per acre (8 du/acre).
- (2) Maximum floor area ratio: not applicable.
- (3) Maximum height: 30 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 40 percent.
  - b. Maximum impervious surface ratio: 50 percent.
- (5) Minimum lot size: one-half acre.
  - a. Minimum width: 70 feet or the prevailing lot width on developed lots within 200 feet of the subject property but not less than 50 feet.
  - b. Minimum depth: 100 feet.
- (6) Minimum setback. All development must comply with requirements for setbacks from wetlands and open waters established in sections [110-91](#) and [122-1148](#), in addition to the following:
  - a. Single-family and two-family:
    1. Front: 30 feet or the average depth of front yards within 100 feet of the subject property but not less than 20 feet.
    2. Side: 7 feet or 10 percent of lot width to a maximum of 20 feet, whichever is greater.
    3. Rear: 20 feet or 15 feet when abutting an alley.
    4. Street side: 10 feet.
  - b. Multiple-family and community facilities:
    1. Front: 30 feet.
    2. Side: 20 feet.
    3. Rear: 25 feet or 20 feet when abutting an alley.
    4. Street side: 20 feet.

(Ord. No. 97-10, § 1(2-5.2.4(E)), 7-3-1997)

**Secs. 122-301—122-325. Reserved.**

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Subdivision VI. High Density Residential District (HDR)

Subdivision VI. High Density Residential District (HDR)

[Sec. 122-326. Intent.](#)

[Sec. 122-327. Uses permitted.](#)

[Sec. 122-328. Conditional uses.](#)

[Sec. 122-329. Prohibited uses.](#)

[Sec. 122-330. Dimensional requirements.](#)

[Secs. 122-331—122-355. Reserved.](#)

**Sec. 122-326. Intent.**

The high density residential district (HDR) implements comprehensive plan future land use map policies for areas designated "HDR." The high density district shall only be approved for land accommodating high density residential development adequately supported by public services and facilities and compatible with existing and anticipated future land uses. Supportive community facilities and accessory land uses may be located within the HDR district. This district shall not accommodate transient lodging and guesthomes, commercial uses or freestanding office buildings. However, accessory uses, including approved home occupations, conducted within the residential structures are permitted so long as all such accessory uses are customarily incidental to and subordinate to the residential use. Other customary accessory uses and community facilities may also be located in the HDR district.

(Ord. No. 97-10, § 1(2-5.2.5(A)), 7-3-1997)

**Sec. 122-327. Uses permitted.**

Uses permitted in the high density residential district (HDR) are as follows:

- (1) Single-family and two-family residential dwellings.
- (2) Multiple-family residential dwellings.
- (3) Group homes with less than or equal to six residents as provided in [section 122-1246](#)

(Ord. No. 97-10, § 1(2-5.2.5(B)), 7-3-1997)

**Sec. 122-328. Conditional uses.**

Conditional uses in the high density residential district (HDR) are as follows:

- (1) Group homes with seven to 14 residents as provided in [section 122-1246](#)
- (2) Educational institutions and day care.
- (3) Nursing homes, rest homes and convalescent homes.
- (4) Parks and recreation, active and passive.

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Subdivision VI. High Density Residential District (HDR)

- (5) Places of worship.
- (6) Protective services.
- (7) Public and private utilities.
- (8) Parking lots and facilities.

(Ord. No. 97-10, § 1(2-5.2.5(C)), 7-3-1997)

**Sec. 122-329. Prohibited uses.**

In the high density residential district (HDR), all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 97-10, § 1(2-5.2.5(D)), 7-3-1997)

**Sec. 122-330. Dimensional requirements.**

The dimensional requirements in the high density residential district (HDR) are as follows:

- (1) Maximum density: 22 dwelling units per acre (22 du/acre).
- (2) Maximum floor area ratio: not applicable.
- (3) Maximum height: 40 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 40 percent.
  - b. Maximum impervious surface ratio: 60 percent.
- (5) Minimum lot size: 1 acre.
  - a. Minimum width:
    - 1. Single-family and two-family: 70 feet or the average lot width on developed lots within 200 feet of the subject lot but not less than 50 feet.
    - 2. Multiple-family and community facilities: 80 feet.
  - b. Minimum depth: 100 feet.
- (6) Minimum setbacks:
  - a. Single-family and two-family:
    - 1. Front: 30 feet or the average depth of front yards within 100 feet of the subject lot but not less than 20 feet.
    - 2. Side: 7 feet.
    - 3. Rear: 20 feet or 15 feet when abutting an alley.
    - 4. Street side: 10 feet.
  - b. Multiple-family and community facilities:
    - 1. Front: 30 feet.

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2. Side: 25 feet.
3. Rear: 25 feet or 20 feet when abutting an alley.
4. Street side: 25 feet.

(Ord. No. 97-10, § 1(2-5.2.5(E)), 7-3-1997)

**Secs. 122-331—122-355. Reserved.**

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***DIVISION 4. COMMERCIAL DISTRICTS*** <sup>(3)</sup>

[Subdivision I. - In General](#)

[Subdivision II. - Limited Commercial District \(CL\)](#)

[Subdivision III. - General Commercial District \(CG\)](#)

[Subdivision IV. - Salt Pond Commercial Tourist District \(CT\)](#)

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FOOTNOTE(S):

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**Cross reference**— Businesses, ch. 18. [\(Back\)](#)

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Subdivision I. In General

Subdivision I. In General

[Sec. 122-356. General intent.](#)

[Secs. 122-357—122-385. Reserved.](#)

**Sec. 122-356. General intent.**

- (a) The overall purpose and intent of the commercial districts as provided in this division is to provide a management framework for implementing comprehensive plan commercial development objectives and policies. The location and distribution of specific types of commercial activities shall be determined based on the following considerations:
- (1) Trip generation characteristics, including impact on transportation facilities and off-street parking systems;
  - (2) Location and site requirements based on specific needs of respective commercial activities, their market area, anticipated employment generation and floor area requirements;
  - (3) Compatibility with and impact on nearby residential and other surrounding commercial activities;
  - (4) Relationship to surrounding land uses and natural systems; and
  - (5) Impact on existing and planned community services and utilities.
- (b) All commercial development shall comply with the comprehensive plan and performance criteria in chapters [94](#), [102](#) and [106](#); articles I and III through IX of [chapter 108](#); and chapters 110 and [114](#), as well as all other applicable land development regulations. Each of the subdivisions in this division contain a description of the purpose of each zoning district established in this division, including reference to the comprehensive plan future land use map designation which shall be implemented through the land development regulations.

(Ord. No. 97-10, § 1(2-5.3), 7-3-1997)

**Secs. 122-357—122-385. Reserved.**

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Subdivision II. Limited Commercial District (CL)

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[Sec. 122-386. Intent.](#)

[Sec. 122-387. Uses permitted.](#)

[Sec. 122-388. Conditional uses.](#)

[Sec. 122-389. Prohibited uses.](#)

[Sec. 122-390. Dimensional requirements.](#)

[Secs. 122-391—122-415. Reserved.](#)

**Sec. 122-386. Intent.**

- (a) The limited commercial district (CL) is established to implement comprehensive plan policies for areas designated "CL" on the comprehensive plan future land use map. The CL district shall accommodate limited commercial land uses with maximum gross floor area not exceeding 5,000 square feet, including total area both under roof and outside sales area, and which shall include shops catering primarily to the following markets:
- (1) Neighborhood residential markets within the immediate vicinity as opposed to citywide or regional markets;
  - (2) Specialized markets with customized market demands; or
  - (3) Tourist-oriented markets in the immediate vicinity.
- (b) In order to manage the impacts of future development on transportation and public facilities, the city shall limit the intensity of development in the CL district to activities generating no more than 100 trips per 1,000 square feet of gross leasable floor area per day. Areas designated for residential and limited commercial development shall not accommodate large scale retail sales and trade activities generally serving a citywide or regional market. Such stores usually differ from limited commercial shops since the former generally require a larger floor area, carry a relatively larger inventory, and require a substantially greater off-street parking area.
- (c) Uses which are not accommodated within the limited commercial area include the following: large scale discount stores or supermarkets; department stores; wholesale and warehousing activities; sales, service or repair of motor vehicles, machine equipment or accessory parts, including tire and battery shops; automotive services centers; and fast food establishments primarily serving in disposable containers and/or providing drive-in or drive-through facilities. In addition, the CL designation shall not accommodate transient residential uses, including motels or hotels and conversions from permanent residential use to transient residential use. However, existing motels within CL designated areas shall be grandfathered as lawful nonconforming uses.

(Ord. No. 97-10, § 1(2-5.3.1(A)), 7-3-1997)

**Sec. 122-387. Uses permitted.**

Uses permitted in the limited commercial district (CL) are as follows:

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- (1) Group homes with less than or equal to six residents as provided in [section 122-1246](#)
- (2) Cultural and civic activities.
- (3) Places of worship.
- (4) Business and professional offices.
- (5) Commercial retail low and medium intensity less than or equal to 5,000 square feet.

(Ord. No. 97-10, § 1(2-5.3.1(B)), 7-3-1997)

**Sec. 122-388. Conditional uses.**

Conditional uses in the limited commercial district (CL) are as follows:

- (1) Single-family and two-family residential dwellings.
- (2) Multiple-family residential dwellings.
- (3) Group homes with seven to 14 residents as provided in [section 122-1246](#)
- (4) Community centers, clubs and lodges.
- (5) Educational institutions and day care.
- (6) Nursing homes, rest homes and convalescent homes.
- (7) Parks and recreation, active and passive.
- (8) Protective services.
- (9) Public and private utilities.
- (10) Commercial amusement.
- (11) Commercial retail low and medium intensity greater than 5,000 square feet.
- (12) Commercial retail high intensity.
- (13) Medical services.
- (14) Parking lots and facilities.
- (15) Restaurants, excluding drive-through.
- (16) Small recreational power-driven equipment rentals (allowed only as an accessory use to a hotel/motel).
- (17) Veterinary medical services, with or without outside kennels.

(Ord. No. 97-10, § 1(2-5.3.1(C)), 7-3-1997)

**Sec. 122-389. Prohibited uses.**

In the limited commercial district (CL), all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 97-10, § 1(2-5.3.1(D)), 7-3-1997)

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Subdivision II. Limited Commercial District (CL)

**Sec. 122-390. Dimensional requirements.**

The dimensional requirements in the limited commercial district (CL) are as follows:

- (1) Maximum density: 16 dwelling units/acre (16 du/acre).
- (2) Maximum floor area ratio: 0.8.
- (3) Maximum height: 40 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 40 percent.
  - b. Maximum impervious surface ratio: 60 percent.
- (5) Minimum lot size: 10,000 square feet.
  - a. Minimum width: 70 feet.
  - b. Minimum depth: 100 feet.
- (6) Minimum setbacks:
  - a. Front and rear: minimum of 25 feet or as an alternative ten percent of lot depth for buildings up to 25 feet in height or 20 percent of lot depth for buildings over 25 feet in height; provided, however, the maximum setback shall be 50 feet.
  - b. Side: 15 feet or ten percent of lot width up to a maximum of 20 feet, whichever is greater.
  - c. Street side: 20 feet.

(Ord. No. 97-10, § 1(2-5.3.1(E)), 7-3-1997)

**Secs. 122-391—122-415. Reserved.**

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FOOTNOTE(S):

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**Cross reference**— Businesses, ch. 18. [\(Back\)](#)

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Subdivision III. General Commercial District (CG)

Subdivision III. General Commercial District (CG) <sup>[5]</sup>

[Sec. 122-416. Intent.](#)

[Sec. 122-417. Uses permitted.](#)

[Sec. 122-418. Conditional uses.](#)

[Sec. 122-419. Prohibited uses.](#)

[Sec. 122-420. Dimensional requirements.](#)

[Secs. 122-421—122-445. Reserved.](#)

**Sec. 122-416. Intent.**

- (a) The general commercial district (CG) is established to implement comprehensive plan policies for areas designated "CG" on the comprehensive plan future land use map. The CG district shall accommodate general commercial uses which shall include commercial retail, highway-oriented sales and services, other general commercial activities specified in [section 122-1111](#) pertaining to land use by districts, customary accessory uses, and requisite community facilities. The general commercial district shall service the general commercial needs of residents and tourists which are not fulfilled in the historic area mixed use districts. The area is generally located along the North Roosevelt Corridor. Single-family, duplex and multiple-family residential activities may be accommodated only if approved as a conditional use pursuant to conditions and procedures identified in article III of this chapter. Height restrictions shall ensure a more effective land use transition from adjacent and nearby single-family neighborhoods.
- (b) The CG area shall not accommodate manufacturing of goods or other activities which may generate nuisance impacts, including glare, smoke or other air pollutants, noise, vibration, major fire hazards, or other impacts generally associated with more intensive industrial uses. On the other hand, transient lodging including hotels and motels, timesharing or fractional fee residential complexes or other transient quarters may be located within the CG district if the use complies with all provisions of the comprehensive plan and land development regulations.

(Ord. No. 97-10, § 1(2-5.3.2(A)), 7-3-1997)

**Sec. 122-417. Uses permitted.**

Uses permitted in the general commercial district (CG) are as follows:

- (1) Group homes with less than or equal to six residents as provided in [section 122-1246](#)
- (2) Cultural and civic activities.
- (3) Hospitals and extensive care.
- (4) Places of worship.
- (5) Business and professional offices.
- (6) Commercial retail low and medium intensity less than or equal to 10,000 square feet.

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Subdivision III. General Commercial District (CG)

- (7) Commercial retail high intensity less than or equal to 5,000 square feet.
  - (8) Hotels, motels, and transient lodging.
  - (9) Medical services.
  - (10) Parking lots and facilities.
  - (11) Restaurants, with or without drive-through.
  - (12) Veterinary medical services with or without outside kennels.
- (Ord. No. 97-10, § 1(2-5.3.2(B)), 7-3-1997)

**Sec. 122-418. Conditional uses.**

Conditional uses in the general commercial district (CG) are as follows:

- (1) Single-family/two-family residential dwellings.
  - (2) Multiple-family residential dwellings.
  - (3) Group homes with seven to 14 residents as provided in [section 122-1246](#)
  - (4) Community centers, clubs and lodges.
  - (5) Educational institutions and day care.
  - (6) Nursing homes, rest homes and convalescent homes.
  - (7) Parks and recreation, active and passive.
  - (8) Protective services.
  - (9) Public and private utilities.
  - (10) Bars and lounges.
  - (11) Boat sales and service.
  - (12) Commercial retail low and medium intensity greater than 10,000 square feet.
  - (13) Commercial retail high intensity greater than 5,000 square feet.
  - (14) Commercial amusement.
  - (15) Funeral homes.
  - (16) Gasoline stations.
  - (17) Light industrial.
  - (18) Marinas.
  - (19) Small recreational power-driven equipment rentals (allowed only as an accessory use to a hotel/motel).
  - (20) Vehicular sales and related services.
  - (21) Tattoo establishments (see division 13 of Article V).
- (Ord. No. 97-10, § 1(2-5.3.2(C)), 7-3-1997; Ord. No. 07-14, § 1, 9-18-2007)

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Subdivision III. General Commercial District (CG)

**Sec. 122-419. Prohibited uses.**

In the general commercial district (CG), all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 97-10, § 1(2-5.3.2(D)), 7-3-1997)

**Sec. 122-420. Dimensional requirements.**

The dimensional requirements in the general commercial district (CG) are as follows:

- (1) Maximum density: 16 dwelling units/acre (16 du/acre).
- (2) Maximum floor area ratio: 0.8.
- (3) Maximum height: 40 feet except for the following: The maximum height shall be 30 feet along N. Roosevelt Boulevard, from Seventh Avenue west to Eisenhower Drive and Jose Marti Drive.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 40 percent.
  - b. Maximum impervious surface ratio: 60 percent.
- (5) Minimum lot size: 15,000 square feet.
  - a. Minimum lot width: 150 feet.
  - b. Minimum lot depth: 100 feet.
- (6) Minimum setbacks:
  - a. Front and rear: minimum of 25 feet or as an alternative ten percent of lot depth for buildings up to 25 feet in height or 20 percent of lot depth for buildings over 25 feet in height; provided, however, the maximum setback shall be 50 feet.
  - b. Side: 15 feet or ten percent of lot width up to a maximum of 20 feet, whichever is greater.
  - c. Street side: 20 feet.

(Ord. No. 97-10, § 1(2-5.3.2(E)), 7-3-1997)

**Secs. 122-421—122-445. Reserved.**

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FOOTNOTE(S):

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**Cross reference**— Businesses, ch. 18. [\(Back\)](#)

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Subdivision IV. Salt Pond Commercial Tourist District (CT)

Subdivision IV. Salt Pond Commercial Tourist District (CT)

[Sec. 122-446. Intent.](#)

[Sec. 122-447. Uses permitted.](#)

[Sec. 122-448. Conditional uses.](#)

[Sec. 122-449. Prohibited uses.](#)

[Sec. 122-450. Dimensional requirements.](#)

[Secs. 122-451—122-475. Reserved.](#)

**Sec. 122-446. Intent.**

The Salt Pond commercial tourist district (CT) is established to implement comprehensive plan policies for areas designated "CT" on the comprehensive plan future land use map. Strategically located adjacent to the Key West International Airport, the CT district shall accommodate motels, limited scale tourist facilities stipulated in [section 122-1111](#) pertaining to land use by districts, customary accessory uses, and requisite community facilities. The CT district shall not accommodate other commercial retail sales and services aside from motels and tourist-related facilities identified in [section 122-1111](#).

(Ord. No. 97-10, § 1(2-5.3.3(A)), 7-3-1997)

**Sec. 122-447. Uses permitted.**

Uses permitted in the Salt Pond commercial tourist district (CT) are as follows:

- (1) Single-family and two-family residential dwellings.
- (2) Multiple-family residential dwellings.
- (3) Group homes with less than or equal to six residents as provided in [section 122-1246](#)
- (4) Cultural and civic activities.
- (5) Places of worship.
- (6) Business and professional offices.
- (7) Commercial retail low and medium intensity less than or equal to 5,000 square feet.
- (8) Hotels, motels, and transient lodging.
- (9) Medical services.
- (10) Parking lots and facilities.

(Ord. No. 97-10, § 1(2-5.3.3(B)), 7-3-1997)

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Subdivision IV. Salt Pond Commercial Tourist District (CT)

**Sec. 122-448. Conditional uses.**

Conditional uses in the Salt Pond commercial tourist district (CT) are as follows:

- (1) Group homes with seven to 14 residents as provided in [section 122-1246](#)
- (2) Nursing homes/rest homes and convalescent homes.
- (3) Community centers, clubs and lodges.
- (4) Educational institutions and day care.
- (5) Parks and recreation active and passive.
- (6) Protective services.
- (7) Public and private utilities.
- (8) Bars and lounges.
- (9) Commercial retail low and medium intensity greater than 5,000 square feet.
- (10) Commercial retail high intensity.
- (11) Restaurants, excluding drive-through.
- (12) Small recreational power-driven equipment rentals (allowed only as an accessory use to a hotel or motel).

(Ord. No. 97-10, § 1(2-5.3.3(C)), 7-3-1997)

**Sec. 122-449. Prohibited uses.**

In the Salt Pond commercial tourist district (CT), all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 97-10, § 1(2-5.3.3(D)), 7-3-1997)

**Sec. 122-450. Dimensional requirements.**

The dimensional requirements in the Salt Pond commercial tourist district (CT) are as follows:

- (1) Maximum density: 16 dwelling units per acre (16 du/acre).
- (2) Maximum floor area ratio: 0.8.
- (3) Maximum height: 40 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 40 percent.
  - b. Maximum impervious surface ratio: 60 percent.
- (5) Minimum lot size: 30,000 square feet.
  - a. Minimum lot width: 150 feet street frontage.
  - b. Minimum lot depth: 100 feet.

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Subdivision IV. Salt Pond Commercial Tourist District (CT)

(6) Minimum setbacks:

- a. Front and rear: minimum of 25 feet or as an alternative ten percent of lot depth for buildings up to 25 feet in height or 20 percent of lot depth for buildings over 25 feet in height; provided, however, the maximum setback shall be 50 feet.
- b. Side: 15 feet or ten percent of lot width up to a maximum of 20 feet, whichever is greater.
- c. Street side: 20 feet.

(Ord. No. 97-10, § 1(2-5.3.3(E)), 7-3-1997)

**Secs. 122-451—122-475. Reserved.**

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DIVISION 5. MIXED USE DISTRICTS

***DIVISION 5. MIXED USE DISTRICTS***

[Subdivision I. - In General](#)

[Subdivision II. - Mixed Use Residential/Office District \(RO\)](#)

[Subdivision III. - Mixed Use Planned Redevelopment/Development District \(PRD\)](#)

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DIVISION 5. - MIXED USE DISTRICTS

Subdivision I. In General

Subdivision I. In General

[Sec. 122-476. Purpose and intent.](#)

[Secs. 122-477—122-505. Reserved.](#)

**Sec. 122-476. Purpose and intent.**

The purpose and intent of the mixed use districts in this division is to provide a management framework for implementing comprehensive plan mixed use development objectives and policies, including: (i) residential/office development and (ii) planned redevelopment and development. All mixed use development shall comply with the comprehensive plan and the performance criteria in chapters [94](#), [102](#) and [106](#); articles I and III through IX of [chapter 108](#); and chapters 110 and [114](#), as well as other applicable land development regulations. This division contains a description of the purpose of each mixed use zoning district established, including reference to the comprehensive plan future land use map designation which shall be implemented through the land development regulations.

(Ord. No. 97-10, § 1(2-5.4), 7-3-1997)

**Secs. 122-477—122-505. Reserved.**

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Subdivision II. Mixed Use Residential/Office District (RO)

Subdivision II. Mixed Use Residential/Office District (RO) <sup>(6)</sup>

[Sec. 122-506. Intent.](#)

[Sec. 122-507. Uses permitted.](#)

[Sec. 122-508. Conditional uses.](#)

[Sec. 122-509. Prohibited uses.](#)

[Sec. 122-510. Dimensional requirements.](#)

[Secs. 122-511—122-535. Reserved.](#)

**Sec. 122-506. Intent.**

The mixed use residential/office district (RO) is established to implement comprehensive plan policies for areas designated "RO" on the comprehensive plan future land use map. The RO district shall accommodate business and professional offices as well as single-family, duplex, and multiple-family residential structures. Customary accessory uses and community facilities may also locate within the areas designated "RO." Areas designated "RO" shall not accommodate transient lodging and guesthomes, general retail sales and services, warehousing, and outside storage. Furthermore, this policy designation is intended for areas which:

- (1) Are located to provide for a land use transition between areas designated "SF" and more intense mixed use areas;
- (2) Have access to a major thoroughfare and all required urban services;
- (3) Contain sufficient land area to accommodate good principles of urban design, including sufficient land area to provide adequate landscaping and buffers to separate existing as well as potential future adjacent land uses of differing intensity; and
- (4) Accommodate only residential uses as well as business and professional office buildings, including financial institutions, and medical facilities as regulated in the land development regulations.

(Ord. No. 97-10, § 1(2-5.4.1(A)), 7-3-1997)

**Sec. 122-507. Uses permitted.**

Uses permitted in the mixed use residential/office district (RO) are as follows:

- (1) Single-family and two-family residential dwellings.
- (2) Multiple-family residential dwellings.
- (3) Group homes less than or equal to six residents as provided in [section 122-1246](#)
- (4) Places of worship.
- (5) Business and professional offices.
- (6) Parking lots and facilities.

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Subdivision II. Mixed Use Residential/Office District (RO)

(7) Veterinary medical services, without outside kennels.

(Ord. No. 97-10, § 1(2-5.4.1(B)), 7-3-1997)

**Sec. 122-508. Conditional uses.**

Conditional uses in the mixed use residential/office district (RO) are as follows:

- (1) Group homes with seven to 14 residents as provided in [section 122-1246](#)
- (2) Public and private utilities.
- (3) Community centers, clubs and lodges.
- (4) Cultural and civic activities.
- (5) Educational institutions and day care.
- (6) Nursing homes, rest homes and convalescent homes.
- (7) Parks and recreation active and passive.
- (8) Protective services.
- (9) Medical services.

(Ord. No. 97-10, § 1(2-5.4.1(C)), 7-3-1997)

**Sec. 122-509. Prohibited uses.**

In the mixed use residential/office district (RO), all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 97-10, § 1(2-5.4.1(D)), 7-3-1997)

**Sec. 122-510. Dimensional requirements.**

The dimensional requirements in the mixed use residential/office district (RO) are as follows:

- (1) Maximum density: 16 dwelling units per acre (16 du/acres).
- (2) Maximum floor area ratio: 0.8.
- (3) Maximum height: 35 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 40 percent.
  - b. Maximum impervious surface ratio: 60 percent.
- (5) Minimum lot size: 10,000 square feet.
  - a. Minimum lot width: 70 feet.
  - b. Minimum lot depth: 100 feet.
- (6) Minimum setbacks:

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Subdivision II. Mixed Use Residential/Office District (RO)

- a. Front: 30 feet.
- b. Side: 15 feet.
- c. Rear: 25 feet.
- d. Street side: 15 feet.

(Ord. No. 97-10, § 1(2-5.4.1(E)), 7-3-1997)

**Secs. 122-511—122-535. Reserved.**

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FOOTNOTE(S):

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**Cross reference**— Businesses, ch. 18. [\(Back\)](#)

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Subdivision III. Mixed Use Planned Redevelopment/Development District (PRD)

Subdivision III. Mixed Use Planned Redevelopment/Development District (PRD) <sup>[7]</sup>

[Sec. 122-536. Intent.](#)

[Sec. 122-537. Uses permitted.](#)

[Sec. 122-538. Conditional uses.](#)

[Sec. 122-539. Prohibited uses.](#)

[Sec. 122-540. Dimensional requirements.](#)

[Sec. 122-541. Dimensional requirements for Key West golf club development.](#)

[Sec. 122-542. Accessory structures, swimming pools and spas in the Key West golf club development.](#)

[Sec. 122-543. Key West golf club residential lots; unity of title.](#)

[Secs. 122-544—122-565. Reserved.](#)

**Sec. 122-536. Intent.**

- (a) The mixed use planned redevelopment/development district (PRD) is established to implement comprehensive plan policies for areas designated "PRD" on the comprehensive plan future land use map. The PRD district shall accommodate planned development or redevelopment of strategically located sites for large scale development. Such development or redevelopment generates communitywide impacts and requires a regulatory framework that provides for comprehensive impact assessment as well as flexibility in negotiating development agreements (reference F.S. § 163.3220 et seq., the Florida Local Government Development Agreement Act) which significantly further the goals, objections, and policies of the comprehensive plan.
- (b) The PRD district regulations provide a regulatory framework for managing large scale development or redevelopment which generates potential communitywide impacts. Such large scale development and redevelopment activities may include redevelopment of large scale shopping centers along the North Roosevelt Corridor or the anticipated large scale residential development targeted for the municipal golf course. A PRD designation may also be appropriate for managing potential communitywide impacts generated by redevelopment of large scale and long established mobile home developments.

(Ord. No. 97-10, § 1(2-5.4.2(A)), 7-3-1997)

**Sec. 122-537. Uses permitted.**

Uses permitted in the mixed use planned redevelopment/development district (PRD) are as follows:

- (1) Single-family and two-family residential dwellings.
- (2) Multiple-family residential dwellings (except in the Key West golf club development).
- (3) Group homes with less than or equal to six residents as provided in [section 122-1246](#)

(Ord. No. 97-10, § 1(2-5.4.2(B)), 7-3-1997; Ord. No. 04-02, § 1, 1-21-2004)

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Subdivision III. Mixed Use Planned Redevelopment/Development District (PRD)

**Sec. 122-538. Conditional uses.**

Conditional uses in the mixed use planned redevelopment/development district (PRD) are as follows:

- (1) Group homes with seven to 14 residents as provided in [section 122-1246](#)
- (2) Community centers, clubs and lodges.
- (3) Cultural and civic activities.
- (4) Educational institutions and day care.
- (5) Golf course facilities which maintain ten percent native vegetative uplands.
- (6) Nursing homes, rest homes and convalescent homes (except in the Key West golf club development).
- (7) Parks and recreation, active and passive.
- (8) Places of worship.
- (9) Protective services.
- (10) Public and private utilities.
- (11) Business and professional offices.
- (12) Commercial retail low, medium and high intensity.
- (13) Medical services (except in the Key West golf club development).
- (14) Parking lots and facilities.
- (15) Restaurants, excluding drive-through.

(Ord. No. 97-10, § 1(2-5.4.2(C)), 7-3-1997; Ord. No. 04-02, § 2, 1-21-2004)

**Sec. 122-539. Prohibited uses.**

In the mixed use planned redevelopment/development district (PRD), all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 97-10, § 1(2-5.4.2(D)), 7-3-1997)

**Sec. 122-540. Dimensional requirements.**

The dimensional requirements in the mixed use planned redevelopment/development district (PRD), except as provided in [section 122-541](#), are as follows:

- (1) Maximum density: eight dwelling units per acre (8 du/acre).
- (2) Maximum floor area ratio: 0.8.
- (3) Maximum height: 35 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 40 percent.

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Subdivision III. Mixed Use Planned Redevelopment/Development District (PRD)

- b. Maximum impervious surface ratio: 60 percent.
- (5) Minimum setbacks:
  - a. Front: minimum of 25 feet or as an alternative 10 percent of lot depth for buildings up to 25 feet in height or 20 percent of lot depth for buildings over 25 [feet] in height; provided, however, the maximum setback shall be 50 feet.
  - b. Side: 20 feet.
  - c. Rear: 40 feet or 35 feet when abutting an alley.
  - d. Street side: 20 feet.

(Ord. No. 97-10, § 1(2-5.4.2(E)), 7-3-1997; Ord. No. 04-02, § 3, 1-21-2004)

**Sec. 122-541. Dimensional requirements for Key West golf club development.**

The dimensional requirements in the mixed use planned redevelopment/development district (PRD) applicable to the Key West golf club development are as follows:

- (1) Maximum density: one dwelling unit per lot existing on January 1, 2003.
- (2) Maximum floor area ratio: 0.8.
- (3) Maximum height: 35 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 40 percent.
  - b. Maximum impervious surface ratio: 60 percent.
- (5) Minimum setbacks:
  - a. Front: 5 feet.
  - b. Side: 5 feet (0 feet for air conditioning equipment, pool enclosures, pool equipment, carports and garbage enclosure areas) (2.5 feet for pools). Structures in existence on the effective date of this ordinance, however, shall be entitled to retain their existing side setbacks.
  - c. Rear: 5 feet (0 feet for pools, pool enclosures, pool equipment and garbage enclosure areas).
  - d. Street side: 5 feet.

(Ord. No. 04-02, § 4, 1-21-2004)

**Sec. 122-542. Accessory structures, swimming pools and spas in the Key West golf club development.**

The following provisions apply to accessory structures, swimming pools and spas constructed within the Key West golf club development:

- (a) Accessory structures and additions to existing homes are permitted to be constructed on lots, consistent with the conditions set forth in this section. Accessory structures shall include, but not

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Subdivision III. Mixed Use Planned Redevelopment/Development District (PRD)

be limited to: patios, decks, fences, gazebos, arbors, trellises, sheds, pools, spas, and mechanical swimming pool or spa equipment. The Key West Golf Club Homeowners Association must provide the City of Key West a written approval of a proposed accessory structure or a proposed addition to an existing house, as a condition of issuance of a building permit. Swimming pools and spas are prohibited on those lots identified on the attached Exhibit A as lots 56, 57, 59, 60, 61, [62](#), 63, 64, 65, 66A, 66B, 67A, 67B, 68, 69, 87, 88, 89, 90, 95, 96, 97, 98, 99, 100, 101, [102](#), 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147A, 147B, 148A, 148B, 149A, 149B, 151, 152, 153A, 153B, 154A, 154B, 155A, 155B, 156A, 156B, 157A, 157B, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299 and 300. On these lots where swimming pools and spas are prohibited, the following rear-yard accessory structures and additions must be screened as a further condition of issuance of a building permit: decks elevated above 30 inches, porches and balconies.

- (b) On the following lots or portions thereof, as indicated on Exhibit A by a circle, which are subject to existing restrictive covenants, no improvements including swimming pools and spas shall be constructed except the certain landscaping as permitted in the restrictive covenants: the rear (northerly) 8.0 feet of 47RY, the rear (southerly) 28.92 feet of 120 RY, the rear (southerly) 27.90 feet of 121RY and all of 283RY.
- (c) A fence or hedge designed to shield a yard from errant golf shots may be up to 9.5 feet high.
- (d) There shall be no variance of the prohibition against swimming pools and spas on the lots enumerated in subsection (a).

(Ord. No. 04-02, § 5, 1-21-2004)

**Editor's note—**

Exhibit A cited in [§ 122-542](#) is not set out in this Code but is available for review in the office of the city clerk.

**Sec. 122-543. Key West golf club residential lots; unity of title.**

- (a) The residential lots authorized for the Key West golf club development are limited to those lots depicted on the final lot survey of the Key West golf club development approved in Key West Resolution Number 04-041. No other lot may be created, nor may any lot be subdivided. The final lot survey, dated September 22, 2003, is on file with the city clerk.
- (b) Those lots designated on the final lot survey of Key West golf club as sub-lots (with "RY" suffix) may be conveyed only to the owner of the contiguous lot bearing the same lot number as the sub-lot, and once conveyed, may not be separately re-conveyed or otherwise separately alienated; i.e., conveyance of the sub-lot shall establish an indivisible unity of title joining the title of the sub-lot with title to the correspondingly numbered contiguous lot.
- (c) No principal use may be constructed on a Key West golf course sub-lot.

(Ord. No. 04-02, § 6, 1-21-2004)

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Subdivision III. Mixed Use Planned Redevelopment/Development District (PRD)

**Secs. 122-544—122-565. Reserved.**

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FOOTNOTE(S):

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**Cross reference**— Planning and development, ch. 54; planning and development, ch. 108. [\(Back\)](#)

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DIVISION 6. HISTORIC PRESERVATION DISTRICTS

***DIVISION 6. HISTORIC PRESERVATION DISTRICTS*** <sup>(8)</sup>

[Subdivision I. - In General](#)

[Subdivision II. - Historic Medium Density Residential District \(HMDR\)](#)

[Subdivision III. - Historic Special Medium Density Residential District](#)

[Subdivision IV. - Historic High Density Residential District \(HHDR\)](#)

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FOOTNOTE(S):

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**Cross reference**— Historic preservation, ch. 102. [\(Back\)](#)

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DIVISION 6. - HISTORIC PRESERVATION DISTRICTS

Subdivision I. In General

Subdivision I. In General

[Sec. 122-566. Purpose and intent.](#)

[Secs. 122-567—122-595. Reserved.](#)

**Sec. 122-566. Purpose and intent.**

The purpose and intent of the historic preservation districts in this division and in divisions 7 through 12 of this article is to provide a management framework for implementing comprehensive plan historic preservation objectives and policies. Development within the districts identified in this division and in divisions 7 through 12 of this article shall be planned and developed in a manner to preserve the form, function, image, and ambiance of the historic district. Any development plans for these areas shall be designed in a manner compatible with historic structures within the vicinity.

(Ord. No. 97-10, § 1(2-5.5), 7-3-1997; Ord. No. 00-04, § 11, 2-1-2000)

**Secs. 122-567—122-595. Reserved.**

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Subdivision II. Historic Medium Density Residential District (HMDR)

Subdivision II. Historic Medium Density Residential District (HMDR) <sup>[9]</sup>

[Sec. 122-596. Intent.](#)

[Sec. 122-597. Permitted uses.](#)

[Sec. 122-598. Conditional uses.](#)

[Sec. 122-599. Prohibited uses.](#)

[Sec. 122-600. Dimensional requirements.](#)

[Secs. 122-601—122-610. Reserved.](#)

**Sec. 122-596. Intent.**

- (a) The historic medium density residential district (HMDR) is established to implement comprehensive plan policies for areas designated "HMDR" on the comprehensive plan future land use map. The HMDR district shall accommodate historic Old Town medium density residential development for permanent residents, including single-family, duplex, and multiple-family residential structures. The HMDR district shall provide a management framework for preserving the residential character and historic quality of the medium density residential areas within Old Town.
- (b) In addition, accessory uses, including approved home occupations conducted within the residential structure, and customary community facilities can be located in the HMDR designated area. This area shall not accommodate transient residential uses, including guesthomes, motels or hotels. Similarly, the area shall not accommodate commercial office, retail, or other commercial uses. Lawfully existing office or commercial uses shall be permitted to continue to exist as lawful nonconforming uses if such uses continue to comply with conditions invoked when the respective uses were approved.

In the event the city owns the portion of the Truman Waterfront Parcel designated HMDR, the site will be developed for 100 percent affordable housing. If the site is privately owned, one-third of the dwelling units will be affordable.

(Ord. No. 97-10, § 1(2-5.5.1(A)), 7-3-1997; Ord. No. 99-18, § 1 (Exh. A(2-5.5.1(A)), 9-8-1999)

**Sec. 122-597. Permitted uses.**

Uses permitted in the historic medium density residential district (HMDR) are as follows:

- (1) Single-family and two-family residential dwellings.
- (2) Multiple-family residential dwellings.
- (3) Group homes with less than or equal to six residents as provided in [section 122-1246](#)

(Ord. No. 97-10, § 1(2-5.5.1(B)), 7-3-1997; Ord. No. 99-18, § 1 (Exh. A(2-5.5.1(B)), 9-8-1999)

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Subdivision II. Historic Medium Density Residential District (HMDR)

**Sec. 122-598. Conditional uses.**

Conditional uses in the historic medium density residential district (HMDR) are as follows:

- (1) Group homes with seven to 14 residents as provided in [section 122-1246](#)
- (2) Cultural and civic activities.
- (3) Educational institutions and day care.
- (4) Nursing homes/rest homes and convalescent homes.
- (5) Parks and recreation active and passive.
- (6) Places of worship.
- (7) Protective services.
- (8) Public and private utilities.
- (9) Parking lots and facilities.

(Ord. No. 97-10, § 1(2-5.5.1(C)), 7-3-1997; Ord. No. 99-18, § 1 (Exh. A(2-5.5.1(C)), 9-8-1999)

**Sec. 122-599. Prohibited uses.**

In the historic medium density residential district (HMDR), all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 97-10, § 1(2-5.5.1(D)), 7-3-1997; Ord. No. 99-18, § 1 (Exh. A(2-5.5.1(D)), 9-8-1999)

**Sec. 122-600. Dimensional requirements.**

The dimensional requirements in the historic medium density residential district (HMDR) are as follows; however, construction may be limited by proportion, scale and mass considerations as expressed through the historic architectural review commission design guidelines:

- (1) Maximum density: 16 dwelling units per acre (16 du/acre).
- (2) Maximum floor area ratio: 1.0.
- (3) Maximum height: 30 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 40 percent.
  - b. Maximum impervious surface ratio: 60 percent.
- (5) Minimum lot size: 4,000 square feet.
  - a. Minimum lot width: 40 feet.
  - b. Minimum lot depth: 90 feet.
- (6) Minimum setbacks:
  - a. Front: 10 feet.

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- b. Side: 5 feet.
- c. Rear: 15 feet.
- d. Street side: 7.5 feet.

(Ord. No. 97-10, § 1(2-5.5.1(E)), 7-3-1997; Ord. No. 99-18, § 1 (Exh. A(2-5.5.1(E)), 9-8-99; Ord. No. 10-04, § 3, 1-5-2010)

**Secs. 122-601—122-610. Reserved.**

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FOOTNOTE(S):

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**Cross reference**— Historic preservation, ch. 102. [\(Back\)](#)

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Subdivision III. Historic Special Medium Density Residential District

Subdivision III. Historic Special Medium Density Residential District

[Sec. 122-611. Intent.](#)

[Sec. 122-612. Permitted uses.](#)

[Sec. 122-613. Conditional uses.](#)

[Sec. 122-614. Prohibited uses.](#)

[Sec. 122-615. Dimensional requirements.](#)

[Sec. 122-616. Affordable housing requirements.](#)

[Secs. 122-617—122-625. Reserved.](#)

**Sec. 122-611. Intent.**

- (a) The historic special medium density residential district (HSMDR) is established to implement comprehensive plan policies for areas designated "HSMDR" on the comprehensive plan future land use map. The HSMDR district shall accommodate historic special Old Town medium density residential development for permanent residents, including single-family, duplex, and multiple-family residential structures.
- (b) Accessory uses and structures, including approved home occupations conducted within the residential structure, and customary community facilities can be located in the HSMDR designated area. This district shall not accommodate transient residential lodging uses, including guest homes, motels or hotels, time-shares, transient apartment, vacation rental, and gated transient communities.
- (c) Freestanding commercial offices, retail or other commercial or industrial uses of any kind shall not be permitted.
- (d) The historic preservation planner shall have the discretion to review redevelopment and new development impacts for mass, scale, size, proportion and screening to ensure compatibility with the existing commercial fabric.
- (e) Any development plan approval submitted for a property in the HSMDR zoning district shall be accompanied by a concurrent application for a development agreement.

(Ord. No. 12-33, § 2, 9-18-2012)

**Sec. 122-612. Permitted uses.**

Uses permitted in the historic medium density residential district (HSMDR) are as follows:

- (1) Single-family and two-family residential dwellings.
- (2) Multiple-family residential dwellings.
- (3) Accessory uses and structures.
- (4) Approved home occupations.

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Subdivision III. Historic Special Medium Density Residential District

(Ord. No. 12-33, § 2, 9-18-2012)

**Sec. 122-613. Conditional uses.**

Conditional uses in the historic medium density residential district (HSMDR) are as follows:

- (1) Community centers, clubs and lodges accessory to residential uses.
- (2) Cultural and civic activities.
- (3) Parks and recreation active and passive.
- (4) Public and private utilities.
- (5) Parking lots and facilities.
- (6) Educational institutions and day care facilities.

(Ord. No. 12-33, § 2, 9-18-2012)

**Sec. 122-614. Prohibited uses.**

In the historic special medium density residential district (HSMDR), all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 12-33, § 2, 9-18-2012)

**Sec. 122-615. Dimensional requirements.**

The dimensional requirements in the historic special medium density residential district (HSMDR) are as follows; however, construction may be limited by proportion, scale and mass considerations as expressed through the Historic Architectural Review Commission Design Guidelines, for additions and alterations and new construction, dated and effective January 5, 2010, and administered by the historic preservation planner, and/or the HARC commission, who shall have the responsibility to review and approve or deny all applications for improvements, redevelopment and new development.

- (1) Maximum density: 8.6 dwelling units per acre (8.6 du/acre).
- (2) Maximum floor area ratio for all development including residential: 1.0.
- (3) Maximum height: 30 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 40 percent.
  - b. Maximum impervious surface ratio: 60 percent.
- (5) Minimum lot size: 5,000 square feet.
  - a. Minimum lot width: 50 feet.
  - b. Minimum lot depth: 100 feet.
- (6) Minimum setbacks:
  - a. Front: 10 feet.

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Subdivision III. Historic Special Medium Density Residential District

- b. Side: 5 feet.
- c. Rear: 15 feet.
- d. Street side: 7.5 feet.

(Ord. No. 12-33, § 2, 9-18-2012)

**Sec. 122-616. Affordable housing requirements.**

Affordable housing shall be required for all existing residential, redeveloped residential and new residential development at a ratio of 30 percent of the total units existent, redeveloped and/or created on properties located within the HSMDR zoning district per [chapter 122](#), article V, division 10, sections [122-1465](#) through [122-1472](#). Except that applications for rezoning of the property to HSMDR zoning received before September 6, 2012, shall have the 30% ratio adjusted such that the requirement shall be not less, but not more than 30 percent of the units existent on site at the time of application.

(Ord. No. 12-33, § 2, 9-18-2012)

**Secs. 122-617—122-625. Reserved.**

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Subdivision IV. Historic High Density Residential District (HHDR)

Subdivision IV. Historic High Density Residential District (HHDR) <sup>[10]</sup>

[Sec. 122-626. Intent.](#)

[Sec. 122-627. Uses permitted.](#)

[Sec. 122-628. Conditional uses.](#)

[Sec. 122-629. Prohibited uses.](#)

[Sec. 122-630. Dimensional requirements.](#)

[Secs. 122-631—122-655. Reserved.](#)

**Sec. 122-626. Intent.**

- (a) The historic high density residential district (HHDR) is established to implement comprehensive plan policies for areas designated "HHDR" on the comprehensive plan future land use map. The HHDR district shall accommodate historic high density residential development for permanent residents, including single-family, duplex, and multiple-family residential structures. The purpose of the historic high density residential designation is to provide a management framework for preserving the residential character and historic quality of the Old Town central residential community.
- (b) In addition, incidental accessory uses, including duly approved home occupations, and customary community facilities can be located in the HHDR district. The HHDR district shall not accommodate transient residential uses, including guesthomes, motels or hotels. Similarly, the area shall not accommodate freestanding commercial offices, retail, or other commercial uses. Lawfully existing office or commercial uses shall be permitted to continue to exist as lawful nonconforming uses if such uses continue to comply with conditions invoked when the respective uses were approved.

(Ord. No. 97-10, § 1(2-5.5.2(A)), 7-3-1997)

**Sec. 122-627. Uses permitted.**

Uses permitted in the historic high density residential district (HHDR) are as follows:

- (1) Single-family and two-family residential dwellings.
- (2) Multiple-family residential dwellings.
- (3) Group homes with less than or equal to six residents as provided in [section 122-1246](#)
- (4) Cemeteries, in the area bounded by Olivia Street, Windsor Lane, Passover Lane, Angela Street, and Frances Street.

(Ord. No. 97-10, § 1(2-5.5.2(B)), 7-3-1997; Ord. No. 04-09, § 1, 5-18-2004)

**Sec. 122-628. Conditional uses.**

Conditional uses in the historic high density residential district (HHDR) are as follows:

- (1) Group homes with seven to 14 residents as provided in [section 122-1246](#)

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- (2) Cultural and civic activities.
- (3) Educational institutions and day care.
- (4) Nursing homes, rest homes and convalescent homes.
- (5) Parks and recreation, active and passive.
- (6) Places of worship.
- (7) Protective services.
- (8) Public and private utilities.
- (9) Parking lots and facilities.

(Ord. No. 97-10, § 1(2-5.5.2(C)), 7-3-1997)

**Sec. 122-629. Prohibited uses.**

In the historic high density residential district (HHDR), all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 97-10, § 1(2-5.5.2(D)), 7-3-1997)

**Sec. 122-630. Dimensional requirements.**

The dimensional requirements in the historic high density residential district (HHDR) are as follows; however, construction may be limited by proportion, scale and mass considerations as expressed through the historic architectural review commission design guidelines:

- (1) Maximum density: 22 dwelling units per acre (22 du/acre).
- (2) Maximum floor area ratio: 1.00.
- (3) Maximum height: 30 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 50 percent.
  - b. Maximum impervious surface ratio: 60 percent.
- (5) Minimum lot size: 4,000 square feet.
  - a. Minimum width: 40 feet.
  - b. Minimum depth: 90 feet.
- (6) Minimum setbacks:
  - a. Front: 10 feet.
  - b. Side: 5 feet or 10 percent of lot width to a maximum of 15 feet, whichever is greater.
  - c. Rear: 20 feet.
  - d. Street side: 5 feet.

(Ord. No. 97-10, § 1(2-5.5.2(E)), 7-3-1997; Ord. No. 10-04, § 4, 1-5-2010)

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**Secs. 122-631—122-655. Reserved.**

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FOOTNOTE(S):

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**Cross reference**— Historic preservation, ch. 102. [\(Back\)](#)

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Chapter 122 - ZONING

ARTICLE IV. - DISTRICTS

DIVISION 7. HISTORIC RESIDENTIAL COMMERCIAL CORE DISTRICTS (HRCC-1 to 3)

***DIVISION 7. HISTORIC RESIDENTIAL COMMERCIAL CORE DISTRICTS***

***(HRCC-1 to 3)*** <sup>(11)</sup>

Subdivision I. - In General

Subdivision II. - HRCC-1 Duval Street Gulfside District

Subdivision III. - HRCC-2 Key West Bight District

Subdivision IV. - HRCC-3 Duval Street Oceanside District

[Subdivision V.] - HRCC-4 Truman Waterfront District

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FOOTNOTE(S):

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**Cross reference**— Historic preservation, ch. 102. [\(Back\)](#)

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DIVISION 7. - HISTORIC RESIDENTIAL COMMERCIAL CORE DISTRICTS (HRCC-1 to 3)

Subdivision I. In General

Subdivision I. In General

[Sec. 122-656. General intent.](#)

[Sec. 122-657. Uses permitted.](#)

[Sec. 122-658. Conditional uses.](#)

[Sec. 122-659. Prohibited uses.](#)

[Sec. 122-660. Dimensional requirements.](#)

[Secs. 122-661—122-685. Reserved.](#)

**Sec. 122-656. General intent.**

The historic residential commercial core districts (HRCC-1 through 3) are established to implement comprehensive plan policies for areas designated "HRCC-1 through 3" on the comprehensive future land use map. The HRCC districts shall accommodate the historic residential commercial core mixed use center. The HRCC district shall provide a management framework for preserving the nature, character and historic quality of the historic commercial core, including related residential development. Consistent with the comprehensive plan future land use map, the HRCC district has been divided into three subdistricts in order to carry out comprehensive plan policies addressing the function, form, and development constraints associated with the respective subareas.

(Ord. No. 97-10, § 1(2-5.5.3), 7-3-1997)

**Sec. 122-657. Uses permitted.**

Uses permitted in the HRCC district are as follows:

- (1) Single-family and two-family residential dwellings.
- (2) Multiple-family residential dwellings.
- (3) Group homes with less than or equal to six residents as provided in [section 122-1246](#)

(Ord. No. 03-05, § 1, 1-7-2003)

**Sec. 122-658. Conditional uses.**

Conditional uses in the HRCC district are as follows:

- (1) Group homes with seven to 14 residents as provided in [section 122-1246](#)
- (2) Places of worship.
- (3) Business and professional offices.
- (4) Commercial retail low and medium intensity less than or equal to 5,000 square feet as provided in division 11 of article V of this chapter.

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Subdivision I. In General

- (5) Medical services.
- (6) Parking lots and facilities.
- (7) Veterinary medical services without outside kennels.
- (8) Community centers, clubs, and lodges.
- (9) Cultural and civic activities.
- (10) Educational institutions and day care.
- (11) Nursing homes, rest homes and convalescent homes.
- (12) Parks and recreation, active and passive.
- (13) Protective services.
- (14) Public and private utilities.

(Ord. No. 03-05, § 2, 1-7-2003)

**Sec. 122-659. Prohibited uses.**

In the HRCC district, all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 03-05, § 3, 1-7-2003)

**Sec. 122-660. Dimensional requirements.**

The dimensional requirements in the HRCC district are as follows; however, construction may be limited by proportion, scale and mass considerations as expressed through the historic architectural review commission design guidelines:

- (1) Maximum density: A maximum of 12 dwelling units per acre (12 du/acre), provided that 40 percent are affordable; or a maximum of 16 dwelling units per acre (16 du/acre), provided that 50 percent are affordable; or a maximum of 22 dwellings units per acre (22 du/acre), provided that 66.66 percent are affordable.
- (2) Maximum floor area ratio: 0.5.
- (3) Maximum height: 35 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 50 percent.
  - b. Maximum impervious surface ratio: 60 percent.
- (5) Minimum lot size: 5,000 square feet.
  - a. Minimum lot width: 50 feet.
  - b. Minimum lot depth: 100 feet.
- (6) Minimum setbacks:
  - a. Front: 10 feet.

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Subdivision I. In General

- b. Side: 7.5 feet.
- c. Rear: 15 feet, but 10 feet when abutting an alley.
- d. Street side: 7.5 feet.

(Ord. No. 03-05, § 4, 1-7-2003; Ord. No. 10-04, § 5, 1-5-2010)

**Secs. 122-661—122-685. Reserved.**

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Subdivision II. HRCC-1 Duval Street Gulfside District

Subdivision II. HRCC-1 Duval Street Gulfside District

[Sec. 122-686. Intent.](#)

[Sec. 122-687. Uses permitted.](#)

[Sec. 122-688. Conditional uses.](#)

[Sec. 122-689. Prohibited uses.](#)

[Sec. 122-690. Dimensional requirements.](#)

[Secs. 122-691—122-715. Reserved.](#)

**Sec. 122-686. Intent.**

(a) The HRCC-1 Duval Street gulfside district incorporates the city's intensely vibrant tourist commercial entertainment center which is characterized by specialty shops, sidewalk-oriented restaurants, lounges and bars with inviting live entertainment; and transient residential accommodations. The core of the commercial entertainment center spans generally from the Pier House south to Petronia Street as specifically referenced on the official zoning map. This segment of Duval Street is the most intense activity center in the historic commercial core. The following light manufacturing and warehousing uses are located within the eastern portion of the HRCC-1 district:

- (1) Strunk Lumber Yard.
- (2) Key West Aloe Processing Plant.
- (3) Key West Hand Print Fabric Shop.

(b) These light manufacturing and warehouse uses include real estate parcel numbers 24, 29, 36, 99, and 116, as delineated in the county property appraiser's city property location map dated January, 1991. In addition to uses generally allowed throughout the HRCC-1 area, the following light industrial and warehouse uses may locate exclusively within these areas (i.e., real estate parcels 24, 29, 36, 99, and 116) upon satisfying comprehensive performance criteria, including but not limited to nuisance abatement standards, screening and buffering, concurrency management, open space, and all such activities must be under roof with no open yard storage:

- (1) Warehousing and wholesaling within enclosed buildings;
- (2) Service and repair establishments, excluding vehicle and heavy machinery service and repair; business services; printing shops; and similar uses;
- (3) Light manufacturing, excluding metal processing or fabrication, including light processing, assembly and distribution functions, electronics, research and development, and similar uses;
- (4) Building materials supply and storage, and contractor's storage;
- (5) Vocational trade schools;
- (6) Enclosed parking facilities; and
- (7) Accessory uses.

(Ord. No. 97-10, § 1(2-5.5.3(1)(A)), 7-3-1997)

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Subdivision II. HRCC-1 Duval Street Gulfside District

**Sec. 122-687. Uses permitted.**

Uses permitted in the HRCC-1 Duval Street gulfside district are as follows:

- (1) Single-family and two-family residential dwellings.
- (2) Multiple-family residential dwellings.
- (3) Group homes with less than or equal to six residents as provided in [section 122-1246](#)
- (4) Places of worship.
- (5) Business and professional offices.
- (6) Commercial retail low and medium intensity less than or equal to 5,000 square feet as provided in division 11 of article V of this chapter.
- (7) Commercial retail high intensity less than or equal to 2,500 square feet as provided in division 11 of article V of this chapter.
- (8) Hotels, motels, and transient lodging.
- (9) Medical services.
- (10) Parking lots and facilities.
- (11) Restaurants, excluding drive-through.
- (12) Veterinary medical services without outside kennels.
- (13) Adult entertainment establishments (see [section 122-1533](#)).

(Ord. No. 97-10, § 1(2-5.5.3(1)(B)), 7-3-1997; Ord. No. 04-14, § 1, 7-7-2004)

**Sec. 122-688. Conditional uses.**

Conditional uses in the HRCC-1 Duval Street gulfside district are as follows:

- (1) Group homes with seven to 14 residents as provided in [section 122-1246](#)
- (2) Cultural and civic activities.
- (3) Community centers, clubs, and lodges.
- (4) Educational institutions and day care.
- (5) Nursing homes, rest homes and convalescent homes.
- (6) Parks and recreation, active and passive.
- (7) Protective services.
- (8) Public and private utilities.
- (9) Bars and lounges, including those associated with adult entertainment establishments.
- (10) Boat sales and service.
- (11) Commercial amusement, except adult entertainment establishments.

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Subdivision II. HRCC-1 Duval Street Gulfside District

- (12) Commercial low and medium intensity greater than 5,000 square feet as provided in division 11 of article V of this chapter.
  - (13) Commercial retail high intensity greater than 2,500 square feet as provided in division 11 of article V of this chapter.
  - (14) Funeral homes.
  - (15) Light industrial.
  - (16) Marinas.
  - (17) Small recreational power-driven equipment rentals.
- (Ord. No. 97-10, § 1(2-5.5.3(1)(C)), 7-3-1997; Ord. No. 04-14, § 2, 7-7-2004)

**Sec. 122-689. Prohibited uses.**

In the HRCC-1 Duval Street gulfside district, all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 97-10, § 1(2-5.5.3(1)(D)), 7-3-1997)

**Sec. 122-690. Dimensional requirements.**

The dimensional requirements in the HRCC-1 Duval Street gulfside district are as follows; however, construction may be limited by proportion, scale and mass considerations as expressed through the historic architectural review commission design guidelines:

- (1) Maximum density: 22 dwelling units per acre (22 du/acre).
- (2) Maximum floor area ratio: 1.0.
- (3) Maximum height: 35 feet plus an additional 5 feet if the structure has a pitched roof, the design of which is approved by the historic architectural review commission.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 50 percent.
  - b. Impervious surface ratio: 70 percent.
- (5) Minimum lot size: 4,000 square feet.
  - a. Minimum lot width: 40 feet.
  - b. Minimum depth: 100 feet.
- (6) Minimum setbacks:
  - a. Front: none.
  - b. Side: 2.5 feet.
  - c. Rear: 10 feet.
  - d. Street side: none.

(Ord. No. 97-10, § 1(2-5.5.3(1)(E)), 7-3-1997; Ord. No. 10-04, § 6, 1-5-2010)

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Subdivision II. HRCC-1 Duval Street Gulfside District

**Secs. 122-691—122-715. Reserved.**

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Subdivision III. HRCC-2 Key West Bight District

Subdivision III. HRCC-2 Key West Bight District

[Sec. 122-716. Intent.](#)

[Sec. 122-717. Uses permitted.](#)

[Sec. 122-718. Conditional uses.](#)

[Sec. 122-719. Prohibited uses.](#)

[Sec. 122-720. Dimensional requirements.](#)

[Secs. 122-721—122-745. Reserved.](#)

**Sec. 122-716. Intent.**

- (a) Consistent with the comprehensive plan future land use map, the HRCC-2 Key West Bight district includes the Key West Bight area. Development within this district shall reinforce the following:
- (1) Preservation of public waterfront access as well as waterfront views;
  - (2) Improved pedestrian linkages with adjacent and nearby activity centers;
  - (3) Protection and enhancement of opportunities for water-dependent and water-related land use activities, while preventing undue concentrations of population within the coastal high hazard area;
  - (4) Accommodation of public improvements necessary to achieve redevelopment plan objectives;
  - (5) Implementation of urban design schemes which attract pedestrians, increase waterfront exposure, reinforce the ambiance of the waterfront, and regulate against structures which wall off or otherwise inhibit access to waterfront views, strategic open spaces, or pedestrian linkages; and
  - (6) Consistency with the redevelopment plan for the Key West Bight and the Caroline Street Redevelopment Area.
- (b) This threshold shall be consistent with the limits established in F.S. § 420.9071(20) for moderate income persons. The HRCC-2 area is the only designated receiving area for transfers of development rights.

(Ord. No. 97-10, § 1(2-5.5.3(2)(A)), 7-3-1997)

**Sec. 122-717. Uses permitted.**

In the HRCC-2 Key West Bight district, only water-dependent uses shall be located within the first 30 feet landward of the mean high water (MHW) or the bulkhead. Similarly, only water-related uses shall be located between the 30-foot setback and the 100-foot setback from the mean high water or the bulkhead. No permanent residential use shall be located within 100 feet of the mean high water, and no transient residential uses shall be allowed within any portion of the HRCC-2 district. Permitted uses include the following:

- (1) Single-family and two-family residential dwellings.

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- (2) Multiple-family residential dwellings.
- (3) Group homes with less than or equal to six residents as provided in [section 122-1246](#)
- (4) Places of worship.
- (5) Business and professional offices.
- (6) Commercial retail low and medium intensity less than or equal to 5,000 square feet as provided in division 11 of article V of this chapter.
- (7) Medical services.
- (8) Parking lots and facilities.
- (9) Restaurants, excluding drive-through.
- (10) Veterinary medical services without outside kennels.

(Ord. No. 97-10, § 1(2-5.5.3(2)(B)), 7-3-1997)

**Sec. 122-718. Conditional uses.**

Conditional uses in the HRCC-2 Key West Bight district are as follows:

- (1) Group homes with seven to 14 residents as provided in [section 122-1246](#)
- (2) Community centers, clubs, and lodges.
- (3) Cultural and civic activities.
- (4) Educational institutions and day care.
- (5) Nursing homes, rest homes and convalescent homes.
- (6) Parks and recreation, active and passive.
- (7) Protective services.
- (8) Public and private utilities.
- (9) Bars and lounges.
- (10) Boat sales and service.
- (11) Commercial retail low and medium intensity greater than 5,000 square feet as provided in division 11 of article V of this chapter.
- (12) Commercial retail high intensity as provided in division 11 of article V of this chapter.
- (13) Funeral homes.
- (14) Light industrial.
- (15) Marinas.
- (16) Small recreational power-driven equipment rentals.

(Ord. No. 97-10, § 1(2-5.5.3(2)(C)), 7-3-1997)

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**Sec. 122-719. Prohibited uses.**

In the HRCC-2 Key West Bight district, all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 97-10, § 1(2-5.5.3(2)(D)), 7-3-1997)

**Sec. 122-720. Dimensional requirements.**

The dimensional requirements in the HRCC-2 Key West Bight district are as follows; however, construction may be limited by proportion, scale and mass considerations as expressed through the historic architectural review commission design guidelines:

- (1) Maximum density: Density of areas designated HRCC-2 on the future land use map shall carry a base density of eight units per gross acre. These HRCC-2 designated areas may develop to a density of 12 units per acre under the transfer of development rights program assuming that the owner/developer certifies by affidavit as described in this subsection that a minimum of 40 percent of the residential units shall be provided and maintained as affordable housing as described. Areas designated "HRCC-2" on the future land use map may be increased to 20 units per acre if all units within the development are certified by affidavit of the owner/developer as affordable residential units. All increases in density above the base density of eight units per acre shall be only by transfer of development rights. An affordable housing affidavit shall guarantee that the affordable units shall be inhabited in perpetuity by residents whose income levels are consistent with income thresholds to be established in the city's affordable housing in division 10 of article V of this chapter. All developments in the HRCC-2 district involving transfer of development rights and affordable housing shall be approved pursuant to a development agreement as provided in chapters [94](#), [102](#) and [106](#); articles I and III through IX of [chapter 108](#); and chapters 110 and [114](#). This threshold shall be consistent with the limits established in F.S. § 420.9071(20) for moderate income persons. The HRCC-2 area is the only designated receiving area for transfers of density.
- (2) Maximum floor area ratio: 0.5.
- (3) Maximum height: 35 feet, except within the 100-foot setback from mean high water, the following restrictions apply:
  - a. The minimum open space ratio shall be 0.5.
  - b. The height of buildings shall be one habitable floor/story above the base flood elevation.
- (4) Maximum lot coverage: Within the 100-foot setback from mean high water, the minimum open space ratio shall be 0.50, and the maximum height of buildings shall be restricted to one habitable floor/story above base flood elevations. The open space restriction shall not apply to a ferry terminal if the Chevron property within the Key West Bight area is selected for the city ferry terminal. The redevelopment plan shall provide design criteria which shall protect waterfront views, mandate pedestrian access improvements, and ensure preservation of open space. Landward of the 100-foot setback area the following restrictions shall apply:
  - a. Maximum building coverage: 50 percent.
  - b. Maximum impervious surface ratio: 60 percent, excepting the first 100 feet from mean high water as provided in [section 122-716](#)
- (5) Minimum lot size: 5,000 square feet.

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Subdivision III. HRCC-2 Key West Bight District

- a. Minimum lot width: 50 feet.
- b. Minimum lot depth: 100 feet.
- (6) Minimum setbacks:
  - a. Front: 10 feet.
  - b. Side: 7.5 feet.
  - c. Rear: 15 feet but ten when abutting an alley.
  - d. Street side: 7.5 feet.

(Ord. No. 97-10, § 1(2-5.5.3(2)(E)), 7-3-1997; Ord. No. 10-04, § 7, 1-5-2010)

**Secs. 122-721—122-745. Reserved.**

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Subdivision IV. HRCC-3 Duval Street Oceanside District

Subdivision IV. HRCC-3 Duval Street Oceanside District

[Sec. 122-746. Intent.](#)

[Sec. 122-747. Uses permitted.](#)

[Sec. 122-748. Conditional uses.](#)

[Sec. 122-749. Prohibited uses.](#)

[Sec. 122-750. Dimensional requirements.](#)

[Secs. 122-751—122-755. Reserved.](#)

**Sec. 122-746. Intent.**

Consistent with the comprehensive plan future land use map, the HRCC-3 Duval Street Oceanside District includes the Duval Street Oceanside Corridor from Petronia Street south to United Street. Located toward the southern end of Duval Street, this corridor serves as a center for arts, crafts, gifts, designer goods, restaurants, and tourist accommodations. Structures within this corridor generally have retained a front facade which is much less commercialized relative to the entertainment center on the gulf side of Duval Street. The front facades generally have much smaller storefront windows and frequently incorporate a residential vernacular characterized by wood frame windows, equipped with mullions, and wood clapboard siding. This area shall be regulated by more restrictive performance standards than those applicable to the HRCC-1 district north of Petronia Street. The criteria for development within the HRCC-3 district shall require larger open space ratios, design standards which preserve and reinforce the physical characteristics of the area, and land use restrictions which exclude sidewalk bars and lounges which may produce excessive noise incompatible with surrounding activities.

(Ord. No. 97-10, § 1(2-5.5.3(3)(A)), 7-3-1997)

**Sec. 122-747. Uses permitted.**

Uses permitted in the HRCC-3 Duval Street Oceanside District are as follows:

- (1) Single-family and two-family residential dwellings.
- (2) Multiple-family residential dwellings.
- (3) Group homes with less than or equal to six residents as provided in [section 122-1246](#)
- (4) Places of worship.
- (5) Business and professional offices.
- (6) Commercial retail low and medium intensity less than or equal to 5,000 square feet as provided in division 11 of article V of this chapter.
- (7) Hotels, motels and transient lodging.
- (8) Medical services.
- (9) Parking lots and facilities.

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- (10) Restaurants, excluding drive-through.
  - (11) Veterinary medical services without outside kennels.
- (Ord. No. 97-10, § 1(2-5.5.3(3)(B)), 7-3-1997)

**Sec. 122-748. Conditional uses.**

Conditional uses in the HRCC-3 Duval Street Oceanside District are as follows:

- (1) Group homes with seven to 14 residents as provided in [section 122-1246](#)
- (2) Community centers, clubs and lodges.
- (3) Cultural and civic activities.
- (4) Educational institutions and day care.
- (5) Nursing homes, rest homes and convalescent homes.
- (6) Parks and recreation, active and passive.
- (7) Protective services.
- (8) Public and private utilities.
- (9) Bars and lounges.
- (10) Commercial retail low and medium intensity greater than 5,000 square feet.
- (11) Commercial retail high intensity.
- (12) Funeral homes.
- (13) Small recreational power-driven equipment rentals.

(Ord. No. 97-10, § 1(2-5.5.3(3)(C)), 7-3-1997)

**Sec. 122-749. Prohibited uses.**

In the HRCC-3 Duval Street Oceanside District, all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 97-10, § 1(2-5.5.3(3)(D)), 7-3-1997)

**Sec. 122-750. Dimensional requirements.**

The dimensional requirements in the HRCC-3 Duval Street Oceanside District are as follows; however, construction may be limited by proportion, scale and mass considerations as expressed through the historic architectural review commission design guidelines:

- (1) Maximum density: 22 dwelling units per acre (22 du/acre).
- (2) Maximum floor area ratio: 1.0.
- (3) Maximum height: 35 feet plus an additional 5 feet if the structure has a pitched roof, the design of which is approved by the historic architectural review commission.

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- (4) Maximum lot coverage:
  - a. Maximum building coverage: 50 percent.
  - b. Impervious surface ratio: 60 percent.
- (5) Minimum lot size: 4,000 feet.
  - a. Minimum lot width: 40 feet.
  - b. Minimum lot depth: 90 feet.
- (6) Minimum setback:
  - a. Front: 5 feet.
  - b. Side: 5 feet.
  - c. Rear: 15 feet.
  - d. Street side: 7.5 feet.

(Ord. No. 97-10, § 1(2-5.5.3(3)(E)), 7-3-1997; Ord. No. 10-04, § 9, 1-5-2010)

**Secs. 122-751—122-755. Reserved.**

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Subdivision V. HRCC-4 Truman Waterfront District

*Subdivision V. HRCC-4 Truman Waterfront District*

[Sec. 122-756. Intent.](#)

[Sec. 122-757. Uses permitted.](#)

[Sec. 122-758. Conditional uses.](#)

[Sec. 122-759. Prohibited uses.](#)

[Sec. 122-760. Dimensional requirements.](#)

[Secs. 122-761—122-775. Reserved.](#)

**Sec. 122-756. Intent.**

The HRCC-4 district is established to implement comprehensive plan policies for areas designated "HRCC-4" on the comprehensive plan future land use map. The HRCC-4 district shall provide the Truman Waterfront site with a designation which specifically accommodates marine-related and marine-dependent activities, as well as encourages preservation of the nature, character, and quality of the city's historic development. Building construction is to be limited on Mole Pier and no more than 15,000 square feet of building construction will be allowed on the pier.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.3(4)(A))), 9-8-1999)

**Sec. 122-757. Uses permitted.**

Only water dependent uses shall be located within the first 40 feet landward of the mean high water (MHW) or the bulkhead. Similarly, only water related uses shall be located between the 40-foot setback and the 100-foot setback from the MHW or the bulkhead. No permanent residential use shall be located within 100 feet of the mean high water, and no transient residential uses shall be allowed within any portion of the HRCC-4 district. Permitted uses include:

- (1) Port and port-related uses, provided that uses that constitute "port expansion" as set out in section 5B-1.B.4. of the comprehensive plan receive approval through the major development approval process of [section 108-31](#)
- (2) Harborwalk.
- (3) Mobile vending along Harborwalk, consistent with other city regulations.
- (4) Business and professional offices (marine-related) on second floor.
- (5) Commercial retail low and medium intensity (marine-related) less than or equal to 5,000 square feet.
- (6) Parking lots.
- (7) Light industrial (marine-related).
- (8) Boat sales and service.

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- (9) Commercial retail low and medium intensity (bicycle rental) less than or equal to 5,000 square feet.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.3(4)(B))), 9-8-1999; Ord. No. 00-14, § 1(Exh. A), 7-5-2000)

**Sec. 122-758. Conditional uses.**

Conditional uses in the HRCC-4 Truman Waterfront District are as follows:

- (1) Commercial retail low and medium intensity (marine-related) greater than 5,000 square feet.
- (2) Educational institutions.
- (3) Marinas.
- (4) Public and private utilities.
- (5) Permanent residential as long as the use is less than or equal to 750 square feet or no more than 25 percent of the other use on-site, whichever is less.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.3(4)(C))), 9-8-1999)

**Sec. 122-759. Prohibited uses.**

In the HRCC-4 Truman Waterfront District, the following uses are prohibited:

- (1) More than one cruise ship berth on the Outer Mole Pier.
- (2) Cruise ship home porting activities.
- (3) Car ferries.
- (4) All uses not specifically or provisionally provided for in this subdivision.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.3(4)(D))), 9-8-1999; Ord. No. 00-14, § 1(Exh. A), 7-5-2000)

**Sec. 122-760. Dimensional requirements.**

The dimensional requirements in the HRCC-4 Truman Waterfront District are as follows; however, construction may be limited by proportion, scale and mass considerations as expressed through the historic architectural review commission design guidelines:

- (1) Maximum density: 16 units per acre only as a conditional use.
- (2) Maximum FAR: 1.0.
- (3) Maximum height: 35 feet, except within the 100 feet setback from mean high water (MHW), the following restrictions apply:
  - a. The minimum open space ratio shall be 0.5.
  - b. The height of buildings shall be one habitable floor/story above base flood elevation.
- (4) Maximum building coverage: 50 percent.
  - a. Maximum impervious surface ratio: 60 percent, excepting the first 100 feet from mean high water.

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**Cross reference—** HRCC-2 Key West Bight district, § 122-716 et seq.

- (5) Minimum lot size: 5,000 square feet.
  - a. Minimum lot width: 50 feet.
  - b. Minimum lot depth: 100 feet.
- (6) Minimum setbacks:
  - a. Front: 10 feet.
  - b. Side: 7.5 feet.
  - c. Rear: 15 feet but 10 when abutting an alley.
  - d. Street side: 7.5 feet.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.3(4)(E))), 9-8-1999; Ord. No. 10-04, § 8, 1-5-2010)

**Secs. 122-761—122-775. Reserved.**

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***DIVISION 8. HISTORIC NEIGHBORHOOD COMMERCIAL DISTRICTS*** <sup>[12]</sup>

[Subdivision I. - In General](#)

[Subdivision II. - Historic Neighborhood Commercial District—Truman/Simonton \(HNC-1\)](#)

[Subdivision III. - Historic Neighborhood Commercial District \(HNC-2\)](#)

[Subdivision IV. - Historic Neighborhood Commercial District \(HNC-3\)](#)

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FOOTNOTE(S):

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**Cross reference**— Businesses, ch. 18; historic preservation, ch. 102. [\(Back\)](#)

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Subdivision I. In General

Subdivision I. In General

[Sec. 122-776. Intent.](#)

[Secs. 122-777—122-805. Reserved.](#)

**Sec. 122-776. Intent.**

- (a) The historic neighborhood commercial districts, HNC-1 through 3 districts, are established to implement comprehensive plan policies for areas designated "HNC-1 through 3" on the comprehensive plan future land use map. The HNC districts shall accommodate both residential and neighborhood commercial uses typically located along major thoroughfares which lead into or are adjacent to the central core commercial area of the city. Residential activities permitted within the HNC-1 through 3 districts include single-family and duplex structures as well as multiple-family structures. Commercial uses generally permitted in these districts include the following:
- (1) Professional offices;
  - (2) Banking and financial institutions;
  - (3) Personal service shops;
  - (4) Specialty shops;
  - (5) Retail sales and services, excluding automotive sales and services as well as drive-through restaurants, theaters or other drive-through facilities which potentially generate similar traffic flow problems; and
  - (6) Transient living accommodations and guest cottages within the HNC-1 and HNC-3 districts but not within the HNC-2 district.
- (b) The HNC-1 through 3 districts may also accommodate customary accessory uses and community facilities. The HNC district regulations include criteria for managing issues surrounding land use compatibility; historic preservation; access to public facilities with available capacity; urban design amenities; and related issues which must be managed to ensure effective implementation of the comprehensive plan goals, objectives, and policies. Within the HNC districts redevelopment or conversion of permanent housing structures to transient residential, office, or other allowable commercial uses shall be permitted only if no on-site reduction in housing units for permanent residents occurs. The minimum size dwelling shall be 750 square feet.
- (c) Performance standards shall restrict the allowable neighborhood commercial uses to very limited square footage in order to maintain land use compatibility with residential uses in the vicinity. In addition, the performance standards shall require minimum open space ratios, restrict the floor area based on traffic-generating characteristics, and incorporate other qualitative and quantitative standards which protect residential properties.
- (d) In order to manage the impacts of future development on transportation and public facilities, the city shall limit the intensity of development within the HNC district by establishing the following thresholds within subdistricts HNC-1, HNC-2, and HNC-3, respectively:

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Subdivision I. In General

- (1) Within the HNC-1 subdistrict, excepting sites abutting Simonton Street and Truman Avenue, land use activities shall generate no more than 100 trips per 1,000 square feet of gross leasable floor area per day.
- (2) Within the HNC-2 and HNC-3 subdistricts, land use activities shall generate no more than 50 trips per 1,000 square feet of gross leasable floor area per day.
- (3) Within the HNC-2 transient accommodations shall be prohibited.
- (e) The HNC subdistricts are generally located on the official zoning map as provided in subdivisions II through IV of this division.

(Ord. No. 97-10, § 1(2-5.5.4), 7-3-1997)

**Secs. 122-777—122-805. Reserved.**

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Subdivision II. Historic Neighborhood Commercial District—Truman/Simonton (HNC-1)

Subdivision II. Historic Neighborhood Commercial District—Truman/Simonton (HNC-1)

[Sec. 122-806. Intent.](#)

[Sec. 122-807. Uses permitted.](#)

[Sec. 122-808. Conditional uses.](#)

[Sec. 122-809. Prohibited uses.](#)

[Sec. 122-810. Dimensional requirements.](#)

[Secs. 122-811—122-835. Reserved.](#)

**Sec. 122-806. Intent.**

The historic neighborhood commercial district—Truman/Simonton (HNC-1) consists of Simonton, Truman Avenue, and White Street South Corridors. The HNC-1 district is located along major segments of Simonton Street, from Caroline South to United Street; Truman Avenue, from Simonton Street northeast to White Street; and White Street, from Truman Avenue south to United Street; and generally includes larger scale commercial uses oriented toward the motoring public.

(Ord. No. 97-10, § 1(2-5.5.4(1)(A)), 7-3-1997)

**Sec. 122-807. Uses permitted.**

Within the historic neighborhood commercial (HNC) districts, redevelopment or conversion of permanent housing structures to transient residential, office, or other allowable commercial uses shall be permitted only if no on-site reduction in housing units for permanent residents occurs. Uses permitted include the following:

- (1) Single-family and two-family residential dwellings.
- (2) Multiple-family residential dwellings.
- (3) Group homes with less than or equal to six residents as provided in [section 122-1246](#)
- (4) Places of worship.
- (5) Business and professional offices.
- (6) Commercial retail low and medium intensity less than or equal to 2,500 square feet.
- (7) Hotels, motels and transient lodging.
- (8) Medical services.
- (9) Parking lots and facilities.
- (10) Veterinary medical services without outside kennels.

(Ord. No. 97-10, § 1(2-5.5.4(1)(B)), 7-3-1997)

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Subdivision II. Historic Neighborhood Commercial District—Truman/Simonton (HNC-1)

**Sec. 122-808. Conditional uses.**

Conditional uses in the historic neighborhood commercial district—Truman/Simonton (HNC-1) are as follows:

- (1) Group homes with seven to 14 residents as provided in [section 122-1246](#)
- (2) Community centers, clubs and lodges.
- (3) Cultural and civic activities.
- (4) Educational institutions and day care.
- (5) Nursing homes, rest homes and convalescent homes.
- (6) Parks and recreation, active and passive.
- (7) Protective services.
- (8) Public and private utilities.
- (9) Commercial retail low and medium intensity greater than 2,500 square feet.
- (10) Commercial retail high intensity.
- (11) Funeral homes.
- (12) Light industrial.
- (13) Restaurants, excluding drive-through.
- (14) Small recreational power-driven equipment rentals.

(Ord. No. 97-10, § 1(2-5.5.4(1)(C)), 7-3-1997)

**Sec. 122-809. Prohibited uses.**

In the historic neighborhood commercial district—Truman/Simonton (HNC-1), all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 97-10, § 1(2-5.5.4(1)(D)), 7-3-1997)

**Sec. 122-810. Dimensional requirements.**

The dimensional requirements in the historic neighborhood commercial district—Truman/Simonton (HNC-1) are as follows; however, construction may be limited by proportion, scale and mass considerations as expressed through the historic architectural review commission design guidelines:

- (1) Maximum density: 16 dwelling units per acre (16 du/acre).
- (2) Maximum floor area ratio: 1.0. Refer to [section 122-776](#) for additional restrictions that regulate the square footage of gross leasable floor area based on trip generation within HNC areas.
- (3) Maximum height: 35 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 50 percent.

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Subdivision II. Historic Neighborhood Commercial District—Truman/Simonton (HNC-1)

- b. Impervious surface ratio: 60 percent.
- (5) Minimum lot size: 4,000 square feet.
  - a. Minimum lot width: 40 feet.
  - b. Minimum lot depth: 100 feet.
- (6) Minimum setbacks:
  - a. Front: 5 feet.
  - b. Side: 5 feet.
  - c. Rear: 15 feet.
  - d. Street side: 7.5 feet.

(Ord. No. 97-10, § 1(2-5.5.4(1)(E)), 7-3-1997; Ord. No. 10-04, § 10, 1-5-2010)

**Secs. 122-811—122-835. Reserved.**

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Subdivision III. Historic Neighborhood Commercial District (HNC-2)

Subdivision III. Historic Neighborhood Commercial District (HNC-2) <sup>[13]</sup>

[Sec. 122-836. Intent.](#)

[Sec. 122-837. Uses permitted.](#)

[Sec. 122-838. Conditional uses.](#)

[Sec. 122-839. Prohibited uses.](#)

[Sec. 122-840. Dimensional requirements.](#)

[Secs. 122-841—122-865. Reserved.](#)

**Sec. 122-836. Intent.**

The historic neighborhood commercial district (HNC-2) is restricted to small offices, neighborhood shops, restaurants with very limited seating, or other commercial uses similar in character to traditional neighborhood commercial services which have very limited square footage and generate low volumes of traffic. In the future in-fill within the HNC-2 district shall be strictly governed by performance criteria which ensures continued land use compatibility and stability within and among adjacent residential areas. The HNC-2 district mixed use subareas are comprised of both residential and commercial activities and shall continue to be allowed to develop as mixed use neighborhood centers. Qualitative and quantitative performance criteria shall be used to prevent encroachment by incompatible commercial uses characterized by excessive scale and intensity.

(Ord. No. 97-10, § 1(2.5.5.4(2)(A)), 7-3-1997; Ord. No. 99-18, § 1 (Exh. A(2-5.5.4(2)(A))), 9-8-1999)

**Sec. 122-837. Uses permitted.**

Uses permitted in the historic neighborhood commercial district (HNC-2) are as follows:

- (1) Single-family and two-family residential dwellings.
- (2) Multiple-family residential dwellings.
- (3) Group homes with less than or equal to six residents as provided in [section 122-1246](#)
- (4) Places of worship.
- (5) Business and professional offices.
- (6) Commercial retail low intensity less than or equal to 2,500 square feet.
- (7) Medical services.
- (8) Parking lots and facilities.
- (9) Veterinary medical services, without outside kennels.
- (10) Parks and recreation, active and passive on the Truman Waterfront parcel, only.

(Ord. No. 97-10, § 1(2.5.5.4(2)(B)), 7-3-1997; Ord. No. 99-18, § 1 (Exh. A(2-5.5.4(2)(B))), 9-8-1999)

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Subdivision III. Historic Neighborhood Commercial District (HNC-2)

**Sec. 122-838. Conditional uses.**

Conditional uses in the historic neighborhood commercial district (HNC-2) are as follows:

- (1) Group homes with seven to 14 residents as provided in [section 122-1246](#)
- (2) Cultural and civic activities.
- (3) Educational institutions and day care.
- (4) Nursing homes, rest and convalescent homes.
- (5) Parks and recreation, active and passive.
- (6) Protective services.
- (7) Public and private utilities.
- (8) Commercial retail low intensity greater than 2,500 square feet and less than or equal to 5,000 square feet.
- (9) Restaurants, excluding drive-through. However, restaurants are expressly excluded from lots fronting the south side of Caroline Street, west of William Street and extending west 50 feet past Peacon Lane to include the lot abutting both the west side of Peacon Lane and the south side of Caroline Street.

(Ord. No. 97-10, § 1(2.5.5.4(2)(C)), 7-3-1997; Ord. No. 99-18, § 1 (Exh. A(2-5.5.4(2)(C))), 9-8-1999)

**Sec. 122-839. Prohibited uses.**

In the historic neighborhood commercial district (HNC-2), all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 97-10, § 1(2.5.5.4(2)(D)), 7-3-1997; Ord. No. 99-18, § 1 (Exh. A(2-5.5.4(2)(D))), 9-8-1999)

**Sec. 122-840. Dimensional requirements.**

The dimensional requirements in the historic neighborhood commercial district (HNC-2) are as follows; however, construction may be limited by proportion, scale and mass considerations as expressed through the historic architectural review commission design guidelines:

- (1) Maximum density: 16 dwelling units per acre (16 du/acre).
- (2) Maximum floor area ratio: 1.0. Refer to [section 122-776](#) for additional restrictions that regulate the square footage of gross leasable floor area based on trip generation within HNC areas.
- (3) Maximum height: 30 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 40 percent.
  - b. Impervious surface ratio: 60 percent.
- (5) Minimum lot size: 5,000.
  - a. Minimum lot width: 50 feet.

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Subdivision III. Historic Neighborhood Commercial District (HNC-2)

- b. Minimum lot depth: 100 feet.
- (6) Minimum setbacks:
  - a. Front: 10 feet.
  - b. Side: 5 feet.
  - c. Rear: 15 feet.
  - d. Street side: 7.5 feet.

(Ord. No. 97-10, § 1(2.5.5.4(2)(E)), 7-3-1997; Ord. No. 99-18, § 1 (Exh. A(2-5.5.4(2)(E))), 9-8-1999;  
Ord. No. 10-04, § 11, 1-5-2010)

**Secs. 122-841—122-865. Reserved.**

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FOOTNOTE(S):

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**Cross reference**— Historic preservation, ch. 102. [\(Back\)](#)

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Subdivision IV. Historic Neighborhood Commercial District (HNC-3)

Subdivision IV. Historic Neighborhood Commercial District (HNC-3) <sup>[14]</sup>

[Sec. 122-866. Intent.](#)

[Sec. 122-867. Uses permitted.](#)

[Sec. 122-868. Conditional uses.](#)

[Sec. 122-869. Prohibited uses.](#)

[Sec. 122-870. Dimensional requirements.](#)

[Secs. 122-871—122-895. Reserved.](#)

**Sec. 122-866. Intent.**

The historic neighborhood commercial district (HNC-3) consists of the Bahama Village commercial core. The HNC-3 Bahama Village commercial core district includes the Bahama Village neighborhood commercial core along Petronia Street, approximately 200 feet southwest of Duval Street, and extends southwestward to the rear property lines of lots abutting the southwest side of Emma Street. The village area is a redevelopment area, including a commercial center linked to Duval Street. Consistent with the comprehensive plan, development in the district shall be directed toward maintaining and/or revitalizing existing housing structures, preventing displacement of residents, and compliance with concurrency management.

(Ord. No. 97-10, § 1(2-5.5.4(3)(A)), 7-3-1997)

**Sec. 122-867. Uses permitted.**

Within the historic neighborhood commercial district (HNC-3), redevelopment or conversion of permanent housing structures to transient residential, office, or other allowable commercial uses shall be permitted only if no on-site reduction in housing units for permanent residents occurs. Uses permitted include the following:

- (1) Single-family and two-family residential dwellings.
- (2) Multiple-family residential dwellings.
- (3) Group homes with less than or equal to six residents as provided in [section 122-1246](#)
- (4) Places of worship.
- (5) Business and professional offices.
- (6) Commercial retail low intensity less than or equal to 2,500 square feet.
- (7) Hotels, motels, and transient lodging.
- (8) Medical services.
- (9) Parking lots and facilities.
- (10) Veterinary medical services, without outside kennels.

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(Ord. No. 97-10, § 1(2-5.5.4(3)(B)), 7-3-1997)

**Sec. 122-868. Conditional uses.**

Conditional uses in the historic neighborhood commercial district (HNC-3) are as follows:

- (1) Group homes with seven to 14 residents as provided in [section 122-1246](#)
- (2) Cultural and civic activities.
- (3) Educational institutions and day care.
- (4) Nursing homes, rest homes and convalescent homes.
- (5) Parks and recreation, active and passive.
- (6) Protective services.
- (7) Public and private utilities.
- (8) Commercial retail low intensity greater than 2,500 square feet to less than or equal to 5,000 square feet.
- (9) Restaurants, excluding drive-through.

(Ord. No. 97-10, § 1(2-5.5.4(3)(C)), 7-3-1997)

**Sec. 122-869. Prohibited uses.**

In the historic neighborhood commercial district (HNC-3), all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 97-10, § 1(2-5.5.4(3)(D)), 7-3-1997)

**Sec. 122-870. Dimensional requirements.**

The dimensional requirements in the historic neighborhood commercial district (HNC-3) are as follows; however, construction may be limited by proportion, scale and mass considerations as expressed through the historic architectural review commission design guidelines:

- (1) Maximum density: 16 dwelling units per acre (16 du/acre).
- (2) Maximum floor area ratio: 1.0. Refer to [section 122-776](#) for additional restrictions that regulate the square footage of gross leasable floor area based on trip generation within HNC areas.
- (3) Maximum height: 30 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 40 percent.
  - b. Impervious surface ratio: 60 percent.
- (5) Minimum lot size: 4,000 square feet.
  - a. Minimum lot width: 40 feet.

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Subdivision IV. Historic Neighborhood Commercial District (HNC-3)

- b. Minimum lot depth: 90 feet.
- (6) Minimum setbacks:
  - a. Front: none.
  - b. Side: 5 feet.
  - c. Rear: 15 feet.
  - d. Street side: 7.5 feet.

(Ord. No. 97-10, § 1(2-5.5.4(3)(E)), 7-3-1997; Ord. No. 10-04, § 12, 1-5-2010)

**Secs. 122-871—122-895. Reserved.**

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FOOTNOTE(S):

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--- (14) ---

**Cross reference**— Historic preservation, ch. 102. [\(Back\)](#)

Subpart B - LAND DEVELOPMENT REGULATIONS

Chapter 122 - ZONING

ARTICLE IV. - DISTRICTS

DIVISION 9. HISTORIC COMMERCIAL TOURIST DISTRICT (HCT)

***DIVISION 9. HISTORIC COMMERCIAL TOURIST DISTRICT (HCT)*** <sup>[15]</sup>

[Sec. 122-896. Intent.](#)

[Sec. 122-897. Uses permitted.](#)

[Sec. 122-898. Conditional uses.](#)

[Sec. 122-899. Prohibited uses.](#)

[Sec. 122-900. Dimensional requirements.](#)

[Secs. 122-901—122-925. Reserved.](#)

**Sec. 122-896. Intent.**

- (a) The historic commercial tourist district (HCT) is established to implement comprehensive plan policies for areas designated "HCT" on the future land use map. The HCT district is comprised of areas having a high concentration of hotels, motels, and/or transient lodging facilities together with primarily tourist-oriented commercial services, including specialty shops, restaurant and drinking establishments, personal services, offices, and other similar activities.
- (b) The HCT district may also accommodate customary accessory uses and community facilities. The district regulations include criteria for managing issues surrounding land use compatibility, historic preservation, access to public facilities with available capacity, urban design amenities, and related issues which must be managed to ensure effective implementation of the comprehensive plan goals, objectives, and policies.

(Ord. No. 97-10, § 1(2-5.5.5(A)), 7-3-1997)

**Sec. 122-897. Uses permitted.**

Uses permitted in the historic commercial tourist district (HCT) are as follows:

- (1) Single-family and two-family residential dwellings.
- (2) Multiple-family residential dwellings.
- (3) Group homes with six or less residents as provided in [section 122-1246](#)
- (4) Places of worship.
- (5) Business and professional offices.
- (6) Commercial retail low intensity less than or equal to 5,000 square feet.
- (7) Hotels, motels, and transient lodging.
- (8) Parking lots and facilities.

(Ord. No. 97-10, § 1(2-5.5.5(B)), 7-3-1997)

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Chapter 122 - ZONING

ARTICLE IV. - DISTRICTS

DIVISION 9. HISTORIC COMMERCIAL TOURIST DISTRICT (HCT)

**Sec. 122-898. Conditional uses.**

Conditional uses in the historic commercial tourist district (HCT) are as follows:

- (1) Group homes with seven to 14 residents as provided in [section 122-1246](#)
- (2) Community centers, clubs and lodges.
- (3) Cultural and civic activities.
- (4) Educational institutions and day care.
- (5) Nursing homes, rest homes and convalescent homes.
- (6) Parks and recreation, active and passive.
- (7) Protective services.
- (8) Public and private utilities.
- (9) Bars and lounges accessory to and located within a motel, hotel or other transient facility having at least 20 units.
- (10) Commercial retail low and medium intensity greater than 5,000 square feet.
- (11) Restaurants, excluding drive-through.
- (12) Small recreational power-driven equipment rentals (allowed only as an accessory use to a hotel/motel).

(Ord. No. 97-10, § 1(2-5.5.5(C)), 7-3-1997)

**Sec. 122-899. Prohibited uses.**

In the historic commercial tourist district (HCT), all uses not specifically or provisionally provided for in this division are prohibited.

(Ord. No. 97-10, § 1(2-5.5.5(D)), 7-3-1997)

**Sec. 122-900. Dimensional requirements.**

The dimensional requirements in the historic commercial tourist district (HCT) are as follows; however, construction may be limited by proportion, scale and mass considerations as expressed through the historic architectural review commission design guidelines:

- (1) Maximum density: 22 dwelling units per acre (22 du/acre).
- (2) Maximum floor area ratio: 1.0.
- (3) Maximum height: 35 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 50 percent.
  - b. Impervious surface ratio: 70 percent.
- (5) Minimum lot size: 10,000 square feet, except that for single-family and two-family residences the minimum lot size will be 5,000 square feet.

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DIVISION 9. HISTORIC COMMERCIAL TOURIST DISTRICT (HCT)

- a. Minimum lot width: 75 feet.
- b. Minimum lot depth: 100 feet.
- (6) Minimum setbacks:
  - a. Front: 5 feet.
  - b. Side: 5 feet.
  - c. Rear: 10 feet.
  - d. Street side: 5 feet.

(Ord. No. 97-10, § 1(2-5.5.5(E)), 7-3-1997; Ord. No. 10-04, § 13, 1-5-2010)

**Secs. 122-901—122-925. Reserved.**

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FOOTNOTE(S):

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--- (15) ---

**Cross reference**— Historic preservation, ch. 102. [\(Back\)](#)

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Chapter 122 - ZONING

ARTICLE IV. - DISTRICTS

DIVISION 10. HISTORIC RESIDENTIAL/OFFICE DISTRICT (HRO)

***DIVISION 10. HISTORIC RESIDENTIAL/OFFICE DISTRICT (HRO)*** <sup>[16]</sup>

[Sec. 122-926. Intent.](#)

[Sec. 122-927. Uses permitted.](#)

[Sec. 122-928. Conditional uses.](#)

[Sec. 122-929. Prohibited uses.](#)

[Sec. 122-930. Dimensional requirements.](#)

[Secs. 122-931—122-955. Reserved.](#)

**Sec. 122-926. Intent.**

The historic residential/office district (HRO) is established to implement comprehensive plan policies for areas designated "HRO" on the future land use map. The HRO district shall accommodate business and professional offices as well as residential structures. Cultural and civic activities are allowed anywhere in the district and those same uses with accessory/associated commercial sales are allowed on Whitehead Street between Greene Street and Southard Street. Customary accessory uses and community facilities may also be located within the HRO district. The HRO district shall not accommodate new transient lodging or guesthouses. In addition, the HRO district shall expressly exclude general retail sales, warehousing, and outdoor storage. In order to manage the impacts of future development on transportation and public facilities, the city shall limit the intensity of development within the HRO district to activities generating no more than 50 trips per 1,000 square feet of gross leasable floor area per day.

(Ord. No. 97-10, § 1(2-5.5.6(A)), 7-3-1997; Ord. No. 12-02, § 1, 2-7-2012)

**Sec. 122-927. Uses permitted.**

Uses permitted in the historic residential/office district (HRO) are as follows:

- (1) Single-family and two-family residential dwellings.
- (2) Group homes with less than or equal to six residents as provided in [section 122-1246](#)
- (3) Multiple-family residential dwellings.
- (4) Places of worship.
- (5) Business and professional offices.
- (6) Parking lots and facilities.
- (7) Medical services.
- (8) Veterinary medical services, without outside kennels.

(Ord. No. 97-10, § 1(2-5.5.6(B)), 7-3-1997)

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DIVISION 10. HISTORIC RESIDENTIAL/OFFICE DISTRICT (HRO)

**Sec. 122-928. Conditional uses.**

Conditional uses in the historic residential/office district (HRO) are as follows:

- (1) Group homes with seven to 14 residents as provided in [section 122-1246](#)
- (2) Cultural and civic activities with or without associated/accessory commercial sales on Whitehead Street from Greene Street to Southard Street.
- (3) Community center, clubs and lodges.
- (4) Educational institutions and day care.
- (5) Nursing homes, rest and convalescent homes.
- (6) Parks and recreation, active and passive.
- (7) Protective services.
- (8) Public and private utilities.
- (9) Funeral homes.

(Ord. No. 97-10, § 1(2-5.5.6(C)), 7-3-1997; Ord. No. 12-02, § 2, 2-7-2012)

**Sec. 122-929. Prohibited uses.**

In the historic residential/office district (HRO), all uses not specifically or provisionally provided for in this division are prohibited.

(Ord. No. 97-10, § 1(2-5.5.6(D)), 7-3-1997)

**Sec. 122-930. Dimensional requirements.**

The dimensional requirements in the historic residential/office district (HRO) are as follows; however, construction may be limited by proportion, scale and mass considerations as expressed through the historic architectural review commission design guidelines:

- (1) Maximum density: 16 dwelling units per acre (16 du/acre).
- (2) Maximum floor area ratio: 1.0. Refer to [section 122-926](#) for additional restrictions that regulate the square footage of gross leasable floor area based on trip generation within the HRO districts.
- (3) Maximum height: 30 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 50 percent.
  - b. Impervious surface ratio: 60 percent.
- (5) Minimum lot size: 5,000 square feet.
  - a. Minimum lot width: 50 feet.
  - b. Minimum lot depth: 100 feet.
- (6) Minimum setbacks:

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- a. Front: 5 feet.
- b. Side: 5 feet.
- c. Rear: 10 feet.
- d. Street side: 5 feet.

(Ord. No. 97-10, § 1(2-5.5.6(E)), 7-3-1997; Ord. No. 10-04, § 14, 1-5-2010)

**Secs. 122-931—122-955. Reserved.**

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FOOTNOTE(S):

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--- (16) ---

**Cross reference**— Historic preservation, ch. 102. [\(Back\)](#)

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ARTICLE IV. - DISTRICTS

DIVISION 11. HISTORIC PUBLIC AND SEMIPUBLIC SERVICES DISTRICTS

***DIVISION 11. HISTORIC PUBLIC AND SEMIPUBLIC SERVICES DISTRICTS*** <sup>[17](#)</sup>

[Subdivision I. - Historic Public and Semipublic Services District \(HPS\)](#)

[Subdivision II. - Historic Public and Semipublic Services District-1 \(HPS-1\)](#)

[Subdivision III. - Historic Public and Semipublic Services District-2 \(HPS-2\)](#)

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FOOTNOTE(S):

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--- (17) ---

**Cross reference**— Historic preservation, ch. 102. [\(Back\)](#)

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DIVISION 11. - HISTORIC PUBLIC AND SEMIPUBLIC SERVICES DISTRICTS

Subdivision I. Historic Public and Semipublic Services District (HPS)

Subdivision I. Historic Public and Semipublic Services District (HPS)

[Sec. 122-956. Intent.](#)

[Sec. 122-957. Uses permitted.](#)

[Sec. 122-958. Conditional uses.](#)

[Sec. 122-959. Prohibited uses.](#)

[Sec. 122-960. Dimensional requirements.](#)

[Secs. 122-961—122-965. Reserved.](#)

**Sec. 122-956. Intent.**

The historic public and semipublic services district (HPS) is established to implement comprehensive plan policies for areas designated "HPS" on the future land use map. The HPS district shall accommodate existing public and semipublic services.

(Ord. No. 97-10, § 1(2-5.5.7(A)), 7-3-1997)

**Sec. 122-957. Uses permitted.**

Uses permitted in the historic public and semipublic services district (HPS) are as follows:

- (1) Community centers, clubs, and lodges.
- (2) Educational institutions and day care.
- (3) Hospitals and extensive care.
- (4) Nursing homes, rest homes and convalescent homes.
- (5) Parks and recreation, active and passive.
- (6) Places of worship.
- (7) Business and professional offices.
- (8) Medical services.
- (9) Parking lots and facilities.
- (10) Cemeteries.

(Ord. No. 97-10, § 1(2-5.5.7(B)), 7-3-1997; Ord. No. 04-09, § 3, 5-18-2004)

**Sec. 122-958. Conditional uses.**

Conditional uses in the historic public and semipublic services district (HPS) are as follows:

- (1) Cemeteries.

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DIVISION 11. - HISTORIC PUBLIC AND SEMIPUBLIC SERVICES DISTRICTS

Subdivision I. Historic Public and Semipublic Services District (HPS)

- (2) Cultural and civic activities.
- (3) Protective services.
- (4) Public and private utilities.
- (5) Marinas.

(Ord. No. 97-10, § 1(2-5.5.7(C)), 7-3-1997)

**Sec. 122-959. Prohibited uses.**

In the historic public and semipublic services district (HPS), all uses not specifically or provisionally provided for in this division are prohibited.

(Ord. No. 97-10, § 1(2-5.5.7(D)), 7-3-1997)

**Sec. 122-960. Dimensional requirements.**

The dimensional requirements in the historic public and semipublic services district (HPS) are as follows; however, construction may be limited by proportion, scale and mass considerations as expressed through the historic architectural review commission design guidelines:

- (1) Maximum density: not applicable.
- (2) Maximum floor area ratio: The maximum floor area ratio for the HPS area shall be 1.0, excepting large scale regional facilities, which require a community impact statement. The latter projects may have a higher floor area ratio if approved by city commission. However, prior to approving a floor area ratio in excess of 1.0, the city commission must render a finding that the proposed public facility requires a higher floor area ratio in order to accommodate a regional service necessary to the general health, safety, and welfare of the city and/or county. Furthermore, the finding must indicate that the regional facility as proposed shall comply with all other qualitative and quantitative criteria of the comprehensive plan and land development regulations, including but not limited to the adopted concurrency management policies.
- (3) Maximum height: 25 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 40 percent.
  - b. Impervious surface ratio: 50 percent.
- (5) Minimum lot size: 5,000 square feet.
  - a. Minimum lot width: 50 feet.
  - b. Minimum lot depth: 100 feet.
- (6) Minimum setbacks:
  - a. Front: 20 feet.
  - b. Side: greater of 5 feet or 10 percent of lot width to a maximum of 15 feet.
  - c. Rear: 20 feet or 15 feet when abutting an alley.
  - d. Street side: 10 feet.

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Subdivision I. Historic Public and Semipublic Services District (HPS)

(Ord. No. 97-10, § 1(2-5.5.7(E)), 7-3-1997; Ord. No. 10-04, § 15, 1-5-2010)

**Secs. 122-961—122-965. Reserved.**

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Subdivision II. Historic Public and Semipublic Services District-1 (HPS-1)

Subdivision II. Historic Public and Semipublic Services District-1 (HPS-1)

[Sec. 122-966. Intent.](#)

[Sec. 122-967. Uses permitted.](#)

[Sec. 122-968. Conditional uses.](#)

[Sec. 122-969. Prohibited uses.](#)

[Sec. 122-970. Dimensional regulations.](#)

[Secs. 122-971—122-975. Reserved.](#)

**Sec. 122-966. Intent.**

The HPS-1 district is established to implement comprehensive plan policies for areas designated HPS-1 on the future land use map. This district is specifically intended to implement policies for the Truman Waterfront recreational area, the NOAA/environmental education center, the Seminole Battery, and the area to be made part of Fort Zachary Taylor. The Truman Waterfront recreational area is envisioned as an area that will include a harborwalk, open space, play fields and public recreational facilities. The NOAA/environmental education center is envisioned as a government office facility, as well as a marine related environmental education center. The HPS-1 district shall accommodate a harborwalk, parks and recreation facilities, community centers, and parking lots.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.7(1)(A))), 9-8-1999)

**Sec. 122-967. Uses permitted.**

Uses permitted in the historic public and semipublic services district-1 (HPS-1) are as follows:

- (1) Harborwalk.
- (2) Parks and recreation, passive and active.
- (3) Community centers.
- (4) Parking Lots.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.7(1)(B))), 9-8-1999)

**Sec. 122-968. Conditional uses.**

Conditional uses in the historic public and semipublic services district-1 (HPS-1) district are as follows:

- (1) Cultural and civic activities.
- (2) Public and private utilities.
- (3) Protective services.

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DIVISION 11. - HISTORIC PUBLIC AND SEMIPUBLIC SERVICES DISTRICTS

Subdivision II. Historic Public and Semipublic Services District-1 (HPS-1)

- (4) Business and professional offices limited to government agencies involved in maritime services or administration of the Truman Waterfront.
- (5) Marinas.
- (6) Nursing homes, rest homes and convalescent homes, so long as affordable housing is provided by the project as follows: one-third of beds or units are affordable housing, or if the development or redevelopment is in more than one zoning district, one-third of beds or units in the total project are affordable housing.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.7(1)(C))), 9-8-1999; Ord. No. 10-05, § 1, 1-5-2010)

**Sec. 122-969. Prohibited uses.**

In the historic public and semipublic services district-1 (HPS-1), All uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.7(1)(D))), 9-8-1999)

**Sec. 122-970. Dimensional regulations.**

The dimensional requirements in the historic public and semipublic services district-1 (HPS-1) are as follows; however, construction may be limited by proportion, scale and mass considerations as expressed through the historic architectural review commission design guidelines:

- (1) Maximum density: Not applicable.
- (2) Maximum FAR: 0.80.
- (3) Maximum height: 25 feet.
- (4) Maximum lot coverage.
  - a. Maximum building coverage: 30 percent.
  - b. Impervious surface ratio: 50 percent.
- (5) Minimum lot size: 5,000 square feet.
  - a. Minimum lot width: 50 feet.
  - b. Minimum lot depth: 100 feet.
- (6) Minimum setbacks.
  - a. Front: 20 feet.
  - b. Side: Greater of 5 feet or 10 percent of lot width to a maximum of 15 feet;
  - c. Rear: 20 feet or 15 feet when abutting an alley.
  - d. Street side: ten feet.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.7(1)(E))), 9-8-1999; Ord. No. 10-04, § 16, 1-5-2010; Ord. No. 10-05, § 2, 1-5-2010)

**Secs. 122-971—122-975. Reserved.**

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Subdivision III. Historic Public and Semipublic Services District-2 (HPS-2)

Subdivision III. Historic Public and Semipublic Services District-2 (HPS-2)

[Sec. 122-976. Intent.](#)

[Sec. 122-977. Uses permitted.](#)

[Sec. 122-978. Conditional uses.](#)

[Sec. 122-979. Prohibited uses.](#)

[Sec. 122-980. Dimensional regulations.](#)

[Secs. 122-981—122-986. Reserved.](#)

**Sec. 122-976. Intent.**

The historic public and semipublic services district - 2 (HPS-2) is established to implement comprehensive plan policies for areas designated HPS-2 on the future land use map. The district is specifically intended to implement policies for the Peary Court Cemetery and be consistent with the historic preservation plan for that site. HPS-2 district shall accommodate an existing cemetery and historic open space accommodating passive park and recreation activities.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.7(2)(A))), 9-8-1999)

**Sec. 122-977. Uses permitted.**

Uses permitted in the historic public and semipublic services district - 2 (HPS-2) are as follows:

- (1) Cemeteries.
- (2) Open space.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.7(2)(B))), 9-8-1999)

**Sec. 122-978. Conditional uses.**

Conditional uses in the historic public and semipublic services district - 2 (HPS-2) are as follows:

None.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.7(2)(C))), 9-8-1999)

**Sec. 122-979. Prohibited uses.**

In the historic public and semipublic services district - 2 (HPS-2), all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.7(2)(D))), 9-8-1999)

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DIVISION 11. - HISTORIC PUBLIC AND SEMIPUBLIC SERVICES DISTRICTS

Subdivision III. Historic Public and Semipublic Services District-2 (HPS-2)

**Sec. 122-980. Dimensional regulations.**

The dimensional regulations in the historic public and semipublic services district - 2 (HPS-2) are as follows; however, construction may be limited by proportion, scale and mass considerations as expressed through the historic architectural review commission design guidelines:

- (1) Maximum density: Not applicable.
- (2) Maximum FAR: Not applicable.
- (3) Maximum height: 25 feet.
- (4) Maximum lot coverage.
  - a. Maximum building coverage: Not applicable.
  - b. Impervious surface ratio: Not applicable.
- (5) Minimum lot size: Not applicable.
  - a. Minimum lot width: Not applicable.
  - b. Minimum lot depth: Not applicable.
- (6) Minimum setbacks:
  - a. Front: Not applicable.
  - b. Side: Not applicable.
  - c. Rear: Not applicable.
  - d. Street side: Not applicable.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.7(2)(E))), 9-8-1999; Ord. No. 10-04, § 17, 1-5-2010)

**Secs. 122-981—122-986. Reserved.**

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DIVISION 12. HISTORIC PLANNED REDEVELOPMENT AND DEVELOPMENT DISTRICT (HPRD)

***DIVISION 12. HISTORIC PLANNED REDEVELOPMENT AND DEVELOPMENT DISTRICT (HPRD)*** <sup>[18]</sup>

[Sec. 122-986. Intent.](#)

[Sec. 122-987. Uses permitted.](#)

[Sec. 122-988. Conditional uses.](#)

[Sec. 122-989. Prohibited uses.](#)

[Sec. 122-990. Dimensional requirements.](#)

[Secs. 122-991—122-995. Reserved.](#)

**Sec. 122-986. Intent.**

- (a) The historic planned redevelopment and development district (HPRD) is established to implement comprehensive plan policies for areas designated "HPRD" on the comprehensive plan future land use map. The HPRD district shall provide a management framework for directing future redevelopment in several redeveloping fringe areas within and outside the review area of the historic architectural review commission.
- (b) The HPRD district includes the Truman Annex project, including Sunset Island. The HPRD district shall provide a basis for encouraging additional development and redevelopment activities in other areas. Such new development and redevelopment shall be designed to advance the goals, objectives and policies of the comprehensive plan. For instance, the HPRD district shall promote the following:
  - (1) Historic preservation.
  - (2) Neighborhood facility improvements.
  - (3) Architectural and urban design amenities which are consistent with the traditional Old Town historic character and which further subarea design and improvement strategies.
  - (4) An increased supply of affordable housing which is accessible to targeted income groups over a longterm period.
  - (5) Off-site parking facilities, including parking structures at strategically located areas through contributions to a special parking fund to be established to assist in financing construction of off-site centrally located parking facilities.
- (c) In addition, the HPRD district shall be used as a vehicle to:
  - (1) Avoid displacement of low and moderate income families and generate additional affordable housing opportunities.
  - (2) Retain and/or enhance access to the shoreline by the general public.
  - (3) Prevent conversion of open space, loss of vegetation and specimen trees, and displacement of porous surfaces with impermeable surfaces which may intensify drainage problems.
  - (4) Avoid replacement of permanent housing stock with transient lodging.
  - (5) Prevent displacement of smaller but diverse shops.

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DIVISION 12. HISTORIC PLANNED REDEVELOPMENT AND DEVELOPMENT DISTRICT (HPRD)

- (6) Encourage diversity within Old Town structure types as opposed to look-alike improvements.
- (7) Maintain and enhance infrastructure levels of service consistent with the goals, objectives, and policies of the comprehensive plan.

(Ord. No. 97-10, § 1(2-5.5.8(A)), 7-3-1997)

**Sec. 122-987. Uses permitted.**

Uses permitted in the historic planned redevelopment and development district (HPRD) are as follows:

- (1) Single-family and two-family residential dwellings.
- (2) Multiple-family residential dwellings.
- (3) Group homes with less than or equal to six residents.
- (4) Business and professional offices.

(Ord. No. 97-10, § 1(2-5.5.8(B)), 7-3-1997)

**Sec. 122-988. Conditional uses.**

Conditional uses in the historic planned redevelopment and development district (HPRD) are as follows:

- (1) Community centers, clubs and lodges.
- (2) Cultural and civic activities.
- (3) Educational institutions and day care.
- (4) Nursing homes, rest homes and convalescent homes.
- (5) Parks and recreation, active and passive.
- (6) Places of worship.
- (7) Protective services.
- (8) Public and private utilities.
- (9) Commercial retail low, medium, and high intensity.
- (10) Funeral homes.
- (11) Hotels, motels, and transient lodging.
- (12) Medical services.
- (13) Parking lots and facilities.
- (14) Restaurants, excluding drive-through.
- (15) Veterinary medical services, without outside kennels.

(Ord. No. 97-10, § 1(2-5.5.8(C)), 7-3-1997)

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DIVISION 12. HISTORIC PLANNED REDEVELOPMENT AND DEVELOPMENT DISTRICT (HPRD)

**Sec. 122-989. Prohibited uses.**

In the historic planned redevelopment and development district (HPRD), all uses not specifically or provisionally provided for in this division are prohibited.

(Ord. No. 97-10, § 1(2-5.5.8(D)), 7-3-1997)

**Sec. 122-990. Dimensional requirements.**

The dimensional requirements in the historic planned redevelopment and development district (HPRD) are as follows; however, construction may be limited by proportion, scale and mass considerations as expressed through the historic architectural review commission design guidelines:

- (1) Maximum density: 22 dwelling units per acre.
- (2) Maximum floor area ratio: 1.0.
- (3) Maximum height: 35 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 40 percent.
  - b. Impervious surface ratio: 50 percent.
- (5) Minimum lot size: 1 acre.
  - a. Minimum lot width: 50 feet.
  - b. Minimum lot depth: 100 feet.
- (6) Minimum setbacks:
  - a. Front: 5 feet.
  - b. Side: 2.5 feet.
  - c. Rear: 10 feet.
  - d. Street side: 5 feet.

(Ord. No. 97-10, § 1(2-5.5.8(E)), 7-3-1997; Ord. No. 10-04, § 18, 1-5-2010)

**Secs. 122-991—122-995. Reserved.**

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FOOTNOTE(S):

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**Cross reference**— Planning and development, ch. 54; historic preservation, ch. 102; planning and development, ch. 108. [\(Back\)](#)

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DIVISIONS 12.1—12.4. RESERVED

***DIVISIONS 12.1—12.4. RESERVED***

[Secs. 122-996—122-1000. Reserved.](#)

**Secs. 122-996—122-1000. Reserved.**

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ARTICLE IV. - DISTRICTS

DIVISION 12.5. HISTORIC LIMITED COMMERCIAL DISTRICT (HCL)

***DIVISION 12.5. HISTORIC LIMITED COMMERCIAL DISTRICT (HCL)***

[Sec. 122-1001. Intent.](#)

[Sec. 122-1002. Uses permitted.](#)

[Sec. 122-1003. Conditional uses.](#)

[Sec. 122-1004. Prohibited uses.](#)

[Sec. 122-1005. Dimensional regulations.](#)

[Secs. 122-1006—122-1015. Reserved.](#)

**Sec. 122-1001. Intent.**

The historic limited commercial district (HCL) is established to implement comprehensive plan policies for areas designated HCL on the comprehensive plan future land use map. The purpose of the HCL district is to provide a management framework for the "market place" adjacent to Bahama Village, south of the extension of Petronia Street. The HCL district shall accommodate limited commercial land uses including shops catering primarily to the following markets:

- (1) Neighborhood residential markets within the immediate vicinity as opposed to city-wide or regional markets;
- (2) Specialized markets with customized market demands; or
- (3) Tourist oriented markets in the immediate vicinity.

In order to manage the impacts of future development on transportation and public facilities, the city shall limit the intensity of development in the HCL district to activities generating no more than 100 trips per 1,000 square feet of gross leasable floor area per day. Areas designated for residential and limited commercial development shall not accommodate large scale retail sales and trade activities generally serving a city-wide or regional market. Such stores usually differ from limited commercial shops since the former generally require a larger floor area, carry a relatively larger inventory, and require a substantially greater off-street parking area.

Uses which are not accommodated within the historic limited commercial area include the following: large scale discount stores or supermarkets; department stores; wholesale and warehousing activities; sales, service or repair of motor vehicles, machine equipment or accessory parts, including tire and battery shops; automotive services centers; and fast food establishment primarily serving in disposable containers and/or providing drive-in or drive-through facilities; nor any commercial use which is affiliated with a regional, state or national concern, or which advertises by common theme of architecture, signage, or operations be allowed. In addition, the HCL designation shall not accommodate transient residential uses, including motels or hotels and conversions from permanent residential use to transient residential use.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.9(A))), 9-8-1999)

**Sec. 122-1002. Uses permitted.**

Uses permitted in the historic limited commercial district (HCL) are as follows:

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- (1) Business and professional offices.
- (2) Commercial retail low and medium intensity that generate less than or equal to 50 pm peak hour vehicle trips per 1,000 square feet of gross leasable floor area.
- (3) Restaurants, excluding drive-through facilities that generate less than or equal to 50 pm peak hour vehicle trips per 1,000 square feet of gross leasable floor area.
- (4) Open air vending and mobile vending consistent with other city regulations.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.9(B))), 9-8-1999)

**Sec. 122-1003. Conditional uses.**

Conditional uses in the historic limited commercial district (HCL) are as follows:

- (1) Single-family and two-family residential dwellings located over commercial.
- (2) Public and private utilities.
- (3) Restaurants, excluding drive-through, that generate between 50 and 100 pm peak hour vehicle trips per 1,000 square feet.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.9(C))), 9-8-1999)

**Sec. 122-1004. Prohibited uses.**

In the historic limited commercial district (HCL), all uses not specifically or provisionally provided for in this division are prohibited.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.9(D))), 9-8-1999)

**Sec. 122-1005. Dimensional regulations.**

The dimensional regulations in the historic limited commercial district (HCL) are as follows; however, construction may be limited by proportion, scale and mass considerations as expressed through the historic architectural review commission design guidelines:

- (1) Maximum density: 16 dwelling units per acre.
- (2) Maximum FAR: 0.8.
- (3) Maximum height: 35 feet.
- (4) Maximum lot coverage:
  - a. Maximum building coverage: 40 percent.
  - b. Maximum impervious surface ratio: 60 percent.
- (5) *Minimum lot size*: 5,000 square feet.
  - a. Minimum width: 50 feet.
  - b. Minimum depth: 100 feet.
- (6) Minimum setbacks:
  - a. Front: Minimum of 5 feet.

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DIVISION 12.5. HISTORIC LIMITED COMMERCIAL DISTRICT (HCL)

b. Side: Minimum of 5 feet.

c. Rear: 15 feet.

(Ord. No. 99-18, § 1 (Exh. A(2-5.5.9(E))), 9-8-1999; Ord. No. 10-04, § 19, 1-5-2010)

**Secs. 122-1006—122-1015. Reserved.**

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DIVISION 13. PUBLIC AND SEMIPUBLIC SERVICES DISTRICT (PS)

***DIVISION 13. PUBLIC AND SEMIPUBLIC SERVICES DISTRICT (PS)***

[Sec. 122-1016. Intent.](#)

[Sec. 122-1017. Uses permitted.](#)

[Sec. 122-1018. Conditional uses.](#)

[Sec. 122-1019. Prohibited uses.](#)

[Sec. 122-1020. Dimensional requirements.](#)

[Secs. 122-1021—122-1045. Reserved.](#)

**Sec. 122-1016. Intent.**

- (a) The purpose and intent of the public and semipublic services district (PS) is to provide a management framework for implementing comprehensive plan policies for areas located outside of Old Town which are designated "PS" or "M" on the future land use map. All public and semipublic services developed shall comply with the comprehensive plan, performance criteria in [chapter 102](#); articles III, IV, V and VII of [chapter 108](#); [section 108-956](#); and article II of [chapter 110](#), as well as other applicable land development regulations.
- (b) The PS district shall accommodate existing public and semipublic services including the following:
  - (1) Governmental administration buildings;
  - (2) Public schools and not-for-profit educational institutions;
  - (3) Hospital facilities and supportive health care units;
  - (4) Arts and cultural or civic facilities;
  - (5) Essential public services and facilities;
  - (6) Military uses within the city's cemeteries;
  - (7) The city landfill;
  - (8) Fire and emergency operation facilities;
  - (9) Public and private parks and recreation areas;
  - (10) Utilities;
  - (11) Extensive open areas comprising major committed public and semipublic open spaces; and
  - (12) Other similar activities.
- (c) The PS district shall also accommodate places of worship, cultural or civic centers, and other similar public or private not-for-profit uses if the respective use satisfies the substantive and procedural conditions of the land development regulations.
- (d) Development plans for sites within the PS district shall provide sufficient acreage and open space and shall be properly screened and buffered in order to minimize potential adverse impacts on adjacent land uses. The maximum intensity of institutional activity on lands designated "PS," measured in terms of floor area ratio (FAR), shall not exceed eight-tenths, including floor area

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DIVISION 13. PUBLIC AND SEMIPUBLIC SERVICES DISTRICT (PS)

allocated to all uses. The maximum floor area ratio for recreation and open space shall be two-tenths.

(Ord. No. 97-10, § 1(2-5.6(A)), 7-3-1997)

**Sec. 122-1017. Uses permitted.**

Uses permitted in the public and semipublic services district (PS) are as follows:

- (1) Community centers, clubs and lodges.
- (2) Educational institutions and day care.
- (3) Golf course facilities.
- (4) Hospitals and extensive care.
- (5) Nursing homes, rest homes and convalescent homes.
- (6) Parks and recreation, active and passive.
- (7) Places of worship.
- (8) Business and professional offices.
- (9) Medical services.
- (10) Parking lots and facilities.
- (11) Veterinary medical services with or without outside kennels.
- (12) Government operated transit facilities.

(Ord. No. 97-10, § 1(2-5.6(B)), 7-3-1997; Ord. No. 00-04, § 12, 2-1-2000; Ord. No 07-18, § 1, 12-4-2007)

**Sec. 122-1018. Conditional uses.**

Conditional uses in the public and semipublic services district (PS) are as follows:

- (1) Cemeteries.
- (2) Cultural and civic activities.
- (3) Protective services.
- (4) Public and private utilities.
- (5) Funeral homes.
- (6) Marinas.

(Ord. No. 97-10, § 1(2-5.6(C)), 7-3-1997)

**Sec. 122-1019. Prohibited uses.**

In the public and semipublic services district (PS), all uses not specifically or provisionally provided for in this division are prohibited.

(Ord. No. 97-10, § 1(2-5.6(D)), 7-3-1997)

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DIVISION 13. PUBLIC AND SEMIPUBLIC SERVICES DISTRICT (PS)

**Sec. 122-1020. Dimensional requirements.**

The dimensional requirements in the public and semipublic services district (PS) are as follows:

- (1) Maximum density: not applicable.
- (2) Maximum floor area ratio: Outside the historic districts, as designated on the future land use map, the maximum floor area ratio for all public services shall be 0.8, except for recreation and open space, which shall have a maximum floor area ratio of 0.2.
- (3) Maximum height: 25 feet.
- (4) Maximum lot coverage:
  - a. Minimum building coverage: 40 percent.
  - b. Impervious surface ratio: 50 percent.
- (5) Minimum lot size: 6,000 square feet.
  - a. Minimum width: 50 feet.
  - b. Minimum depth: 100 feet.
- (6) Minimum setbacks:
  - a. Front: 20 feet.
  - b. Side: 15 feet.
  - c. Rear: 20 feet or 15 feet when abutting an alley.
  - d. Street side: 15 feet.

(Ord. No. 97-10, § 1(2-5.6(E)), 7-3-1997)

**Secs. 122-1021—122-1045. Reserved.**

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ARTICLE IV. - DISTRICTS

DIVISION 14. AIRPORT DISTRICT (A)

***DIVISION 14. AIRPORT DISTRICT (A)***

[Sec. 122-1046. Intent.](#)

[Sec. 122-1047. Uses permitted.](#)

[Sec. 122-1048. Conditional uses.](#)

[Sec. 122-1049. Prohibited uses.](#)

[Sec. 122-1050. Dimensional requirements.](#)

[Sec. 122-1051. Airport height limitations.](#)

[Secs. 122-1052—122-1075. Reserved.](#)

**Sec. 122-1046. Intent.**

- (a) The purpose and intent of the airport district (A) is to provide a management framework for implementing comprehensive plan policies for the Key West International Airport which is designated "A" on the future land use map. All development proposed for the airport district (A) district shall comply with the comprehensive plan and performance criteria in chapters [94](#), [102](#) and [106](#); articles I and III through IX of [chapter 108](#); and chapters 110 and [114](#), as well as other applicable land development regulations.
- (b) Performance criteria within the land development regulations require that land use changes adjacent to the Key West International Airport avoid encroaching upon the airport hazard zone. Furthermore, land uses proposed within noise impact areas defined in the Federal Aviation Administration (FAA) noise control regulations shall comply with Federal Aviation Administration guidelines for managing noise impacts through land use regulation. The airport district regulations establish the permitted uses and applicable restrictions within the air operations area. The Federal Aviation Administration regulations shall govern the land use, specifications and placement of structures within the airport operations area.

(Ord. No. 97-10, § 1(2-5.7(A)), 7-3-1997)

**Sec. 122-1047. Uses permitted.**

Uses permitted in the airport district (A) are airport facilities.

(Ord. No. 97-10, § 1(2-5.7(B)), 7-3-1997)

**Sec. 122-1048. Conditional uses.**

Conditional uses in the airport district (A) are as follows:

- (1) Protective services.
- (2) Public and private utilities.
- (3) Business and professional offices.
- (4) Commercial retail low and medium intensity.

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DIVISION 14. AIRPORT DISTRICT (A)

- (5) Parking lots and facilities.
  - (6) Restaurants, excluding drive-through.
- (Ord. No. 97-10, § 1(2-5.7(C)), 7-3-1997)

**Sec. 122-1049. Prohibited uses.**

In the airport district (A), all uses not specifically or provisionally provided for in this division are prohibited.

(Ord. No. 97-10, § 1(2-5.7(D)), 7-3-1997)

**Sec. 122-1050. Dimensional requirements.**

The dimensional requirements in the airport district (A) are as follows:

- (1) Maximum density: not applicable.
- (2) Maximum floor area ratio: 0.3.
- (3) Maximum height: refer to division 9 of article V of this chapter.
- (4) Maximum lot coverage: not applicable.
- (5) Minimum lot size: not applicable.
- (6) Minimum setbacks: not applicable.

(Ord. No. 97-10, § 1(2-5.7(E)), 7-3-1997)

**Sec. 122-1051. Airport height limitations.**

For airport height limitations in the airport district (A), refer to division 9 of article V of this chapter.

(Ord. No. 97-10, § 1(2-5.7(F)), 7-3-1997)

**Secs. 122-1052—122-1075. Reserved.**

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ARTICLE V. SUPPLEMENTARY DISTRICT REGULATIONS

**ARTICLE V. SUPPLEMENTARY DISTRICT REGULATIONS**

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[DIVISION 2. - USES](#)

[DIVISION 3. - AREA REQUIREMENTS](#)

[DIVISION 4. - ACCESSORY USES AND STRUCTURES](#)

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ARTICLE V. - SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 1. GENERALLY

***DIVISION 1. GENERALLY***

[Sec. 122-1076. Applicability.](#)

[Sec. 122-1077. Conformance required.](#)

[Sec. 122-1078. Restrictions on buildings and structures, including entryways.](#)

[Sec. 122-1079. Lots of record less than minimum size.](#)

[Sec. 122-1080. Street and road setbacks.](#)

[Sec. 122-1081. Erection of more than one principal structure on lot.](#)

[Secs. 122-1082—122-1110. Reserved.](#)

**Sec. 122-1076. Applicability.**

The city land development regulations shall apply uniformly to each district, class or kind of structure or land except as provided. In interpreting and applying land development regulations, all sections shall be held to be the minimum requirements, adopted to protect the public health, safety, and welfare. Whenever the requirements of the land development regulations are in conflict with requirements of other lawfully adopted rules, regulations, or laws of other governments having jurisdiction in the subject issue, the most restrictive or that imposing the highest standard shall govern.

(Ord. No. 97-10, § 1(2-7.1), 7-3-1997)

**Sec. 122-1077. Conformance required.**

No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations specified in this subpart B.

(Ord. No. 97-10, § 1(2-7.2), 7-3-1997)

**Sec. 122-1078. Restrictions on buildings and structures, including entryways.**

No building or other structure shall be erected or altered to exceed the height; to accommodate or house a greater number of families; to occupy a greater percentage of building site area; or to have narrower or smaller rear yard setbacks, front yard setbacks, side yard setbacks or other open spaces than specified in the land development regulations or in any other manner contrary to the land development regulations. All habitable space shall be accessible from the interior of exterior walls.

(Ord. No. 97-10, § 1(2-7.3), 7-3-1997)

**Cross reference**— Buildings and building regulations, ch. 14.

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ARTICLE V. - SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 1. GENERALLY

**Sec. 122-1079. Lots of record less than minimum size.**

Any legally platted lot of record, which conformed with the regulations and procedures governing subdivision of lots, at the time of the adoption of the ordinance from which this section derives which contains less lot area or width than required in the district in which it is located may be used for a use permitted in such district. The provision shall not be construed to permit more than one dwelling unit on a lot with less area per family than required for the district in which such lot is located. However, if the substandard lot adjoins other land under the same ownership which if used could correct the nonconforming lot area or width:

- (1) The substandard lot shall not be permitted a vested development right unless the nonconformity is remedied; and
- (2) Any subsequent sale or ownership transfer of the substandard lot, adjoining lot, or portion thereof shall not result in a vested development right in the subject substandard lot unless the transaction corrects deficiencies in the substandard lot.

(Ord. No. 97-10, § 1(2-7.4), 7-3-1997)

**Sec. 122-1080. Street and road setbacks.**

- (a) Where right-of-way lines are established for streets, roads or highways, the front yards of lots and side yards of corner lots shall be measured from such right-of-way lines, effective on the date such right-of-way lines are officially established.
- (b) Existing and proposed rights-of-way for street, road, and highway construction may be defined on a major street plan map and such other documents and materials as are necessary. These maps and documents may be adopted by the city for the purpose of establishing rights-of-way and setback lines.

(Ord. No. 97-10, § 1(2-7.5), 7-3-1997)

**Sec. 122-1081. Erection of more than one principal structure on lot.**

In any district, more than one structure accommodating a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of zoning shall be met for each such structure.

(Ord. No. 97-10, § 1(2-7.6), 7-3-1997)

**Secs. 122-1082—122-1110. Reserved.**

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DIVISION 2. USES

***DIVISION 2. USES***

[Sec. 122-1111. Table of land use by districts.](#)

[Sec. 122-1112. Table of permitted and conditional commercial retail uses by district.](#)

[Secs. 122-1113—122-1140. Reserved.](#)

**Sec. 122-1111. Table of land use by districts.**

- (a) The table of land use by districts as set forth in this section stipulates the permitted and conditional uses by district.
- (b) Permitted uses are uses allowed by right, provided all applicable sections within the land development regulations are satisfied as well as all other applicable laws and administration regulations. Conditional uses are allowable only if approved by the city pursuant to administrative procedures found in article III of this chapter. The applicant requesting a conditional use must demonstrate compliance with conditional use criteria set forth in article III of this chapter.
- (c) No permitted use or conditional use shall be approved unless a site plan for such use is first submitted by the applicant. The applicant shall bear the burden of proof in demonstrating compliance with all applicable laws and ordinances during the site plan review process. The site plan review process is set forth in article II of [chapter 108](#)

TABLE OF LAND USE BY DISTRICT

	L D R- C	S F R	M D R -C	M D R	H D R	C L	C G	C T	R O	P D	H D R	HS M D R	H D R	HR CC -1	HR CC -2	HR CC -3	HP RD	H C- 1	H N C- 2	H N C- 3	H C T	H R O	H P S	H P S - 1	P S	C A 5	
<i>Residential Uses</i>																											
Accessory residential units (reference <a href="#">section 122-</a>		P																									















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DIVISION 2. USES

1.	Two-family dwellings (duplexes) shall not be allowed within the following areas: (i) The Venetian Subdivision located south of the Riviera Canal; and (ii) the area bounded on the north by Flagler Drive, on the south by Casa Marina Court, on the east by White Street and on the west by Reynolds Street.
2.	Group homes shall meet provisions of <a href="#">section 122-1246</a>
3.	Home occupations are permitted upon a finding by city staff that the proposed home occupation meets sections <a href="#">122-1306</a> and <a href="#">122-1307</a>
4.	Development within the conservation (C) district is substantially restricted pursuant to division 2 of article IV of this <a href="#">122</a>
5.	Development within the airport (A) district is substantially restricted pursuant to <a href="#">division 14</a> of article IV of this chapter and division 9 of this article.
6.	Golf courses shall maintain a minimum of ten percent of all native vegetative uplands.
7.	Bars and lounges within the HCT district are allowed only as a conditional use and only if the bar or lounge is accessory to and located within a hotel, motel or other transient facility having at least 20 units.
8.	Permitted and conditional commercial retail uses within each zoning district shall be determined based upon the criteria in <a href="#">section 122-1112</a>
9.	Small recreation power-driven equipment rentals will only be allowed in CT and HCT districts as an accessory use to a hotel or motel.
10.	Within the HNC districts, redevelopment or conversion of permanent housing structures to transient residential, office or other allowable commercial uses shall be permitted only if no on-site reduction in housing units for permanent residents occurs.
11.	Restaurants are expressly excluded from lots fronting on the south side of Caroline Street west of William Street and extending west 50 feet past Peacon Lane to include the lot abutting both the west side of Peacon Lane and the south side of Caroline Street.

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DIVISION 2. USES

(Ord. No. 97-10, § 1(2-5.8), 7-3-1997; Ord. No. 10-05, § 3, 1-5-2010; Ord. No. 12-33, § 3, 9-18-2012)

**Sec. 122-1112. Table of permitted and conditional commercial retail uses by district.**

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

*Low intensity* means commercial retail uses that generate less than 50 average daily trips per 1,000 square feet.

*Medium intensity* means commercial retail uses that generate between 50 and 100 average daily trips per 1,000 square feet.

*High intensity* means commercial retail uses that generate above 100 average daily trips per 1,000 square feet.

(b) The table of permitted and conditional commercial retail uses by district shall be as follows:

TABLE OF PERMITTED AND CONDITIONAL COMMERCIAL RETAIL USES BY DISTRICT

District	Allowed by Right	Allowed as Conditional Use
CL, CT and HCT	Low and medium intensity > 5,000 sq. ft.	Low and medium intensity > 5,000 sq. ft. High intensity
CG	Low and medium intensity ≤ 10,000 sq. ft. High intensity ≤ 5,000 sq. ft.	Low and medium intensity > 10,000 sq. ft. High intensity > 5,000 sq. ft.
PRD	None	Low, medium and high intensity
HRCC-1	Low and medium intensity ≤ 5,000 sq. ft. High intensity ≤ 2,500 sq. ft.	Low and medium intensity > 5,000 sq. ft. High intensity > 2,500 sq. ft.
HRCC-2 and HRCC-3	Low and medium intensity ≤ 5,000 sq. ft.	Low and medium intensity > 5,000 sq. ft. High intensity
HPRD	None	Low, medium and high intensity
HNC-1	Low and medium intensity ≤ 2,500 sq. ft.	Low and medium intensity > 2,500 sq. ft. High intensity

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HNC-2 and HNC-3	Low intensity ≤ 2,500 sq. ft.	Low intensity > 2,500 sq. ft. to ≤ 5,000 sq. ft.
A	None	Low and medium intensity

Note: The total area as stated above includes both sales area under roof and any outside sales area.

(Ord. No. 97-10, § 1(2-5.8(A)), 7-3-1997)

**Secs. 122-1113—122-1140. Reserved.**

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***DIVISION 3. AREA REQUIREMENTS***

[Sec. 122-1141. Minimum lot or site requirements for all uses.](#)

[Sec. 122-1142. Density and intensity of land use.](#)

[Sec. 122-1143. Impervious surface requirements for all uses.](#)

[Sec. 122-1144. Building setbacks.](#)

[Sec. 122-1145. Required yards.](#)

[Sec. 122-1146. Yard and building site requirements.](#)

[Sec. 122-1147. Independent yard or open space.](#)

[Sec. 122-1148. Coastal construction control line.](#)

[Sec. 122-1149. Height.](#)

[Sec. 122-1150. Structures to have access.](#)

[Sec. 122-1151. Size and dimension.](#)

[Secs. 122-1152—122-1180. Reserved.](#)

**Sec. 122-1141. Minimum lot or site requirements for all uses.**

The table in [section 122-1151](#) incorporates required size and dimension regulations which shall be applicable within each respective zoning district, and these standards shall be maintained in perpetuity. All developments shall have a total land area sufficient to satisfy all standards stipulated within the land development regulations, including but not limited to the following:

- (1) Minimum lot, setback, and lot coverage requirements as provided in divisions 2 through 14 of article IV of this chapter and division 2 of this article and this division;
- (2) Open space, buffers, and landscaping as provided in articles V and VI of [chapter 108](#) and article VI of [chapter 110](#)
- (3) Surface water management and flood damage prevention as provided in article VIII of [chapter 108](#)
- (4) Public facilities requirements as provided in [chapter 94](#)
- (5) Access, internal circulation and off-street parking as provided in articles IV and VII of [chapter 108](#)
- (6) Wetland protection as provided in articles III, IV, V, VII and VIII of [chapter 110](#)
- (7) Soil erosion and sedimentation control standards as provided in division 3 of article III of [chapter 110](#)
- (8) Exterior appearance and structural quality as provided in sections [108-278](#) through [108-288](#)
- (9) Shoreline protection as provided in article IV of [chapter 110](#)
- (10) Preservation of upland vegetation as well as marine, fishery and wildlife habitats, especially those supporting endangered flora and fauna species as provided in article IV of [chapter 110](#)

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- (11) Preservation of historical and archaeological resources as provided in [chapter 102](#) and article II of [chapter 110](#); and
  - (12) Nuisance abatement criteria as provided in article III of [chapter 106](#)
- (Ord. No. 97-10, § 1(2-5.9(A)), 7-3-1997)

**Sec. 122-1142. Density and intensity of land use.**

- (a) The density and intensity shall be consistent with the comprehensive plan. Refer to the table in [section 122-1151](#) for specific density and intensity maximums by type of land use. The density and intensity expressed in the table in [section 122-1151](#) is the maximum density/intensity which can be achieved. However, the maximum density/intensity is not guaranteed by right and shall be subject to the performance criteria set forth in the land development regulations.
- (b) Maximum gross residential density shall be determined by dividing the maximum allowable units by the gross acres of land (i.e., dwelling units/gross land area). Maximum gross density for hotel, motel and transient facilities shall be determined by dividing the maximum allowable units by the gross acres of land (i.e., dwelling units/gross land area). Units within hotels, motels, and other transient facilities shall be defined as any room accommodating beds, including conventional beds as well as sofa beds, Murphy beds, or other types of beds with unique multipurpose or space saving designs, which can be locked and keyed from the exterior of the premises or from a common hallway, foyer, or other common area and can be held out to the public as distinct sleeping quarters for overnight lodging or for a longer period of time.
- (c) All residential densities stipulate the maximum gross densities. Gross land area shall be defined as those contiguous land areas under common ownership proposed for residential development. When developable land abuts wetlands, waters of the state or other environmentally sensitive land, including but not limited to those lands within state and/or federal jurisdiction, the boundary shall be delineated as established in [section 110-88](#) or as established by the state or federal government.
- (d) The applicant shall bear the burden of proof in determining that development shall not adversely impact wetlands, yellow heart hammocks, and other environmentally fragile natural systems. Where the state and federal governments have jurisdiction, the applicant for development must obtain all necessary permits, including but not limited to a dredge and fill permit, prior to requesting a determination of development rights from the city. Maximum density in the conservation district shall not exceed one unit per ten acres. In addition, site alteration shall be limited to ten percent of the entire site. Such determinations shall be based on physical and biological data obtained from specific site investigations. These determinations shall be predicated on findings rendered by professionals competent in producing data and analyses necessary to support impact assessments, including findings regarding the impacts of potential development on the physical and biological value and function of environmentally sensitive lands. This section shall not prevent, as a minimum, a single-family home from being built on a legal lot of record where state and federal agencies having jurisdiction approve such development.
- (e) In reviewing applications/site plans for development of particular building sites, the specific residential density approved by the city shall meet all applicable performance criteria of chapters [94](#), [102](#) and [106](#); articles I and III through IX of [chapter 108](#); and chapters 110 and [114](#), as well as other applicable land development regulations.
- (f) The maximum intensity stipulated for nonresidential activities is stated in terms of floor area ratio as defined in [section 86-9](#)

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- (g) The city shall reserve the power to mandate changes in the site plan as well as mandate reductions in the density and/or intensity of development proposed by an applicant/developer if the city finds that the proposed site plan does not satisfy provisions of the comprehensive plan and/or the land development regulations. The maximum floor area ratios are further restricted by quantitative and qualitative criteria included in the land development regulations, including but not limited to such factors as the following:
- (1) Minimum open space.
  - (2) Concurrency management and level of service standards for traffic circulation.
  - (3) Stormwater management and other public facilities and services.
  - (4) Off-street parking and internal circulation.
  - (5) Height restrictions.
  - (6) Landscaping.
  - (7) Other required on-site improvements and design amenities required to achieve land use compatibility.
- (h) Furthermore, the calculations of floor area ratios for determining allowable intensity in mixed use developments on sites greater than one-half acre at the time of adoption of the comprehensive plan (January 1994) shall apply the following specific procedures to avoid excessive intensity. Upon adoption of the comprehensive plan, where common ownership exists on contiguous parcels, applicants for development must aggregate the land under common ownership into a single site plan.

- (i) The maximum number of residential units which may be allocated to the residential component of a mixed use development shall be determined by following the procedures below:

Step 1.	State the allowable commercial FAR	_____	=	Maximum allowable commercial FAR
Step 2.	State the proposed commercial FAR	_____	=	Proposed commercial FAR
Step 3.	Subtract line 2 from line 1	_____	=	Unused commercial FAR
Step 4.	Divide line 3 by line 1	_____	=	% of unused commercial FAR
Step 5.	Multiply line 4 by the maximum allowable units per acre	_____	=	Allowable units per acre

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Step 6.	Multiply line five by the number of acres on the total site	_____	=	Maximum residential units allowed
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(j) The maximum square footage which may be allocated to the commercial component of a mixed use development shall be determined by following the procedures as follows:

Step 1.	State the maximum allowable units per acre	_____	=	Maximum allowable units per acre
Step 2.	State total number of units per acre on the total site	_____	=	Total number of units per acre
Step 3.	Subtract line 2 from line 1	_____	=	Unused residential density
Step 4.	Divide line 3 by line 1	_____	=	% of unused residential density
Step 5.	Multiply line 4 by allowable commercial FAR	_____	=	Maximum commercial FAR
Step 6.	Multiply line five by the square footage of the total site	_____	=	Maximum commercial square footage

(Ord. No. 97-10, § 1(2-5.9(B)), 7-3-1997; Ord. No. 00-04, § 13, 2-1-2000)

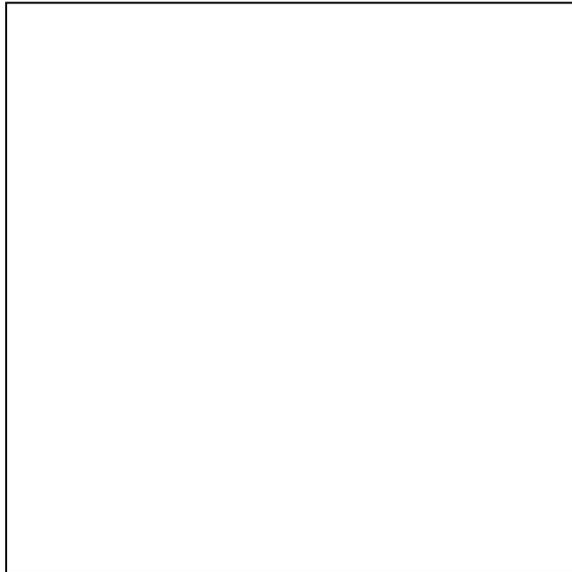
**Sec. 122-1143. Impervious surface requirements for all uses.**

(a) *Definition; scope.* The term "impervious surface" is defined as that portion of the land which is covered by buildings, pavement, nonporous fill, or other cover through which water cannot penetrate. The impervious surface ratio requirement controls the intensity of development, by restricting the amount of the land covered by any type of impervious surface.

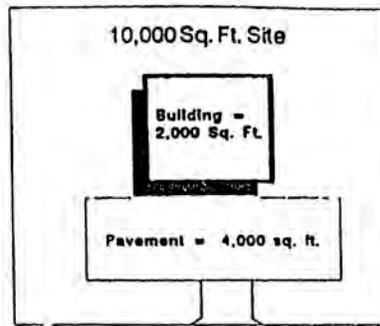
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- (b) *Calculation.* The impervious surface ratio (ISR) is calculated for the gross site by dividing the total impervious surface by the gross site area. Waterbodies are impervious and shall be included as such in the ISR calculation.



**Impervious Surface Ratio (ISR)  
Illustration**



***Impervious Surface Ratio (ISR) Illustration***

$$\text{ISR} = \text{Total Impervious Surface} / \text{Total Lot Area} = 2,000 + 4,000 / 10,000 = 60\%$$

Cluster development or other site design alternatives may result in individual lots exceeding the ISR, while other lots may be devoted entirely to open space. The city may require, as a condition of approval, deed restrictions or covenants which guarantee the maintenance of such open space in perpetuity. The ISR requirement shall not be bypassed or reduced. However, the intent is to allow maximum flexibility through calculating ISR on the gross site, and not on a lot-by-lot basis.

- (c) *Use of porous material.* Porous concrete, porous asphalt, turf block, or similar materials may be used subject to approval of the city engineer.
- (d) *Compliance with ISR.* All proposed development shall comply with the standards given in the table of impervious surface ratios in the table in [section 122-1151](#). Where a proposed development is donating or dedicating land based on a plan approved by the city, the gross site before dedication or donation shall be used to calculate ISR. This does not relieve the applicant from providing all required on-site buffers, landscaping, stormwater management areas, minimum, and other required project amenities.

(Ord. No. 97-10, § 1(2-5.9(C)), 7-3-1997)

**Sec. 122-1144. Building setbacks.**

The table in [section 122-1151](#) provides minimum building setbacks for all zoning districts within the city. The minimum building setback shall be measured from the subject lot lines of the building site.

(Ord. No. 97-10, § 1(2-5.9(D)), 7-3-1997)

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**Sec. 122-1145. Required yards.**

- (a) *Purpose, use and maintenance of yards.* The purpose of yards required in the land development regulations is to provide open space around and between structures for health, safety and aesthetic purposes. The purpose is also to prevent the location of structures within dedicated easements. All required yards and landscaped areas shall be planted and maintained in lawn, sod, or landscaping, including flower beds, shrubs, hedges or other generally accepted landscaping material approved by the city. Landscaping material, including trees, shall not obstruct the vision of the motoring public. The landscape requirements of article VI of [chapter 108](#) shall further regulate development within all zoning districts, excepting single-family zoned districts.
- (b) *General encroachments into required yards.* Encroachments into required yards shall be in compliance with the following:
- (1) *Projections and obstructions.* Every part of every required yard shall be open and unobstructed from the ground to the sky except as follows or as otherwise permitted in divisions 2 through 14 of article IV of this chapter or in division 2 of this article or in this division:
- a. Movable awnings may project not over three feet into a required yard, provided that where the yard is less than five feet in width the projection shall not exceed one-half the width of the yard.
  - b. Awnings, canopies, or marquees outside the historic district may not project over three feet into a required yard. The location of exterior open stairs must be approved by the building department, and such exterior open stairs can be no closer than 30 inches to an adjacent property line.
  - c. Fences, walls and hedges shall be permitted in required yards subject to the land development regulations.
  - d. Accessory parking may be located in a required front, rear or side yard.
- (2) *Exceptions.* Typical play equipment, wires, lights, mailboxes, ornamental entry columns and gates, and outdoor furniture are not considered as encroachments.
- (c) *Yards.* A yard shall be defined as an open space at grade between a building and the adjoining lot lines, unoccupied, open to the sky and unobstructed by any portion of a structure from the ground upward, except as otherwise provided in the land development regulations. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the structure shall be used (a driveway or off-street parking area may be a portion of a "yard").
- (1) *Front yard.* Front yards shall be defined as the yard abutting a street (i.e., street frontage lot). The depth of required front yards shall be measured in such a manner that the yard established is a strip of at least the minimum width required by district regulations with its inner edge parallel with the front lot line. Such yard shall be measured from the nearest point of the building, including the roof, to the front (street frontage) property line. The front yard regulations shall apply to all lots fronting on a street.
- (2) *Rear yard.* A rear yard is a yard extending across the rear of a lot between the side lot lines and which is the minimum horizontal distance between the rear of the main building or any projections thereof other than projections or encroachments specifically provided for in the land development regulations. For all corner lots, the rear yard shall be as indicated in subsection (c)(4) of this section for corner lots. The depth of required rear yards shall be measured in such a manner that the yard established is a strip of at least the minimum width required by district

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regulations with its inner edge parallel with the rear lot line. Such yard shall be measured from the nearest point of the building, including the roof, to the rear property line.

- (3) *Side yard.* A side yard is a yard between the main building and the sideline of the lot and extending from the front lot line to the rear yard, which is the minimum horizontal distance between a side lot line and the side of the main building or any projections thereof. For all corner lots, the side yard shall be as indicated in subsection (c)(4) of this section. The width of required side yards shall be measured in such a manner that the yard established is a strip of at least the minimum width required by district regulations with its inner edge parallel with the side lot line. Such yard shall be measured from the nearest point of the building, including the roof, to the side property line.
- (4) *Determining yards on corner lot.* On corner lots abutting two intersecting streets, the setbacks shall be measured as described in subsections (c)(1) through (3) of this section with the front, side and rear lot lines being determined as follows:
  - a. One street frontage shall be declared a front yard.
  - b. The other street frontage shall be a street side yard.
  - c. The rear yard shall be the yard opposite the declared front yard.
  - d. The remaining yard shall be the interior side yard.

(Ord. No. 97-10, § 1(2-5.9(E)), 7-3-1997)

**Sec. 122-1146. Yard and building site requirements.**

Yards or building sites created after the effective date of the ordinance from which the land development regulations derive shall meet or exceed the minimum requirements established in the schedule of district regulations located in divisions 2 through 14 of article IV of this chapter, in division 2 of this article and in this division. No yard or building site existing on the effective date of the ordinance from which this section derives shall be reduced in dimension or area below the minimum requirements set forth.

(Ord. No. 97-10, § 1(2-5.9(F)), 7-3-1997)

**Sec. 122-1147. Independent yard or open space.**

No part of a yard or other open space or off-street parking or loading space required in connection with any building or site for the purpose of complying with the land development regulations shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building or site.

(Ord. No. 97-10, § 1(2-5.9(G)), 7-3-1997)

**Sec. 122-1148. Coastal construction control line.**

(a) No building or other structure shall be constructed:

- (1) Within 50 feet of the mean high water along the Atlantic Ocean, southwest from the Cow Key Channel Bridge to the southeast corner of the Truman Annex property, inclusive of the Fort Taylor State Park, which fronts on the Atlantic Ocean; or

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- (2) Within 30 feet of the mean high water along the main ship channel, Key West Harbor, Garrison Bight, and the Bay of Florida, which shoreline is generally described as running north and east from the southeast corner of Truman Annex property, inclusive of the Fort Taylor State Park property which fronts on the Bay of Florida, to the north end of the Cow Key Channel Bridge and also extending along the entire outer limits of North Stock Island.
- (b) Restrictions set forth in subsection (a) of this section shall not be applicable to any pier, dock, seawall, or other water-dependent use, or to any construction on property not within the jurisdiction of the city.
- (c) If any portions or applications of subsection (a) of this section are judicially determined to be legally improper or unconstitutional, such holding shall not affect the remaining portions or applications thereof.

(Ord. No. 97-10, § 1(2-5.9(H)), 7-3-1997)

**Sec. 122-1149. Height.**

The term "building height" as used in the land development regulations shall mean the vertical distance from the crown of the nearest adjacent street to the highest point of the proposed building. Height limitations contained in the schedule of district regulations located in divisions 2 through 14 of article IV of this chapter, in division 2 of this article and in this division shall apply to all construction unless otherwise stated in [section 122-1151](#). These height regulations may be waived in order to accommodate nonhabitable hardware and utility structures typically associated with the principal structure, including spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy or use.

(Ord. No. 97-10, § 1(2-5.9(I)), 7-3-1997)

**Sec. 122-1150. Structures to have access.**

Every building erected or moved after the effective date of the ordinance from which this section derives shall be on a lot adjacent to a public street or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

(Ord. No. 97-10, § 1(2-5.9(J)), 7-3-1997)

**Sec. 122-1151. Size and dimension.**

Size and dimension regulations for zoning districts shall be as follows:

TABLE OF SIZE AND DIMENSION REGULATIONS

						Minimum Setback Requirements						
District	Mini mum	Mini mum	Mini mum	Imperv ious	Maxi mum	Fro nt	Stre et	Sid e	Re ar <sup>2</sup>	Maxi mum	Maxi mum	Maxi mum

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	Area (sq. ft.)	Width (sq. ft.)	Depth (sq. ft.)	Surface Ratio	Building Coverage	(feet)	Side (feet) <sup>1</sup>	(feet)	(feet)	Height (feet)	Floor Area Ratio	Density (du/acre)
<i>Residential</i>												
LDR-C low density residential coastal	1 acre	100	100	<u>50</u>	40	<u>30</u>	15	15 <sup>3</sup>	25	<u>30</u>	n/a	1
MDR-C medium density residential coastal <sup>4</sup>	½ acre	<u>70</u> <sup>5</sup>	100	<u>50</u>	40	<u>30</u> <sup>6</sup> <u>30</u>	10 20	7 <sup>3</sup> 20	20 25	<u>30</u>	n/a	8
SF single-family residential <sup>4</sup>	6,000 <sup>7</sup> ½ acre <sup>4</sup>	<u>50</u> 100	100 100	<u>50</u> 60	35 <sup>7</sup> 40	<u>30</u> <sup>6</sup> <u>30</u>	10 20	5 15	25 25	25 <sup>20</sup> 25	n/a n/a	8
MDR medium density residential	½ acre 1 acre	<u>70</u> <sup>5</sup> 80	100 100	<u>50</u> 60	35 40	<u>30</u> <sup>6</sup> <u>30</u>	10 25	7 25	20 25	35	n/a	16
HDR high density residential	1 acre 1 acre	<u>70</u> <sup>5</sup> 80	100	60	40	<u>30</u> <sup>6</sup> <u>30</u>	10 25	7 25	20 25	40	n/a	<u>22</u>
<i>Commercial</i>												
CL limited commercial	10,000	<u>70</u>	100	60	40	25 <sup>8</sup>	20	15 <sup>3</sup>	25 <sup>8</sup>	40	0.8	16
CG general commercial	15,000	150	100	60	40	25 <sup>8</sup>	20	15 <sup>3</sup>	25 <sup>8</sup>	40 <sup>9</sup>	0.8	16
CT tourist commercial	30,000	150	100	60	40	25 <sup>8</sup>	20	15 <sup>3</sup>	25 <sup>8</sup>	40	0.8	16

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RO residential/office	10,000	<a href="#">70</a>	100	60	40	30	15	15	25	35	0.8	16
PRD planned redevelopment/development <sup>10</sup>	1 acre	n/a	n/a	60	40	25 <sup>8</sup>	20	20	40	35	0.8	8
HMDR historic medium density residential <sup>21</sup>	4,000	40	<a href="#">90</a>	60	40	10	7.5	5	15	30	1.0	16
HSMDR historic special medium density residential	5,000	<a href="#">50</a>	100	60	40	10	7.5	5	15	30	1.0 <sup>22</sup>	8.6
HHDR historic high density residential <sup>21</sup>	4,000	40	<a href="#">90</a>	60	<a href="#">50</a>	10	5	5 <sup>11</sup>	20	30	1.0	<a href="#">22</a>
HRCC-1 historic commercial core, Duval GS <sup>21</sup>	4,000	40	100	<a href="#">70</a>	<a href="#">50</a>	0	0	2.5	10	35 <sup>19</sup>	1.0	<a href="#">22</a>
HRCC-2 historic commercial core, KW Bight <sup>12, 21</sup>	5,000	<a href="#">50</a>	100	60 <sup>12</sup>	<a href="#">50</a>	10	7.5	5	15 <sup>2</sup>	35 <sup>12</sup>	0.5	8 <sup>13</sup>
HRCC-3 historic commercial core Duval OS <sup>21</sup>	4,000	40	<a href="#">90</a>	60	<a href="#">50</a>	5	7.5	5	15	35 <sup>19</sup>	1.0	<a href="#">22</a>
HNC-1 historic neighborhood commercial <sup>21</sup>	4,000	40	100	60	<a href="#">50</a>	5	7.5	5	15	35	1.0 <sup>14</sup>	16
HNC-2 historic neighborhood commercial <sup>21</sup>	4,000	40	<a href="#">90</a>	60	40	10	7.5	5	15	30	1.0 <sup>14</sup>	16

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HNC-3 historic neighborhood commercial <sup>21</sup>	4,000	40	<a href="#">90</a>	60	40	0	7.5	5	15	30	1.0 <sup>14</sup>	16
HCT historic commercial tourist <sup>17, 21</sup>	10,000	75	100	<a href="#">70</a>	<a href="#">50</a>	5	5	5	10	35	1.0	<a href="#">22</a>
HRO historic residential office <sup>21</sup>	5,000	<a href="#">50</a>	100	60	<a href="#">50</a>	5	5	5	10	30	1.0 <sup>14</sup>	16
HPS historic public/semipublic service <sup>21</sup>	5,000	<a href="#">50</a>	100	<a href="#">50</a>	40	20	10	5 <sup>11</sup>	20 <sup>2</sup>	25	1.0	n/a
HPRD historic planned redevelopment/development <sup>21</sup>	1 acre	<a href="#">50</a>	100	<a href="#">50</a>	40	5	5	2.5	10	35	1.0	<a href="#">22</a>
PS public/semipublic service	6,000	<a href="#">50</a>	100	<a href="#">50</a>	40	20	15	15	20 <sup>2</sup>	25	0.8 <sup>15</sup>	n/a
A airport	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a <sup>16</sup>	0.3	n/a
C conservation	10 acres	n/a	n/a	5	5	<sup>18</sup>	<sup>18</sup>	<sup>18</sup>	<sup>18</sup>	25	0.01	0.1

Footnotes:

1.	Reference <a href="#">section 122-1181</a>
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2.	The minimum setback on an alley may be five feet less than the rear setback given.
3.	Greater of number listed on table or ten percent of the lot width to a maximum of 20 feet.
4.	For the MDR-C, SF, MDR and HDR districts, the first line sets forth the requirements for single-family and two-family residential uses; the second line sets forth the requirements for all other uses including community facilities; except that in the SF district, educational institutions shall have a minimum lot area of one acre.
5.	The minimum lot width shall be 70 feet or the prevailing lot width on developed lots within 200 feet of the subject lot, but not less than 50 feet.
6.	The front setback shall be 30 feet or the average depth of front yards on developed lots within 100 feet on each side, but not less than 20 feet.
7.	Single-family and two-family residential dwelling units shall have minimum lot size of 6,000 square feet, except in the following areas the minimum shall be 8,000 square feet:
a.	The Venetian Subdivision located south of the Riviera Canal.
b.	The area bounded on the north by Flagler Avenue, on the south by Casa Marina Court, on the east by White Street and on the west by Reynolds Street.
	Additionally, within this area the maximum lot coverage shall be 30 percent.
8.	The front and rear setbacks given on the table are the minimum setback. As an alternative the front and/or rear setback may be ten percent of the lot depth for buildings up to 25 feet in height, or 20 percent of the lot depth for buildings over 25 feet in height; provided, however, the maximum setback shall be 50 feet.
9.	The maximum height along North Roosevelt Boulevard, from Seventh Avenue west to Eisenhower Drive and Jose Marti Drive, shall be 30 feet.
10.	All setbacks in the planned redevelopment and development (PRD) district shall be established based on planned amenities to be provided by the developer, the terms of which shall be negotiated through a development agreement acceptable to the city commission. The design parameters, including setbacks, shall be consistent with acceptable principles and practices of urban

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	design.
11.	Greater of the number given in the table or ten percent of the lot width to a maximum of 15 feet.
12.	In the HRCC-2 district, within the 100-foot setback from mean high water (mean high water), the following restrictions apply:
a.	The minimum open space ratio shall be 0.5.
b.	The height of the building shall be restricted to one habitable story/floor above base flood elevation.
c.	The listed dimensions shall apply landward of the 100-foot setback.
13.	Reference subdivision III of division 7 of article IV of this chapter.
14.	Reference divisions 8 and 10 of article IV of this chapter for additional restrictions that regulate the square footage of gross leasable floor area based on trip generation within the HRO and HNC land use districts.
15.	The maximum floor area ratio (FAR) outside the historic districts, as designated on the future land use maps, shall be 0.8, except for recreation and open space which shall have a maximum floor area ratio of 0.2.
16.	Reference division 9 of article V of this chapter.
17.	For single-family and two-family residences, minimum lot area in the HCT shall be 5,000 square feet.
18.	All development must comply with requirements for setbacks from wetlands and open water established in <a href="#">section 110-89</a>
19.	Maximum height may be increased five feet if the structure has a pitched roof, the design of which is approved by the historic architectural review commission.
20.	Maximum height may be increased five feet for nonhabitable purposes if the structure has a pitched roof.

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21.	Construction may be limited by proportion, scale and mass considerations as expressed through the historic architectural review commission design guidelines.
<a href="#">22</a>	Maximum Floor Area Ratio applies to all development and redevelopment including residential: 1.0.

(Ord. No. 97-10, § 1(2-5.9), 7-3-1997; Ord. No. 09-06, §§ 3—5, 4-7-2009; Ord. No. 10-04, §§ 20, 21, 1-5-2010; Ord. No. 12-33, § 4, 9-18-2012)

**Secs. 122-1152—122-1180. Reserved.**

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***DIVISION 4. ACCESSORY USES AND STRUCTURES***

[Sec. 122-1181. Permitted and restricted uses.](#)

[Sec. 122-1182. Carports.](#)

[Sec. 122-1183. Walls and fences.](#)

[Sec. 122-1184. Air conditioning and heating units in residential districts.](#)

[Sec. 122-1185. Swimming pools.](#)

[Sec. 122-1186. Waterways, watercraft and marine-related structures.](#)

[Secs. 122-1187—122-1215. Reserved.](#)

**Sec. 122-1181. Permitted and restricted uses.**

Accessory uses or structures as defined in [section 86-9](#) shall be allowed in all districts. Such accessory uses or structures shall be permitted by right in a subject district if the principal use is a permitted use; however, the accessory use or structure shall be a conditional use if the principal use is a conditional use. No accessory uses or structure shall be erected in any required front or side yard, and the accessory uses or structure shall not cover more than 30 percent of any required rear yard. No separate accessory structures shall be erected less than five feet of any lot line. Accessory buildings must be constructed simultaneously with, or following, the construction of the main building and shall not be used until after the principal structure has received a certificate of occupancy. Erection of tents is prohibited. Hot tubs, whether fixed or movable, shall be considered accessory structures for the purpose of setbacks.

(Ord. No. 97-10, § 1(2-7.7), 7-3-1997)

**Sec. 122-1182. Carports.**

An open carport may be erected adjacent to interior lot lines within one foot of the front and side property lines. Rooftop runoff shall be contained on the subject site.

(Ord. No. 97-10, § 1(2-7.8), 7-3-1997)

**Sec. 122-1183. Walls and fences.**

(a) *Definition.* For the purpose of the land development regulations, the term "fence" shall be used to describe a manmade structure erected for separation, security or privacy purposes through the means of intermittent posts supporting vertical or horizontal members made of wood, metal, chain link, or barbed wire. While the opacity may vary, the height and location are dictated by the regulations within this subpart B. A wall may be erected for the same purposes but shall include only those structures with continuous footers. The main structure of the wall may be constructed with brick, stone or concrete block. The latter may be used in combination with decorative veneers of brick, rock, stone, stucco or any other material meeting accepted aesthetic performance criteria. Any wall or fence erected within the city shall meet professionally accepted building standards and the regulations cited in this section.

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- (b) *Building permit; review.* Notwithstanding other sections of the land development regulations, fences, walls, hedges, landscaped berms, and minor structures such as lampposts (standards) or flagpoles (permanent type) may be permitted in any district subject to issuance of a building permit. Fences in the historic district shall also be subject to review by the historic architectural review commission as part of the permitting process.
- (c) *Application procedure.* Application for approval of any fence should be made in the same manner as for authorization of a building permit with a full description of materials to be used and dimensions and placements clearly stated on the plans. The building official will inspect the area and judge the application on the basis of the guidelines for fences and other minor structures set forth in subsection (d) of this section.
- (d) *Standards for fences and hedges.* Fences shall be erected on the lot of the applicant and shall not extend into a public right-of-way. The fence may abut but shall not be located on any property line. It shall be unlawful for any person to erect a fence within the city except in accordance with the following:
- (1) In the city's residential areas the following restrictions as to fence height and construction shall apply:
    - a. Solid or open fences not exceeding four feet in height constructed of wood, rock, concrete block, chain link or wrought iron may be permitted on the front, rear and side yard property lines of any parcel of land.
    - b. If there are located utility electrical transformer banks, water towers or other facilities owned or leased by a public utility in residential zones which require the fencing of such for safety precautions, the fence around such facilities shall be at least six feet in height, and barbed wire may be used on the top of such six-foot fence.
    - c. Fences up to six feet in height may be constructed on the front, rear and side yard property lines of any parcel of land, provided that the upper two feet of such six-foot fence has openings of at least 50 percent or more in the construction of the fence. Solid fences up to six feet in height may be constructed on rear and side yard property lines of any parcel of land provided such solid six-foot fence is not constructed on property lines intersecting at street corners and that the adjoining property owners file their written consent with the building department consenting to the construction of such six-foot solid fence.
    - d. The fence shall be located so as to avoid interference with traffic visibility pursuant to [section 122-1406](#)
  - (2) In nonresidential areas of the city, wire-mesh or chainlink fences may be constructed at any height on any property lines, and barbed wire may be used on such fences, provided the barbed wire portion of the fence does not extend outside and beyond the property line of such property, and such fence is at least six feet high.
  - (3) Hedges and landscaped berms located within a front yard shall be maintained so as not to obstruct the view of vehicular traffic at intersections.

(Ord. No. 97-10, § 1(2-7.9), 7-3-1997)

**Sec. 122-1184. Air conditioning and heating units in residential districts.**

In all residential districts, the exhaust or mechanical part of any air conditioning or heating unit, other than window units, shall not be placed or installed within five feet of any side or rear property line. No air

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conditioning or heating unit shall be placed or installed in a front yard. Where feasible, air conditioning units should be baffled for noise.

(Ord. No. 97-10, § 1(2-7.10), 7-3-1997; Ord. No. 02-18, § 1, 7-2-2002)

**Sec. 122-1185. Swimming pools.**

Prior to commencing construction of swimming pools, a building permit must be obtained. The following shall be enforced in regulating construction of swimming pools:

- (1) *Application.* The building department will receive and act on applications for a building permit. The application shall be accompanied by detailed pool plans, illustrating the location of mechanical equipment and also safety barriers, fences, screening, or other improvements to be constructed. The plans shall comply with the Standard Swimming Pool Code.
- (2) *Setbacks for in-ground swimming pools.* Setback requirements for in-ground swimming pools are five feet from all property lines.
- (3) *Setbacks for aboveground swimming pools and spas.* Aboveground swimming pools and spas are considered structures and shall meet the setback requirements of the land development regulations. An aboveground pool or spa is defined as any pool or spa structure which extends more than 30 inches above the existing ground level. Setback requirements are five feet for the side and rear yards. Additionally, there shall be a minimum setback from the principal structure on the lot of five feet.
- (4) *Required fencing.* All swimming pools shall be completely enclosed with a fence or wall at least four feet high and so constructed as to not be readily climbable by small children.
- (5) *Gates and doors.* Every gate or door providing access to the pool area shall be equipped with a self-closing and self-latching device installed on the pool side for keeping the gate or door securely closed at all times when the pool area is not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped.
- (6) *Lighting.* Lighting for swimming pools shall be shielded in a manner that will confine illumination to the area of the pool.
- (7) *Wastewater.* Elimination of wastewater from such swimming pools shall be arranged in a manner which will avoid septic tanks and/or drainfields, contamination of adjacent bodies of water or the flooding of adjacent bodies of water or the flooding of adjacent properties owned by others.

(Ord. No. 97-10, § 1(2-7.11), 7-3-1997)

**Sec. 122-1186. Waterways, watercraft and marine-related structures.**

- (a) *Regular mooring of watercraft.* As used in this subsection, the term "regularly moored" shall mean moored to the shoreline or a shoreline structure in the same general area at least eight hours a day for ten days in any month. Watercraft shall not be regularly moored along any shore without the consent of the riparian landowner. Regularly moored watercraft shall not be used as dwellings, except in public marinas or on private sites. Watercraft shall not be permitted as business offices or other related commercial enterprises unless located within a duly permitted marina. This subsection shall not preclude the regular mooring of watercraft used for fishing operations, charters and other water-dependent uses, provided such mooring is at a commercial marina. Regularly moored watercraft shall be kept in seaworthy condition when not in a permitted repair area.

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- (b) *Maximum permitted projection of waterfront structures.* Docks, piers, or wharves shall not be permitted without approval by the U.S. Army Corps of Engineers and/or any other agency having appropriate jurisdiction. Such structures shall only be permitted where a continuous channel having a mean low water depth of four or more feet is available and links the structure with deep water. Deep water shall be defined as greater than four feet. Refer to sections [122-132](#) through [122-143](#)

(Ord. No. 97-10, § 1(2-7.12), 7-3-1997)

**Cross reference**— Waterways, ch. 82.

**Secs. 122-1187—122-1215. Reserved.**

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DIVISION 5. SPECIFIC USE REGULATION

***DIVISION 5. SPECIFIC USE REGULATION***

[Subdivision I. - In General](#)

[Subdivision II. - Group Homes And Foster Care Facilities](#)

[Subdivision III. - Manufactured Housing](#)

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Subdivision I. In General

Subdivision I. In General

[Sec. 122-1216. Adverse impacts of development on historic or archaeological sites.](#)

[Secs. 122-1217—122-1245. Reserved.](#)

**Sec. 122-1216. Adverse impacts of development on historic or archaeological sites.**

For the purposes of this section, refer to [chapter 102](#) and article II of [chapter 110](#). Within any historic preservation district, prior to obtaining a building permit, an applicant for development shall comply with the city's historic architectural review commission's Design Guidelines in Key West's Historic District, as well as the U.S. Secretary of the Interior's Standards for Rehabilitation, pursuant to procedures stipulated in [chapter 102](#).

(Ord. No. 97-10, § 1(2-7.19), 7-3-1997)

**Secs. 122-1217—122-1245. Reserved.**

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Subdivision II. Group Homes And Foster Care Facilities

Subdivision II. Group Homes And Foster Care Facilities <sup>[19]</sup>

[Sec. 122-1246. State licensed homes; site standards.](#)

[Secs. 122-1247—122-1275. Reserved.](#)

**Sec. 122-1246. State licensed homes; site standards.**

- (a) Consistent with F.S. ch. 419, a group home of six or fewer residents licensed as a community residential home by the state department of children and families shall be deemed a single-family unit and shall be allowed in single-family or multifamily zoning districts, provided that such home shall not be located within a radius of 1,000 feet of another existing duly licensed group home of six or fewer residents. Similarly foster care facilities duly licensed by the state department of children and families shall be allowed in both single-family and multifamily zoning districts. Pursuant to F.S. ch. 419, measurements stated in this section shall be structure to structure, except for the 500-foot restriction, where the measurements shall be from structure to boundary.
- (b) A group home duly licensed by state department of children and families as a community residential care facility which has from seven to 14 unrelated residents operating as a family, including supportive staff as defined in F.S. § 419.001, shall be allowed wherever multifamily residential structures are allowed unless the city finds that the group home siting as proposed:
  - (1) Does not otherwise conform to existing zoning regulations applicable to other multifamily uses in the city.
  - (2) Does not meet applicable licensing criteria established and determined by the state department of children and families, including requirements that the home be located and designed to ensure the safe care and supervision of all clients in the home.
  - (3) Would result in excessive concentration of community residential homes. A home that is located within a radius of 1,200 feet of another existing community residential home in a multifamily area shall be an overconcentration of such homes that substantially alters the nature and character of the area. A home that is located within a radius of 500 feet of an area of single-family zoning substantially alters the nature and character of the area.
- (c) All sites for foster care and group care facilities shall contain requisite infrastructure including potable water, adequate surface water management, an approved system of wastewater disposal, and an adequate system for solid waste collection and disposal. The sites shall also be free of safety hazards, and all structures shall comply with city ordinances and applicable state laws including applicable state licensing and program requirements.

(Ord. No. 97-10, § 1(2-7.18), 7-3-1997)

**Secs. 122-1247—122-1275. Reserved.**

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Subdivision II. Group Homes And Foster Care Facilities

FOOTNOTE(S):

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**Cross reference**— Businesses, ch. 18. [\(Back\)](#)

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Subdivision III. Manufactured Housing

Subdivision III. Manufactured Housing

[Sec. 122-1276. Standards.](#)

[Secs. 122-1277—122-1305. Reserved.](#)

**Sec. 122-1276. Standards.**

Manufactured housing may be permitted in the city if the units comply with the following standards:

- (1) The city's adopted building codes;
- (2) The state building standards of F.S. chs. 320 and 553;
- (3) U.S. Department of Housing and Urban Development Manufactured Home Construction and Safety Standards of 1974 (i.e., F.S. § 320.823);
- (4) All applicable provisions of the comprehensive plan and land development regulations;
- (5) Adopted city fire codes; and
- (6) All manufactured housing shall be designed in a manner compatible with conventional housing including roofline, fenestration, foundation and similar features impacting compatibility. The finished floor elevation for manufactured housing shall be designed with site improvements necessary to preserve compatibility with surrounding structures.

(Ord. No. 97-10, § 1(2-7.17), 7-3-1997)

**Secs. 122-1277—122-1305. Reserved.**

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Subdivision IV. Home Occupations

Subdivision IV. Home Occupations <sup>[20]</sup>

[Sec. 122-1306. Conditions.](#)

[Sec. 122-1307. Issuance of permit.](#)

[Secs. 122-1308—122-1335. Reserved.](#)

**Sec. 122-1306. Conditions.**

Home occupations shall only be allowed, provided the following specified conditions are met:

- (1) *Character of use.* In any district where a home occupation is allowed, it shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the character thereof or the character of the neighborhood. When permitted to qualify as a home occupation, a use must demonstrate compliance with each and all of the following criteria:
  - a. No person other than the members of the family residing on the premises shall be engaged in such occupation. No persons other than permanent residents of the subject premises shall be engaged in such occupation.
  - b. There shall be no display of goods visible from any street.
  - c. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation from any right-of-way, except that a nonilluminated nameplate, not exceeding two square feet in area, may be displayed providing the nameplate is affixed against the exterior surface at a position not more than two feet from the main entrance to the residence.
  - d. No home occupation shall occupy more than 20 percent of the total living area of the residence, exclusive of the area of any open porch or attached garage or similar space not suited for or intended for occupancy as living quarters. No rooms which have been constructed as an addition to the residence, nor any attached garage or porch which has been converted into living quarters, shall be considered as floor area until two years after the date of completion thereof.
  - e. No home occupation shall be conducted in an accessory building; such occupation must be conducted in the principal of the proprietor.
  - f. No motorized power other than electric motors shall be used in conjunction with home occupations. The total horsepower of such motors shall not exceed three horsepower, or one horsepower for any single motor.
  - g. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit, if conducted in other than a single-family residence. For electrical interference, no equipment or process shall be used which creates a visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.

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Subdivision IV. Home Occupations

- h. No occupation shall generate traffic exceeding volumes normally expected in a residential neighborhood. Occupations which rely on client contact at the premises are not permitted.
  - i. No home occupation shall include the following: cosmetology, barbering, or beauty shop; restaurant; retail sales; fortunetelling or clairvoyance; food processing for sale; kennels; animal grooming; radio or television repair; furniture repair, refinishing or building; cabinet making; boatbuilding; automobile or other vehicle servicing; rebuilding or repair shops; metal fabrication or other similar activity, including use of welding or cutting torches; funeral homes; medical or dental laboratories; showroom or display area; or any activity similar to any of the listed activities.
- (2) *Application.* Any person desiring to conduct a home occupation in a district where such use is permitted shall first apply to the building department for a home occupation. Such application shall be on a form prepared by the building department and shall include but not be limited to the following data:
- a. Name of the applicant and an affidavit from the owner of the premises expressing that the owner is aware of the applicant's request for a home occupation and has no objection to the home occupation being sought. Each applicant shall submit to the city building department a sworn application on a standard form and a recent photo of the residence showing the entire front yard and all driveways and carports, if any.
  - b. Location of residence wherein the home occupation, if approved, will be conducted.
  - c. Total floor area of the residence.
  - d. Area of the room to be utilized for the conduct of the home occupation.
  - e. A sketch showing the floor plan and the area thereof to be utilized for the conduct of the home occupation.
  - f. The nature and character of the home occupation sought to be approved and equipment to be used in operations associated with the occupation.
- (3) *Standards.* Each home occupation will be evaluated on the basis of its meeting the criteria, and once approved must adhere to the following standards:
- a. A home occupation shall be subject to all applicable city business tax receipts and other business taxes.
  - b. If any home occupation requires a license or permit from the state or any agency thereof, the applicant for a home occupation permit shall provide the building official with a current, valid copy of any such permit or license before any such occupation shall be conducted. Any such license or permit from the state or any agency thereof shall be kept active and current.
  - c. Failure to continuously comply with this division and all other sections of the land development regulations applicable to conditional uses generally and all conditions of any permit or license issued by the state or any agency thereof shall be grounds for revocation of the home occupation permit by the building official after due notice and a public hearing.
  - d. The city may attach reasonable conditions to a permit granting approval of a home occupation permit in order to protect the public health, safety, and welfare and to preserve the stability and tranquility of residential areas. Such conditions may include but are not limited to placing limits on the hours of operation. Such permit shall be renewable annually.

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Subdivision IV. Home Occupations

- e. A permit for a home occupation shall be granted to the occupant of the premises and shall not run with the land and shall not be transferable. If the applicant granted a home occupation vacates the premises, the home occupation permit shall automatically expire.

(Ord. No. 97-10, § 1(2-7.20), 7-3-1997; Res. No. 06-292, § 1, 9-6-2006)

**Sec. 122-1307. Issuance of permit.**

Upon compliance with the procedure described in [section 122-1306](#), the building official shall issue a home occupation permit. Any such permit may be revoked by the building inspector at any time when it has been determined that the home occupation has become a public nuisance.

(Ord. No. 97-10, § 1(2-7.20), 7-3-1997)

**Secs. 122-1308—122-1335. Reserved.**

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FOOTNOTE(S):

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**Cross reference**— Businesses, ch. 18. [\(Back\)](#)

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DIVISION 6. TRANSIENT UNITS

***DIVISION 6. TRANSIENT UNITS***

[Sec. 122-1336. Purpose.](#)

[Sec. 122-1337. Definitions.](#)

[Sec. 122-1338. Transfer of transient units.](#)

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**Sec. 122-1336. Purpose.**

The purpose of this division is to provide for the transfer of existing transient units and transient licenses in order to reduce noncomplying density, structures and uses; remove legal nonconforming transient uses from zoning districts that now prohibit them; encourage permanent residential housing by relocating transient licenses; provide for the conversion of transient units to single-family dwellings by the transfer of units; allow for redevelopment without increasing the population requiring evacuation during emergencies or increasing other public services; protect environmentally sensitive lands; and encourage redevelopment under the existing rate of growth ordinance ("ROGO") that limits the allowable number of residential and transient units. This division is only for the purpose of the transfer of transient units and shall not be construed to create new residential or transient units.

(Ord. No. 99-26, § 1, 12-7-1999; Ord. No. 02-05, § 1, 2-5-2002; Ord. No. 05-09, § 1, 4-19-2005)

**Sec. 122-1337. Definitions.**

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

*Affordable housing* shall mean housing as defined in [section 122-1466](#) of the land development regulations (LDRs) and amendments thereto.

*Receiver site* shall mean the property where the unit or license is desired to be transferred and relocated pursuant to this division.

*Residence* or *residential unit* shall mean a single-family, multifamily, accessory, or affordable housing unit.

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*Sender site* shall mean the property where the transient unit or license is currently located and recorded prior to application for transfer.

*Transient unit* shall mean a transient living accommodation as defined in [section 86-9](#) of the LDRs.

(Ord. No. 99-26, § 1, 12-7-1999; Ord. No. 02-05, § 1, 2-5-2002; Ord. No. 05-09, § 2, 4-19-2005)

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

**Sec. 122-1338. Transfer of transient units.**

- (1) The unit being transferred must currently be counted as a unit for purposes of calculating evacuation time under the hurricane model set forth in the comprehensive plan, and must have been obtained in accordance with all applicable regulations, including building permits, at the time of approval or have been otherwise validly obtained if unbuilt at the time of transfer. A transfer pursuant to this division shall not cause a net increase of units in the city.
- (2) Transient use must be an allowed zoning use on the receiver site, unless the units are to be converted into non-transient units as contemplated by subsection (3) of this section. Further, no transient unit shall be recognized for transfer purposes, regardless of whether it will be used transiently or non-transiently, unless accompanied by a business tax receipt duly issued pursuant to [section 66-109](#)(10). When units are transferred for non-transient use, the licenses will be extinguished.
- (3) Transient units may be converted to residential units at the appropriate exchange rate as determined by the comprehensive plan so as not to increase hurricane evacuation time. Where a residential unit is created by the transfer of a transient unit and the new residential unit is 600 square feet or less, the transient unit may be transferred at its .58 ROGO unit equivalency into a residential unit with transient use prohibited.
- (4) The transferred units shall not operate to increase density of the receiver site above the maximum allowed density.
- (5) Unless the planning board determines that special conditions exist at the receiver site that warrant otherwise, the transient unit may not include more than two rooms, excluding bathrooms, and excluding porches and decks that are clearly not enclosed or habitable.
- (6) At the sender site, any remaining transient units that are remodeled or combined may not increase the existing number of rooms, excluding bathrooms. All such units shall not have "lockout" capacity.
- (7) There shall be no transfer of units into a "V" zone as depicted on the most current flood insurance rate map, if the transfer would produce new construction.
- (8) Existing nonconforming buildings may receive units providing their nonconforming aspects are not increased.
- (9) Development plans for both sites shall be processed as provided in the LDRs, according to the magnitude and type of development.
- (10) No building permit shall be granted for the receiver site until the city has verified that the transient use at the sender site unit(s) has been extinguished. A person or entity who has lawfully terminated or extinguished legal transient units existing as of January 1, 1999, may preserve the right to transfer the units and then transfer such units pursuant to this section, provided the transient licenses have been maintained. Furthermore, the city shall conduct on-site inspections at both the sender site and

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receiver site to verify that the terms of this ordinance are being met in the proposed transfer application.

(Ord. No. 99-26, § 1, 12-7-1999; Ord. No. 02-05, § 1, 2-5-2002; Ord. No. 05-09, § 3, 4-19-2005; Res. No. 06-292, § 1, 9-6-2006; Ord. No. 11-06, § 1, 3-15-2011)

**Sec. 122-1339. Transfer of transient business tax receipt.**

- (a) A business tax receipt for transient use of a unit may itself be transferred from an area where transient uses are prohibited to a receiver site without the accompanying transfer of the unit. In addition, licenses may be transferred from the HNC-1 and HNC-3 zoning districts. A transfer of a license under this section shall not result in a loss of affordable housing at the receiver site.
- (b) Where a license alone is transferred, the planning board shall consider whether the receiver site is suitable for transient use in the zoning district, shall consider the relative size of the unit from which the license is transferred, and shall consider the room configuration of both sites to maintain approximately the same or less net number of occupants.

(Ord. No. 99-26, § 1, 12-7-1999; Ord. No. 02-05, § 1, 2-5-2002; Ord. No. 05-09, § 4, 4-19-2005; Res. No. 06-292, § 1, 9-6-2006)

**Sec. 122-1340. Development review committee and planning board review.**

The development review committee (DRC) shall review each application for transfer. The planning board will receive comments from the DRC and the recommendation of the planning department and may deny an application on the grounds of inconsistency with the purpose of the ordinance or a violation of the specific provisions of the ordinance. When approving an application, the planning board may impose conditions, including but not limited to: physical modifications and the filing of deed restrictions, in order to assure the continuation of permanent residential housing, the preservation of community character and that the transfer advances the purposes of this division. The decision of the planning board shall be final.

(Ord. No. 99-26, § 1, 12-7-1999; Ord. No. 02-05, § 1, 2-5-2002; Ord. No. 05-09, § 5, 4-19-2005)

**Sec. 122-1341. Compliance with codes.**

All structures proposed to be used on a transient basis must comply with codes and requirements of the building department, fire department, and all other regulatory agencies.

(Ord. No. 02-05, § 1, 2-5-2002; Ord. No. 05-09, § 6, 4-19-2005)

**Sec. 122-1342. Historic structures.**

Proposals to change the interior of contributing or altered historic structures located within the historic district shall be subject to the review of the historic architectural review commission (HARC) for the proposed interior renovations. If the receiver site is an historic structure, the planning board may consider retaining the room layout (notwithstanding sections [122-1338\(5\)](#) and [122-1339\(b\)](#) hereof), and may further consider all guidelines adopted by the historic architectural review commission.

(Ord. No. 02-05, § 1, 2-5-2002; Ord. No. 05-09, § 7, 4-19-2005)

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**Sec. 122-1343. Tracking system; enforcement.**

The city manager shall establish a tracking system for all sender sites and receiver sites. On an annual basis, the building department shall certify that each such site is being put to the use(s) represented in the transfer application.

(Ord. No. 99-26, § 1, 12-7-1999; Ord. No. 02-05, § 1, 2-5-2002; Ord. No. 05-09, § 8, 4-19-2005)

**Sec. 122-1344. Application, notice and fees.**

Applications for transient unit transfer and transient license transfer may be obtained from the planning department and must be completed in the form and manner required by the department. Notice of any such transfer shall be given for the planning board meeting at which the transfer will be considered, pursuant to [section 90-60](#) of the LDRs. Notices shall be sent to the property owners at both the sender and receiver sites. An appropriate fee schedule shall be established by resolution. The amount of the fee shall take into consideration, among other things, the cost of the tracking system and the cost of enforcement of this ordinance. The transfer must occur within 18 months of planning board approval, although the applicant may apply to the planning board for an extension(s).

(Ord. No. 99-26, § 1, 12-7-1999; Ord. No. 02-05, § 1, 2-5-2002; Ord. No. 05-09, § 9, 4-19-2005)

**Sec. 122-1345. Consent by mortgagee and condominium/homeowner's association.**

When a sender site is subject to a mortgage that references the transient license or use, the application must be accompanied by a consent executed by the mortgagee. If the receiver site is governed either by a condominium association or a homeowners' association, such association must approve the transfer by a majority vote as defined by the governing documents of the association. Proof of approval shall accompany the application for transfer.

(Ord. No. 02-05, § 1, 2-5-2002; Ord. No. 05-09, § 10, 4-19-2005)

**Sec. 122-1346. Reserved.**

**Editor's note—**

Section 1 of Ord. No. 11-06, adopted March 15, 2011, deleted [§ 122-1346](#), which had contained sunset provisions, and derived from Ord. No. 99-26, adopted Dec. 7, 1999; Ord. No. 02-05, adopted Feb. 5, 2002; Ord. No. 05-09, adopted April 19, 2005; and Ord. No. 10-08, adopted April 6, 2010.

**Secs. 122-1347—122-1370. Reserved.**

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***DIVISION 7. TRANSIENT LIVING ACCOMMODATIONS IN RESIDENTIAL DWELLINGS*** <sup>21</sup>

[Sec. 122-1371. Transient living accommodations in residential dwellings; regulations.](#)

[Sec. 122-1372. Transient living accommodations in residential dwellings—Truman Annex.](#)

[Secs. 122-1373—122-1405. Reserved.](#)

**Sec. 122-1371. Transient living accommodations in residential dwellings; regulations.**

- (a) *Intent.* These regulations apply only to the transient use of residential dwellings. In 1986, the city enacted former zoning code section 35.24(44) which provided the following definition of a transient living accommodation: "Commercially operated housing principally available to short-term visitors for less than twenty-eight (28) days." (This definition shall hereinafter be referred to as the "former transient definition.") Some property owners and developers interpreted the former transient definition to mean that an owner could rent his or her residential dwelling for less than half the year without the dwelling losing its residential status, and therefore without the need for a city-issued transient license (so long as state licensing requirements were met). This interpretation went unchallenged by the city. Three categories of transient use of residential dwellings resulted: (1) some owners obtained a transient license allowing unrestricted transient use; (2) some owners followed the former transient definition and, accordingly, rented their properties less than half the year; and (3) some owners put their residences to a transient use without city or state license and without regard to existing regulations. In addition, many residential dwelling owners never put their properties to a transient use and they no longer have the opportunity to do so under the city's current rate of growth ordinance.

The city commission finds that short-term or transient rentals affect the character and stability of a residential neighborhood. The home and its intrinsic influences are the foundation of good citizenship; although short-term tenants no doubt are good citizens generally, they do not ordinarily contribute to activities that strengthen a community.

Therefore, the city intends by these regulations to establish a uniform definition of transient living accommodations, and to halt the use of residences for transient purposes in order to preserve the residential character of neighborhoods. The city has provided only a brief phase-out period in recognition that in many instances investment expectations have already been met either through rental income or rising market value.

Finally, certain guest houses currently hold a number of the city's category 10C business tax receipt which denotes transient use of a residential property. The city intends to develop a uniform guest house business tax receipt category, and then to redesignate all 10C licenses held by guest houses accordingly.

- (b) *Unlicensed residential transient use; prohibition.* Except as provided in [section 122-1372](#), all unlicensed transient rental use of residential dwellings is prohibited.
- (c) *Application.* The holder of a business tax receipt allowing residential transient use must annually provide or comply with the following information:
- (1) The complete street address and RE number of the property.
  - (2) Proof of ownership, including the name, address and phone number of each person or entity with an ownership interest in the property.

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- (3) An approved inspection report of the fire marshal verifying compliance with the fire marshal's criteria for a residential dwelling transient lodging use.
  - (4) The gross square footage of the property, including the number of rooms, bedrooms, kitchens and on-site parking spaces attributable to transient lodging use.
  - (5) A valid and current federal employer tax identification number (or Social Security number) for the owner(s) of the property.
  - (6) A valid and current Florida Department of Revenue sales tax identification number under Chapter 212, Florida Statutes, and a valid and current license under Chapter 509, Florida Statutes.
  - (7) The name, address and 24-hour phone number of the person who will be operating the property's transient accommodations.
  - (8) The application shall bear the signatures of all owners, authorized agents and authorized property managers.
- (d) *General regulations.* The following regulations shall pertain to transient lodging use of or within a residential dwelling.
- (1) Except as provided herein, each residential property where transient lodging use is in effect shall prominently display on the outside of the property a medallion alerting the public of the transient use. The medallion and instructions for its posting shall be issued by the licensing division.
  - (2) A contact person must be available 24-hours per day, seven days per week for the purpose of responding promptly to complaints regarding the conduct of the occupants of the residential dwelling transient lodging. The name and phone number of the contact person must be posted on exterior of the dwelling in a place accessible to the public.
  - (3) As a condition of application approval, the fire marshal shall conduct an inspection of each dwelling unit and issue to the applicant written approval based on applicable life safety criteria.
  - (4) Occupancy of individual units shall conform to the occupancy limits of the Florida Building Code. Units shall comply with the Americans with Disabilities Act, as applicable.
  - (5) The owner or manager shall maintain a tenant and vehicle registration which shall include the name and address of each unit's tenant, and the make, year and tag number of the tenant's vehicle.
  - (6) *Parking.* The owner shall provide one off-street parking space per residential dwelling transient lodging unit, except where the unit is in the city's historic district; provided, however, that the owner or manager must instruct all tenants of the historic district's residential parking program and if the vehicle is not eligible to park on the street, then the owner or manager shall ensure that the tenant is directed to a lawful and appropriate parking space.
  - (7) There shall be a written lease between a residential dwelling owner and a tenant, and it shall contain the tenant's agreement to the regulations contained in this section.
  - (8) It shall be a violation of these regulations to enter into a long-term lease with a mutual intent to subvert the regulatory goals of this section. It shall also be a violation of these regulations for a property owner to lease space to "roommates" for a period of less than 30 days or one calendar month when not licensed as provided hereunder. For the purposes of enforcement, a rebuttable presumption shall exist that roommates use a common entrance to a dwelling.

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- (9) It shall be unlawful for any owner, tenant, broker, realtor, agent or other representative of the owners to hold out or advertise a residential dwelling for transient rental if the property is not permitted, as provided hereunder. A broker or realtor who is found in violation of this regulation shall be subject to business tax receipt revocation.
- (10) Nothing in this section is intended to exclude the application of any ordinance of the City of Key West.
- (e) *Fees; application schedule.*
- (1) A person or entity who holds a transient rental business tax receipt shall pay the customary annual business tax receipt fee, plus an annual inspection and enforcement fee of \$125.00 upon the filing of the application set forth in subsection (c).
- (2) Fee revenues raised under this section shall be used to fund a position in the code enforcement division, and to provide enforcement and processing personnel as needed. The officer holding this position shall have as his or her primary responsibility the enforcement of the terms and conditions of this ordinance, and other city regulations relating to the transient use of properties.
- (3) For a period of 90 days after the effective date of this section [September 22, 2003], the licensing division will receive initial applications pursuant to subsection (c), and related fees. There shall be a \$25.00 per dwelling unit late fee payable to the city upon application filing. In all subsequent years after the initial application, annual processing fees shall be paid at the same time as the business tax receipt. The city manager may determine to pro-rate the initial processing fee.

**Editor's note—**

The city has advised that the effective date of Ord. No. 02-06 actually occurred upon final DCA approval, which was September 22, 2003.

- (f) *Enforcement; penalties.* A violation of this section shall be punishable as a misdemeanor and by a fine of up to \$500.00 per day, per unit, per violation. The code enforcement division may also enforce the terms of this section by bringing a case to the code enforcement special master pursuant to its authority under law and ordinance. In addition, any license or permission granted hereunder may be revoked for cause, upon notice and opportunity to be heard, by the city commission. In addition to any other remedy available to the city, the city or any adversely affected party may enforce the terms of this section in law or equity. Any citizen of Key West may seek injunctive relief in a court of competent jurisdiction to prevent a violation of this section. The city, by and through its code enforcement division, may apply for an administrative search warrant to enter upon the premises of any residence subject to this section.

(Ord. No. 02-06, § 2, 2-20-2002; Ord. No. 05-11, § 1, 5-17-2005; Res. No. 06-292, § 1, 9-6-2006)

**Sec. 122-1372. Transient living accommodations in residential dwellings—Truman Annex.**

- (a) *Findings.* In *Rollison v. City of Key West*, the Third District Court of Appeal ruled that a unit owner in the Truman Annex established a legal nonconforming use of Shipyards unit 271 as a transient rental, subject to the "50% Rule," because the property was put to a transient use before the city changed the law in 1998. In particular, the city of Key West enacted Ordinance No. 97-20, which was approved by the Florida Department of Community Affairs and became effective on December 26,

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1997 (Because the Court identified 1998 in its Opinion, subsection (b) hereof sets a January 1, 1998 date for application eligibility).

Ordinance No. 97-20 established the current definition of "Transient Living Accommodation" and thereby terminated the ability of Truman Annex property owners to rely on the "50% Rule." This rule, a creation of the developers and marketers of the Truman Annex in the early 1990's, provided that a property owner in the Truman Annex could rent his or her unit for fewer than 26 weeks per year, maintaining its residential status and obviating the need for a city-issued transient rental license. The creators of the "50% Rule" based it on their reading of the definition of "transient housing" set forth in section 35.07(14)(b) of the former Key West zoning code, which applied to the Truman Annex development (the "planned redevelopment district").

The city commission finds that it is fair and reasonable to extend the Rollison ruling to other property owners in the Truman Annex. Accordingly, it hereby establishes an application process to determine similarly situated properties.

- (b) *Application.* All owners of eligible residential units in the HPRD zoning district may apply to the city of Key West for a "Truman Annex residential transient rental permit." An application for eligibility of a unit hereunder shall be filed with the city of Key West only one time. The following regulations pertain to this application.
- i. An eligible residential unit is one whose owner used it as a transient rental between the date of its original sale and January 1, 1998 (hereinafter the "Eligibility Period").
  - ii. The current property owner shall file an application with the Key West city attorney's office. The application must include the following information; name of owner; address; owner's telephone number; date of purchase; purchase price; copy or copies of Monroe County transient rental business tax receipt(s) during the Eligibility Period; copy or copies of State of Florida Department of Business and Professional Regulation, Division of Hotel and Restaurant ("DBPR") lodging license(s) during the Eligibility Period; State of Florida sales tax records during the Eligibility Period; and a sworn affidavit of the current market short-term rental rate(s) for the unit. If a property owner intends to provide a blanket DBPR transient license roster for a real estate broker that includes the owner's address, then the owner shall supplement it with an agreement between the property owner (at the time) and the real estate broker for the year(s) of the blanket DBPR lodging license.
  - iii. All applications shall be bound and paginated, and contain a table of contents.
  - iv. The deadline for receipt by the city of a completed application is ninety (90) days from the effective date of this ordinance.
  - v. Shipyards unit 271 was established as legally nonconforming by a court of law on April 14, 2004. On April 20, 2005, the city of Key West confirmed that the owner was entitled to rent the unit on a transient basis within the scope of the "50% Rule."
  - vi. If an application is denied for any reason by the city, the property owner may appeal to the code enforcement special magistrate. The appeal must be filed with the code enforcement clerk within ten (10) days of receipt of the denial. The special magistrate shall conduct a public hearing, give notice and opportunity to be heard, receive evidence, and issue written findings and an order.
- (c) Once a unit is determined to be legally nonconforming under the procedures set forth in this [section 122-1372](#), the property owner shall be entitled to rent the unit on a transient basis cumulatively for less than a total of twenty-six (26) weeks per year. The city of Key West cedes to each Truman Annex homeowners' association management responsibility of the 26-week cap; provided, however, that the city of Key West shall retain enforcement responsibility.

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- (d) The property owner of each unit determined to be legally nonconforming hereunder shall be subject to the general regulations set forth in [section 122-1371\(d\)\(1\)—\(7\)](#) and the fee schedule set forth in [section 122-1371\(e\)\(1\)](#). The medallion required in [section 122-1371\(d\)\(1\)](#) must be removed on any day that the unit is not within its lawful rental period.
- (e) The cost of a "Truman Annex residential transient rental permit" shall be the equivalent of that of a business tax receipt per [section 66-109\(10\)c.](#), as amended.

(Ord. No. 05-11, § 2, 5-17-2005; Res. No. 06-292, § 1, 9-6-2006)

**Secs. 122-1373—122-1405. Reserved.**

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FOOTNOTE(S):

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**Editor's note**— Ord. No. 02-06, § 2, adopted Feb. 20, 2002, pertained to transient living accommodations in residential dwellings—regulations, designated as § 2-7.21. In order to conform to the numbering system used in this Code, such provisions were redesignated herein as div. 7, § 122-1371 by the editor with the concurrence of the city. Sec. 4 of Ord. No. 02-06 provides that: "All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict." ([Back](#))

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DIVISION 8. LAND RESTRICTIONS

***DIVISION 8. LAND RESTRICTIONS***

[Sec. 122-1406. Obstructions to visibility.](#)

[Sec. 122-1407. Division of land.](#)

[Sec. 122-1408. Land excavation or fill.](#)

[Sec. 122-1409. Construction of driveways, swales and other improvements affecting drainage.](#)

[Secs. 122-1410—122-1435. Reserved.](#)

**Sec. 122-1406. Obstructions to visibility.**

- (a) *Obstruction to traffic and traffic visibility.* There shall be no structure or planting which materially obstructs traffic and traffic visibility.
- (b) *Corner lots.* In any district where a corner or front yard setback is required, no structure, fence, planting or sign shall be located so as to interfere with traffic visibility across a corner between a height of 2½ and ten feet above the average grade within a triangle bounded by the curblines adjacent to the corner lot lines and a straight line drawn between points on each such curbline 20 feet from the intersection of such curblines or extension thereof.
- (c) *Public right-of-way.* There shall be no structure or planting on city or public right-of-way without prior approval of the planning board and city commission, and then only after due consideration is given to the type, height and size of such structure and planting.
- (d) *Vision clearance.* Notwithstanding any part of the land development regulations or any permit granted or variance granted by the city, no type of structure, vehicle, tree, planting, vegetation, sign or fence or any type of obstacle or any portion thereof shall be placed or retained in such a manner which would create a traffic hazard or would obstruct vision clearance at corners, curb cuts or railroad crossings in any zone.

(Ord. No. 97-10, § 1(2-7.13), 7-3-1997)

**Sec. 122-1407. Division of land.**

No tract, parcel, or lot shall be divided or split into two or more parcels, lots, or other subunits of land without first complying with the city's subdivision regulations. No person shall divide any land in a manner that would result in any portion of such land failing to meet the minimum requirements established in the land development regulations for the zone in which such land is located. Any subdivision of land shall comply with the land development regulations, including [chapter 118](#). All subdivisions shall be required to obtain approval from the city planning office as to compliance with applicable land development regulations in the form of a signed approved subdivision plan.

(Ord. No. 97-10, § 1(2-7.14), 7-3-1997)

**Sec. 122-1408. Land excavation or fill.**

- (a) No site work which: (i) impacts the 100-year floodplain or which impacts a designated conservation area; or (ii) redirects and/or increases or reduces off-site natural drainage or runoff from a site shall

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be undertaken without prior development plan approval based on recommendations of the city engineer. The city shall require plans prepared by a state-registered engineer and other competent professionals as may be required which shall demonstrate compliance with the city's surface water management performance criteria in article VIII of [chapter 108](#). In addition, the plans for land excavation or fill shall demonstrate that the proposed site alterations shall include mitigation techniques designed to comply with performance criteria addressing the following:

- (1) Native habitat protection as provided in articles III, IV, V and VII of [chapter 110](#)
  - (2) Site reclamation, including restoration of vegetative cover within disturbed upland open space; planting and stabilizing banks of drainageways with vegetation which is tolerant to anticipated changes in water levels, including hydric conditions as provided in articles III, IV, V and VII of [chapter 110](#)
  - (3) Sedimentation and soil erosion control as provided in division 3 of article III of [chapter 110](#)
  - (4) Protection of freshwater lens as provided in division 4 of article III of [chapter 110](#)
  - (5) Flood damage prevention as provided in article VIII of [chapter 108](#); and
  - (6) Tree and native vegetation protection as provided in article VI of [chapter 108](#) and article VI of [chapter 110](#)
- (b) The city shall not permit borrow pits or mining activities. Borrow pits and mining activities may cause adverse impacts to the city's freshwater lens and/or adversely impact water quality, surface water management, and flood damage prevention.

(Ord. No. 97-10, § 1(2-7.15), 7-3-1997)

**Sec. 122-1409. Construction of driveways, swales and other improvements affecting drainage.**

The design of new or existing driveways or other elements of the circulation system potentially impacting drainage shall be approved by the city engineer prior to commencement of construction or excavation activity. Review by the city engineer is necessary in order to ensure that: (i) new driveways and other elements of the circulation system provide adequate drainage, swales, ditches or similar stormwater channels; and (ii) improvements to existing driveways or other elements of the circulation system are designed to protect and/or enhance existing or planned drainage improvements, as deemed appropriate by the city engineer. Culverts shall be designed to meet accepted engineering standards. The city engineer shall administer this section based on best management principles and practices.

(Ord. No. 97-10, § 1(2-7.16), 7-3-1997)

**Secs. 122-1410—122-1435. Reserved.**

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DIVISION 9. AIRPORT RESTRICTIONS

***DIVISION 9. AIRPORT RESTRICTIONS***

[Sec. 122-1436. Airport height limitations.](#)

[Sec. 122-1437. Definitions.](#)

[Sec. 122-1438. Airport zones and airport height limitations.](#)

[Sec. 122-1439. Airport land use restrictions.](#)

[Sec. 122-1440. Administration.](#)

[Secs. 122-1441—122-1464. Reserved.](#)

**Sec. 122-1436. Airport height limitations.**

No structure shall be erected within the approach zones of an active runway on the Key West International Airport with a height in excess of those permitted by the Federal Aviation Administration or by the city commission. All structures shall comply with the city comprehensive plan and this division.

(Ord. No. 97-10, § 1(2-7.23), 7-3-1997)

**Sec. 122-1437. Definitions.**

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

*Airport* means Key West International Airport.

*Airport elevation* means the highest point of the airport's usable landing area measured in feet above sea level.

*Airport hazard* means any structure, street, or use of land which would exceed the federal obstruction standards as contained in 14 CFR 77.21, 77.23, 77.25 and 77.28, revised March 4, 1972, or which obstructs the airspace required for landing or takeoff at the airport or which is otherwise hazardous to the flight of aircraft.

*Control zone* means airspace extending upward from the surface of the earth which may include one or more airports and which is normally a circular area of five statute miles in radius, with extension where necessary to include instrument approach and departure paths.

*Decision height* means the height at which decision must be made, during an instrument landing system (ILS) approach, to either continue the approach or to execute a missed approach.

*Height.* For the purpose of determining the height limits in all zones set forth in this division, the datum shall be mean sea level elevation unless otherwise specified.

*Instrument runway* means a runway having an existing or planned instrument procedure utilizing air navigation facilities or area-type navigation equipment.

*Landing area* means the area of the airport used for the landing, takeoff, or taxing of aircraft.

*Minimum descent altitude* means the lowest altitude, expressed in feet above mean sea level, to which descent is authorized on final approach or during circle-to-land maneuvering in execution of a standard instrument approach procedure, where no electronic glide slope is provided.

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*Minimum en route altitude* means the altitude in effect between radio fixes which ensures acceptable navigational signal coverage and meets obstruction clearance requirements between those fixes.

*Minimum obstruction clearance altitude* means the specified altitude in effect between radio fixes on visual omnirange (VOR) airways, off-airway routes, or route segments which meet obstruction clearance requirements for the entire route segment and which ensures acceptable navigational signal coverage only within 22 miles of a VOR.

*Runway* means the defined area of an airport prepared for aircraft landing/takeoff along its length.

*Visual runway* means any runway other than an instrument runway.

*Zoning administrator* means the administrative office or agency responsible for administering land development regulations within the city.

(Ord. No. 97-10, § 1(2-7.23(A)), 7-3-1997)

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

**Sec. 122-1438. Airport zones and airport height limitations.**

In order to carry out this division, there are created and established certain zones which are depicted on the airport height restriction zoning maps on file in the city clerk's office, Zoning Map A, Key West International and NAS Key West. An area located in more than one zone of the described zones is considered to be only in the zone with the more restrictive height limitation. The various public civil airport height zones and limitations are established and defined as follows:

- (1) *Primary zone.* The area longitudinally centered on a runway, extending 200 feet beyond each end of that runway with the width so specified for each runway for the most precise approach existing or planned for either end of the runway. No structure will be permitted within the primary zone that is not part of the landing and takeoff area that is a greater height than the nearest point on the runway centerline. The width of the primary zone for runway 09/27 at Key West International is 500 feet.
- (2) *Horizontal zone.* The area encompassing the runways, primary zone, approach zones and transitional zone of each airport with the boundary formed by swinging arcs of specified radii from the center of each end of the primary zone of each runway and connecting adjacent arcs by lines tangent to those arcs. The radius specified for Key West International is 10,000 feet. No structure will be permitted in the horizontal zone that is higher than 150 feet above the established airport elevation.
- (3) *Conical zone.* The area extending outward and upward from the periphery of the horizontal zone for a distance of 4,000 feet. Height limitations for structures in the conical zone are 150 feet above airport elevation at the inner boundary of the zone with permitted height increasing one foot vertically for every 20 feet of horizontal distance measured outward from the inner boundary of the zone to a height of 350 feet above airport elevation at the outer boundary of the zone.
- (4) *Approach zone.* The area longitudinally centered on the extended runway centerline and proceeding outward from each end of the primary surface for a specified distance as follows: Key West International runway 9, 5,000 feet and runway 27, 10,000 feet. The width of that approach zone is the same at the inner boundary as the primary zone it adjoins and expands uniformly to a width at the outer boundary as follows: Key West International runway 9, 1,500 feet and runway 27, 3,500 feet. Permitted height limitations within the approach zones for

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runway 9 at Key West International are the same as the height of the runway end at the inner boundary and increase at the rate of one foot vertically for every 20 feet horizontal distance. Permitted height limitations within the approach zone for runway 27 at Key West International are the same as the runway end at the inner boundary and increase one foot vertically for every 34 feet horizontally.

- (5) *Transitional zone.* The area extending outward from the sides of the primary zones and approach zones connecting them to the horizontal zone. Height limits within the transitional zone are the same as the primary zone or approach zone at the boundary line where it adjoins and increases at a rate of one foot vertically for every seven feet horizontally, with the horizontal distance measured at right angles to the runway centerline and extended centerline, until the height matches the height of the horizontal zone, which forms the outer boundary.
- (6) *Other zones.* In addition to the height limitations imposed in subsections (1) through (5) of this section, no structure will be permitted that exceeds 500 feet above airport elevation within ten nautical miles of the Key West International Airport, and no structure will be permitted within the city that would cause a minimum obstruction clearance altitude, a minimum descent altitude or a decision height to be raised.

(Ord. No. 97-10, § 1(2-7.23(B)), 7-3-1997)

**Sec. 122-1439. Airport land use restrictions.**

- (a) Notwithstanding any other section of this division, no use may be made of land or water within the city in such a manner as to interfere with the operation of an airborne aircraft. The following special requirement shall apply to each permitted use:
  - (1) All lights or illumination used in conjunction with street, parking, signs, or use of land and structures shall be arranged and operated in such a manner that it is not misleading or dangerous to aircraft operating from a public airport or in the vicinity thereof.
  - (2) No operations from any use shall produce smoke, glare or other visual hazards within three statute miles of any usable runway of a public airport.
  - (3) No operations from any use in the city shall produce electronic interference with navigation signals or radio communication between an airport and an aircraft.
- (b) Notwithstanding sections [122-1436](#) through [122-1438](#) and subsection (a) of this section, the owner of any structure over 200 feet above ground level must install on that structure lighting in accordance with Federal Aviation Administration Advisory Circular 70-7460-ID and any amendments thereto. Additionally, any structure exceeding 749 feet above mean sea level must install on that structure high intensity white obstruction lights. The high intensity white obstruction lights must be in accordance with Federal Aviation Administration Advisory Circular 70-7460-ID and any amendments thereto.
- (c) Any permit or variance granted may be so conditioned as to require the owner of the structure or growth in question to permit the city at its own expense to install, operate, and maintain thereto such markers and lights as may be necessary to indicate to pilots the presence of an airspace hazard.

(Ord. No. 97-10, § 1(2-7.23(C)), 7-3-1997)

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**Sec. 122-1440. Administration.**

It shall be the duty of the zoning administrator to administer and enforce this division within the territorial limits over which the political subdivision the administrator represents has zoning authority. For any violation of this division, the person responsible for such violation shall be given notice in writing by the zoning administrator. Such notice shall indicate the nature of the violation and the necessary action to correct or abate the violation. A copy of such notice shall be sent to the city planning board. An administrative official shall order discontinuance of use of the land or building; removal of trees to conform with height limitations set forth in this division; removal of buildings, additions, alterations or structures; discontinuance of any work being done; or shall take any or all other actions necessary to correct violations and obtain compliance with all the sections of this division.

(Ord. No. 97-10, § 1(2-7.23(D)), 7-3-1997; Ord. No. 08-04, § 28, 5-20-2008)

**Secs. 122-1441—122-1464. Reserved.**

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***DIVISION 10. WORK FORCE HOUSING*** <sup>[22]</sup>

[Sec. 122-1465. Intent.](#)

[Sec. 122-1466. Definitions.](#)

[Sec. 122-1467. Requirements of affordable work force housing; ratio of new construction.](#)

[Sec. 122-1468. Affordable work force housing trust fund.](#)

[Sec. 122-1469. Applicant eligibility requirements.](#)

[Sec. 122-1470. Accessory unit infill.](#)

[Sec. 122-1471. Community housing development organization.](#)

[Sec. 122-1472. Family size.](#)

[Sec. 122-1473. Reserved.](#)

[Secs. 122-1474—122-1500. Reserved.](#)

**Sec. 122-1465. Intent.**

It is the intent of this division to create affordable housing categories to facilitate the development of housing designed and priced to meet the needs of people employed by the local economy in a manner that reflects the percentage of the workforce at each income level and mixes people of all incomes together and does not create high and low-income enclaves.

(Ord. No. 05-27, § 2, 10-18-2005)

**Sec. 122-1466. Definitions.**

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

*Affordable housing* shall be defined as provided in the following classifications:

*Affordable housing (low income)* for a rental dwelling unit shall mean a dwelling unit whose monthly rent, not including utilities, does not exceed 30 percent of that amount which represents 80 percent of the monthly median household income (adjusted for family size). For an owner-occupied dwelling unit, affordable housing (low income) shall mean a dwelling unit whose sales price shall not exceed two and one-half times the annual median household income (adjusted for family size) for Monroe County, in accordance with [section 122-1472](#).

*Affordable housing (median income)* for a rental dwelling unit shall mean a dwelling unit whose monthly rent, not including utilities, does not exceed 30 percent of that amount which represents 100 percent of the monthly median household income (adjusted for family size) for Monroe County. For an owner-occupied dwelling unit, affordable housing (median income) shall mean a dwelling unit whose sales price shall not exceed three and one-half times the annual median household income (adjusted for family size) for Monroe County, in accordance with [section 122-1472](#). The definition of "affordable housing (median income)" applies to and encompasses all affordable housing under construction or built pursuant to this ordinance prior to July 1, 2005, for which deed restrictions are required.

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*Affordable housing (middle income)* for a rental dwelling unit shall mean a dwelling unit whose monthly rent, not including utilities, does not exceed 30 percent of that amount which represents 140 percent of the monthly median household income (adjusted for family size) for Monroe County. For an owner-occupied dwelling unit, affordable housing (middle income) shall mean a dwelling unit whose sales price shall not exceed six and one-half times the annual median household income (adjusted for family size) for Monroe County, in accordance with [section 122-1472](#).

*Affordable housing (moderate income)* for a rental dwelling unit shall mean a dwelling unit whose monthly rent, not including utilities, does not exceed 30 percent of that amount which represents 120 percent of the monthly median household income (adjusted for family size) for Monroe County. For an owner-occupied dwelling unit, affordable housing (moderate income) shall mean a dwelling unit whose sales price shall not exceed five times the annual median household income (adjusted for family size) for Monroe County, in accordance with [section 122-1472](#).

*Affordable work force housing* shall include low income, median income, moderate income and middle income housing.

*Affordable work force housing trust fund* shall mean the trust fund established and maintained by the city for revenues from fees in lieu of constructing affordable work force housing, and revenues from any other source earmarked for the trust fund by land development regulation, ordinance or donation.

*Median household income* shall mean the median household income published for Monroe County on an annual basis by the U.S. Department of Housing and Urban Development.

(Ord. No. 98-18, § 1, 6-3-1998; Ord. No. 02-08, § 1, 2-20-2002; Ord. No. 05-27, § 3, 10-18-2005)

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

**Sec. 122-1467. Requirements of affordable work force housing; ratio of new construction.**

- (a) *New market-rate multifamily residential housing.* At least ten percent of all new multifamily residential units constructed each year shall be low income affordable housing of at least 400 square feet each, as defined herein and 20 percent shall be affordable housing (median income) housing of at least 400 square feet each, as defined herein. Residential or mixed use projects of less than ten residential or mixed use units shall be required to develop at least 30 percent of units of at least 400 square feet each as affordable (median income), but may contribute a fee in lieu for each unit to the affordable work force housing trust fund, if approved by the city commission. The per unit fee shall be \$200,000.00 (representing construction cost, less land cost, of a 400 square foot unit). The 30 percent affordability requirement shall be determined on a project by project basis and not on a city-wide basis. Vested units shall be subject to this subsection if not otherwise governed by law or agreement. For every required affordable housing (median income) unit, a developer may increase the sales or rental rates to affordable housing (middle income) so long as another unit's sales or rental rate is decreased to affordable housing (low income).
- (b) *Linkage of projects.* Two development projects may link to allow the affordable housing requirement of one development project to be built at the site of another project, so long as the affordable housing requirement of the latter development is fulfilled as well. Written proof of the project linkage shall be supplied by the developer to the city commission at the time of the first site plan approval. The project containing the affordable units must be built either before or simultaneously with the project without, or with fewer than, the required affordable units. In addition, if a developer builds more than the required number of affordable units at a development site, this development project may be linked with a subsequent development project to allow compliance with the subsequent development's affordable unit requirement. Written proof of the linkage must be supplied by the

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developer to the city commission at the time of the subsequent development's site plan approval. Linkage shall not be available if either development is entirely or in part to be constructed by public funds. Finally, all linkages under this subsection may occur within the city or on a site within the city and on a site on Stock Island in the unincorporated part of the county.

- (c) *New affordable work force housing.* The maximum total rental and/or sales price for all new affordable work force housing units in a single development shall be based on each unit being affordable housing (moderate income). The rental and/or sales price may be mixed among affordable housing (low income), (median income), (middle income) and (moderate income) in order that the total value of rental and/or sales does not exceed ten percent of the rental and/or sales of all the units at affordable housing (moderate income).
- (d) *Demonstration of continuing affordability.* Demonstration of continuing affordability shall be by deed restriction or any other mutually acceptable method that effectively runs with the land and is binding on owners, successors in ownership, or assigns. The deed restriction shall be in a form provided by the city and shall be for a period of at least 50 years. It shall be recorded in the county records. During the final year of the deed restriction, the city commission may act by Resolution to renew the affordability restriction for an additional 50-year term.
- (e) *Reporting requirements.* Owners of affordable work force housing projects or units shall furnish the city manager or his designee with annual information necessary to ensure continued compliance with affordability criteria, beginning one year after the date of building permit issuance and on each anniversary date thereafter. Reporting requirements shall include sworn tenant household verification information. Property owners subject to this subsection may contract with the Key West Housing Authority to perform annual tenant eligibility verification.
- (f) *Compliance with antidiscrimination policy.* All property owners offering housing under this division shall comply with the antidiscrimination policy of article II of [chapter 38](#)

(Ord. No. 98-18, § 1, 6-3-1998; Ord. No. 02-08, § 1, 2-20-2002; Ord. No. 05-27, § 4, 10-18-2005)

**Sec. 122-1468. Affordable work force housing trust fund.**

- (a) The affordable work force housing trust fund (referred to as the "trust fund") is established. The trust fund shall be maintained with funds earmarked for the trust fund for the purpose of promoting affordable work force housing in the city and its immediate environs. Monies received by the trust fund shall not be commingled with general operating funds of the city. The trust fund shall be in a separate dedicated fund used only for the following:
  - (1) Financial aid to developers as project grants for affordable housing (low income) to (moderate income) construction;
  - (2) Financial aid to eligible homebuyers of affordable housing (low income) to (moderate income) as mortgage assistance;
  - (3) Financial incentive for the conversion of transient units to affordable housing (low income) to (moderate income) residential units;
  - (4) Direct investment in or leverage to housing affordability through site acquisition, housing development and housing conservation; or
  - (5) Other affordable work force housing purposes from time to time established by resolution of the city commission.
- (b) Except as provided in [section 122-1471](#), the city commission shall determine all expenditures from the trust fund upon the advice of the city manager.

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(Ord. No. 98-18, § 1, 6-3-1998; Ord. No. 02-08, § 1, 2-20-2002; Ord. No. 05-27, § 5, 10-18-2005)

**Sec. 122-1469. Applicant eligibility requirements.**

The following eligibility requirements shall be required of households or persons to qualify for affordable work force housing units to the extent lawful:

- (1) The household or person shall derive at least 70 percent of its or his/her total income from gainful employment in the county.
- (2) At the time of sale or lease of an affordable housing (low income) unit, the total income of eligible household or persons shall not exceed 80 percent of the median household income for the county (adjusted for family size).
- (3) During occupancy of any an affordable housing (low income) rental unit, a household's income may increase to an amount not to exceed 120 percent of the median household income for the county (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term.
- (4) At the time of sale or lease of an affordable housing (median income) unit, the total income of eligible households or persons shall not exceed 100 percent of the median household income for the county (adjusted for family size).
- (5) During occupancy of any affordable housing (median income) rental unit, a household's annual income may increase to an amount not to exceed 140 percent of median household income for the county (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term.
- (6) At the time of sale or lease of an affordable housing (moderate income) unit, the total income of eligible households or persons shall not exceed 120 percent of the median household income for the county (adjusted for family size).
- (7) During occupancy of an affordable housing (moderate income) rental unit, a household's annual income may increase to an amount not to exceed 160 percent of median household income for the county (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term.
- (8) At the time of sale or lease of an affordable housing (middle income) unit, the total income of eligible households or persons shall not exceed 140 percent of the median household income for the county (adjusted for family size).
- (9) During occupancy of an affordable housing (middle income) rental unit, a household's annual income may increase to an amount not to exceed 180 percent of median household income for the county (adjusted for family size). In such event, the tenant's occupancy shall terminate at the end of the existing lease term.
- (10) Eligibility is based on proof of legal residence in the county for at least one consecutive year.
- (11) Priority shall be given to families of four or more members for larger sized affordable work force housing units.
- (12) The applicant shall execute a sworn affidavit stating the applicant's intention to occupy the dwelling unit.
- (13) The income of eligible households shall be determined by counting only the first and highest paid 40 hours of employment per week of each unrelated adult. For a household containing adults related by marriage or a domestic partnership registered with the city, only the highest 60

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hours of the combined employment shall be counted. The income of dependents regardless of age shall not be counted in calculating a household's income.

- (14) In the event that a tenant's income shall exceed the maximum allowable income under this section and such shall occur for the first time during the last three months of a tenancy, then the landlord and tenant may extend a lease for a period of one year at the affordable rental rate.
- (15) The planning board may review a household's income and unique circumstances to determine eligibility and conformance with the intent of this ordinance to assure that people in need are not excluded and people without need are not included.

(Ord. No. 98-18, § 1, 6-3-1998; Ord. No. 02-08, § 1, 2-20-2002; Ord. No. 05-27, § 6, 10-18-2005; Ord. No. 08-04, § 29, 5-20-2008)

**Sec. 122-1470. Accessory unit infill.**

- (a) In all zoning districts of the city, except conservation districts (C), airport district (A) and the HPRD, PRD, HHDR, HMDR, MDR, MDR-C, LDR-C and SF districts, the city commission desires to encourage the addition of affordable work force housing on the same site as commercial properties and institutions to promote employee housing. Such development shall be known as accessory unit infill. Tenants shall be eligible persons under [section 122-1469](#). Applicants under this section may provide two bicycle or scooter parking spaces per unit as an alternative to applying to the planning board for parking variances. Provided that units of 600 square feet or less are treated as an 0.55 equivalent unit and all units provided are available under the city's building permit allocation ordinance, section 108-1056 et seq. of the Code of Ordinances, the city shall process applications under this section in the same manner as multifamily units or as a conditional use if multifamily is not allowed.
- (b) The maximum total rental and/or sales price for accessory unit infill in a single development shall be based on each unit being affordable housing (moderate income). The rental and/or sales price may be mixed among affordable housing (low income), (median income), (middle income) and (moderate income) in order that the total value in rental and/or sales does not exceed ten percent of the rental and/or sales of all the units at affordable housing (moderate income).

(Ord. No. 98-18, § 1, 6-3-1998; Ord. No. 02-08, § 1, 2-20-2002; Ord. No. 05-27, § 9, 10-18-2005; Ord. No. 08-04, § 30, 5-20-2008)

**Sec. 122-1471. Community housing development organization.**

The city commission may promote the establishment of a nonprofit community housing development organization (CHDO), pursuant to federal regulations governing such organizations, to serve as developer of affordable workforce housing units on city-owned property located in both the city and in the community redevelopment areas, including excessed U.S. Navy property, or located in Key Haven and Stock Island in the unincorporated part of the county, upon interlocal agreement. In such event, the city may delegate to the community housing development organization all or partial administration of the affordable housing trust fund.

(Ord. No. 98-18, § 1, 6-3-1998; Ord. No. 02-08, § 1, 2-20-2002; Ord. No. 05-27, § 10, 10-18-2005)

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**Sec. 122-1472. Family size.**

When establishing a rental or sales amount, one shall assume family size as indicated in the table below. This section shall not be used to establish the maximum number of individuals who actually live in the unit.

Size of Unit	Assumed Family Size	Minimum Occupancy
Efficiency (no separate bedroom)	1	1
One bedroom	2	1
Two bedroom	3	2
Three bedroom	4	3
Four or more bedrooms	5	1 per bedroom

(Ord. No. 02-08, § 1, 2-20-2002; Ord. No. 05-27, § 11, 10-18-2005)

**Sec. 122-1473. Reserved.**

**Editor's note—**

Section 12 of Ord. No. 05-27, adopted Oct. 18, 2005, repealed § 144-1473, which pertained to sunset provisions, and derived from Ord. No. 98-18, adopted June 3, 1998; and Ord. No. 02-08, adopted Fe. 20, 2002.

**Secs. 122-1474—122-1500. Reserved.**

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FOOTNOTE(S):

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**Editor's note**— Section 1 of Ord. No. 05-27, adopted Oct. 18, 2005, amended the title of Div. 10, Affordable Housing to read as herein set out. [\(Back\)](#)

**Cross reference**— Fair housing, § 38-26 et seq. [\(Back\)](#)

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***DIVISION 11. RETAIL SALES IN HISTORIC DISTRICTS*** <sup>[23]</sup>

[Sec. 122-1501. Definitions.](#)

[Sec. 122-1502. Location criteria.](#)

[Sec. 122-1503. Measurements of distance.](#)

[Sec. 122-1504. Grandfather clause.](#)

[Secs. 122-1505—122-1530. Reserved.](#)

**Sec. 122-1501. Definitions.**

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

*Adult entertainment business.* See division 12 of this article.

*Combination business* means a licensed business offering for retail sale items of adult entertainment, discount jewelry, electronics merchandise, camera merchandise, or T-shirts, which items in combination total 30 percent or more of inventory on the premises, as measured by dimensions of display area, including but not limited to floors, walls, ceiling, counters, doors, windows, and panel displays.

*Discount jewelry store* means a licensed business offering for retail sale jewelry, over 30 percent of which, as measured by dimensions of display area, including but not limited to floors, walls, ceiling, counters, doors, windows, and panel displays, is not fashioned of 14 karat or higher grade gold. Any business advertising or holding itself out as a discount jewelry store shall be presumptively included in this category.

*Electronics/camera store* means a licensed business offering for retail sale merchandise, over 30 percent of which, as measured by dimensions of display area, including but not limited to floors, walls, ceiling, counters, doors, windows, and panel displays, consists of electronic and camera merchandise.

*Parcel of land* means any quantity of land capable of being described with sufficient particularity that its location and boundaries may be established, including those areas designated with real estate numbers in the records of the county and also including those areas falling within the definition of the term "lot, zoning" set forth in [section 86-8](#).

*T-shirt shop* means a licensed business offering for retail sale merchandise where inventory content on the premises, as measured by dimensions of display area, including but not limited to floors, walls, ceiling, counters, doors, windows, and panel displays, consists of over 30 percent T-shirts, sweatshirts, muscle shirts, or similar apparel featuring logos, decals, transfers, appliques, iron-on designs, or other designs applied to the surface of such garment or wearing apparel. The following are not included in this definition: apparel featuring embroidery or silk screened designs and licensed businesses whose sales consist, as measured by annual gross sales figures, of 70 percent or greater of either sales to other retailers for resale or quantity sales (at least 12 items per sale) to individuals and groups or both.

(Ord. No. 97-10, § 1(2.7.27(A)), 7-3-1997; Ord. No. 01-13, § 2, 9-18-2001)

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

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**Sec. 122-1502. Location criteria.**

Within the HRCC, HRCC-1, HRCC-2, and HRCC-3 districts (when the uses are permitted or conditional), the location of the following retail activities shall be governed by the criteria listed:

- (1) *Discount jewelry store.* No discount jewelry store is permitted on a parcel of land located within 200 feet of any parcel of land upon which another discount jewelry store is located.
- (2) *Electronics/camera store.* No electronics/camera store is permitted on a parcel of land located within 200 feet of any parcel of land upon which another electronics/camera store is located.
- (3) *T-shirt shop.* No T-shirt shop is permitted on a parcel of land located within 200 feet of any parcel of land upon which another T-shirt shop is located. As of March 21, 1995, no new T-shirt shops shall be located in the HRCC, HRCC-1, HRCC-2, and HRCC-3 districts. A T-shirt shop licensed by the city and in operation in the HRCC, HRCC-1, HRCC-2, or HRCC-3 district as of March 21, 1995 may continue in existence as a nonconforming use. A change in ownership of an existing T-shirt shop shall not affect such nonconforming use status. If an existing T-shirt shop is enlarged or is increased in size or undergoes a structural alteration that exceeds 50 percent of the value of its building or structure as shown on the county tax assessment records or is abandoned in use as a T-shirt shop for a period of six months, its nonconforming use status shall terminate, and the use of the building or structure shall conform to this division and the restrictions of the HRCC, HRCC-1, HRCC-2, and HRCC-3 districts. The requirements of this subsection shall supersede conflicting requirements, if any, of [section 122-1504](#)
- (4) *Combination business.* No combination business is permitted on a parcel of land located within 200 feet of any parcel of land upon which another combination business is located or upon which a business is located which offers for retail sale any component of the combination business; merchandise regulated in this division (i.e., one or more of the following: discount jewelry store, electronic/camera store, or T-shirt shop, as defined by [section 122-1501](#)).

(Ord. No. 97-10, § 1(2.7.27(B)), 7-3-1997; Ord. No. 01-13, § 2, 9-18-2001; Ord. No. 03-05, § 5, 1-7-2003; Ord. No. 04-14, § 3, 7-7-2004)

**Sec. 122-1503. Measurements of distance.**

For purposes of this division, distance between business locations shall be measured by airline measurement from property line to property line, using the closest property lines of the parcels of land involved.

(Ord. No. 97-10, § 1(2.7.27(C)), 7-3-1997)

**Sec. 122-1504. Grandfather clause.**

Any business use that predates these regulations and otherwise would be in violation of this division may continue to operate and be licensed as a legal nonconforming use; provided, however, that the business location of the use shall not be enlarged or increased in size or abandoned in use for a period of more than 30 days. In such event, the nonconforming use shall cease and the business shall conform in all respects to the provisions of this division. All material and equipment associated with the abandoned nonconforming use shall be completely removed from the premises by its owner. Abandonment shall occur when the property owner has an intent to abandon the property's nonconforming use either by an act or a failure to act that indicates the owner retains no interest in the use. Wherever this division is in conflict with article II of this chapter this division shall take precedence.

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(Ord. No. 97-10, § 1(2.7.27(D)), 7-3-1997; Ord. No. 01-13, § 3, 9-18-2001)

**Secs. 122-1505—122-1530. Reserved.**

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FOOTNOTE(S):

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--- (23) ---

**Cross reference**— Historic preservation, ch. 102. [\(Back\)](#)

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***DIVISION 12. ADULT ENTERTAINMENT ESTABLISHMENTS***

[Sec. 122-1531. Adult entertainment establishments—Findings.](#)

[Sec. 122-1532. Definitions.](#)

[Sec. 122-1533. General regulations.](#)

[Sec. 122-1534. Licensing.](#)

[Sec. 122-1535. Separation requirements.](#)

[Sec. 122-1536. Judicial review.](#)

[Secs. 122-1537—122-1540. Reserved.](#)

**Sec. 122-1531. Adult entertainment establishments—Findings.**

- (a) The city commission's recital (the whereas clauses) is hereby incorporated by reference and made a part of this division.
- (b) The purpose of this division is to regulate adult entertainment establishments for the health, safety, morals and welfare of the residents and visitors of Key West; and to establish reasonable regulations for adult entertainment establishments currently located and to be located in Key West, in order to eliminate or reduce adverse secondary effects of such establishments upon both residents and visitors. Unless there is a determination of obscenity or other illegality, nothing herein shall be construed to prohibit constitutionally protected expression or speech or to deny access by adults to sexually oriented materials or performances that are protected by the First Amendment. These regulations shall be construed consistently with Florida's obscenity law, chapter 847, Florida Statutes. Finally, nothing herein is intended to prohibit or to regulate works of serious artistic or literary value.

(Ord. No. 97-10, § 1(2-7.28(A)), 7-3-1997; Ord. No. 04-14, § 4, 7-7-2004)

**Sec. 122-1532. Definitions.**

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

*Adult entertainment establishment* means any commercial activity, whether conducted intermittently or full time, that involves either the sale, display, exhibition, or viewing of adult material or an adult performance, distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual or sexually oriented activities or specified anatomical areas. The term "adult entertainment establishment" includes but is not limited to adult bookstores, adult-themed merchandise stores, adult performance establishments, adult motion picture theaters, limited adult cabarets and adult businesses, or any combination thereof. These terms shall have the following meanings:

- (1) *Adult bookstore/video store* means an establishment having at least 25 percent of its stock in trade, for sale, rent, lease, inspection, or viewing, books, films, videocassettes, compact discs, magazines, or other adult material that is distinguished or characterized by its emphasis on matter depicting, describing or relating to specified sexual activities and/or specified anatomical areas.

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- (2) *Adult performance establishment* means any establishment where any worker (an employee or independent contractor) engages in a private performance, acts as an adult model, or displays or exposes any specified anatomical areas to a customer, regardless of whether the worker engages in dancing or any particular activity; or wears and displays to a customer any covering, tape, pasties, or other device that simulates or otherwise gives the appearance of the display or exposure of any specified anatomical areas, regardless of whether the worker actually engages in performing or dancing; or offers, solicits, or contracts to dance or perform with or for a customer and accepts any consideration, tip, remuneration or compensation from or on behalf of that customer.
- (3) *Adult-themed merchandise store* means a commercial establishment in which at least ten percent of the unused individual items publicly displayed in the establishment as stock in trade, for sale or rent, constitute adult material.
- (4) *Adult motion picture theater* means an enclosed building used for presenting films and/or videos which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities and/or specified anatomical areas, for observation by patrons therein.
- (5) *Adult business* means a commercial enterprise that offers or provides for any form of consideration, physical contact between persons of the opposite sex or of the same sex in the form of a massage or rubdown or washing or scrubbing, where one or more of the persons is in a state of nudity or is seminude; provided, however, that a massage therapist licensed by the State of Florida pursuant to chapter 480, Florida Statutes, or a person licensed by the State of Florida as a physician, nurse, physical therapist or athletic trainer are not deemed to be engaged in an adult business. An adult business shall also mean any other similar adult entertainment establishment not specifically described herein, including but not limited to: a business whose customers are or are invited to be in a state of nudity for sexually oriented purposes (but not for mere sunbathing), and a business that offers the use of adult booths.
- (6) *Limited adult cabaret* means an adult performance establishment where live performers provide adult-themed entertainment and do so either clothed or seminude, without exposing specified anatomical areas and without engaging in specified sexual activities.

*Adult booth* means a separate booth inside an adult entertainment establishment accessible to any person, regardless of whether a fee is charged for access. The term "adult booth" includes, but is not limited to, a "peep show" booth or arcade; or a booth used to view "adult material" or engage in adult performance; or a booth used for sexual contact between persons in a public location.

*Adult material* means one or more of the following, regardless of whether it is new or used:

- (a) Books, magazines, periodicals, or other printed matter, photographs, films, motion pictures, videotapes, video cassettes, compact disks, slides, computer digital graphic recordings, or other visual representations, tape recordings, disks or other audio matter, which have as their primary or dominant theme matters depicting, illustrating, describing or relating to specified sexual activities or specified anatomical areas; or
- (b) Instruments, novelties, devices, merchandise or paraphernalia which are designed for use in connection with specified sexual activities; provided, however, that adult material shall not be interpreted to include bona fide birth control devices.

*Nudity* means the showing of the human male or female genitals, pubic area, or buttocks with less than a full opaque covering; the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the areola; or the depiction of covered male genitals in a discernibly turgid state.

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*Parcel* means any quantity of land capable of being described with such definiteness that its location and boundaries may be or are established. See also the definition of "Lot" in [section 86-9](#).

*Seminude* means a state of dress in which clothing covers no more than the genitals, pubic region, and/or areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

*Specified anatomical areas* means:

- (1) Less than completely opaquely covered human genitals, pubic region, buttocks, female breasts below a point immediately above the top of the areola; and/or
- (2) Human male genitalia in a discernibly turgid state even if completely and opaquely covered.

*Specified sexual activities* means:

- (1) Human genitals, covered or uncovered, in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse, simulated sexual intercourse, sexual bestiality, sadomasochistic abuse, or sodomy;
- (3) Fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts.
- (4) Any act or conduct constituting sexual battery.

(Ord. No. 97-10, § 1(2-7.28(B)), 7-3-1997; Ord. No. 01-13, § 3, 9-18-2001; Ord. No. 04-14, § 5, 7-7-2004)

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

**Sec. 122-1533. General regulations.**

- (a) The purpose of this section is to limit the number of adult entertainment establishments within the corporate boundaries of Key West in order to address their adverse secondary effects. The city commission finds the potential and actual adverse secondary effects to be: The incidence of crime inside and around adult entertainment establishments (the city commission reaches no conclusion as to whether adult entertainment establishments cause a disproportionate increase to crime); detrimental effects on minors; the potential deterioration of a preserved historic district; pornographic litter; an increase in the incidence of obscenity; an increase in the incidence of disease; and land use incompatibilities. Regarding the latter, due to the small geographic size of Key West, there is no commercial district that does not also contain residences and houses of worship; therefore, the city commission recognizes that there can be no substantial separation between these amiable uses and adult entertainment establishments.
- (b) As of May 1, 2004, there are nine\* adult entertainment establishments in the HRCC-1 zoning district. This number establishes a cap in HRCC-1. An existing adult entertainment business may move its location within HRCC-1 so long as it complies with [section 122-1535](#). The city shall extinguish any surrendered adult entertainment licenses so that, by attrition, only five of them shall remain in the HRCC-1 zoning district. Thereafter, the city shall re-issue a surrendered license via a lottery devised by the city manager, so long as the winning applicant for the license is capable of complying and does comply with all federal, state and local regulations.

**Note**—\*As of the effective date of this Ordinance No. 04-14, the proprietor of a tenth location —507 Southard Street— is in litigation with the City of Key West. If the plaintiff prevails, then the city will license it as the tenth location in HRCC-1.

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- (c) An adult entertainment establishment that either is not located in the HRCC-1 zoning district\*\* or does not comply with the separation requirements set forth in [section 122-1535](#) is legally nonconforming and is subject to the regulations set forth in [chapter 122](#), article II; provided, however, that the abandonment of an adult entertainment use shall occur when such use has ceased for a period of 120 days. Section [122-30](#) shall be interpreted consistent herewith. Nothing in this subsection is intended to alter nonconformities previously established.

\*\* As of the effective date of this Ordinance No. 04-14, the City of Key West and the property owner of 1125 Duval Street are engaged in determining whether zoning supports partial use of the property as a cabaret. If it does then the property may obtain a limited adult cabaret license.

- (d) Within 60 days after the effective date of this Ordinance No. 04-14, all adult entertainment establishments existing in Key West shall provide the licensing division with a drawing showing the dimensions of the adult entertainment use on the parcel as of May 1, 2004. If the adult entertainment use occupies a portion of a parcel, the total floor area devoted to adult entertainment use shall not be increased above the floor area in use as of May 1, 2004, but may be relocated within the parcel. Except as provided in subsection (e), the operator of an adult entertainment establishment may change the adult entertainment use at the parcel. The operator shall notify the licensing division and the business tax receipt shall be reclassified accordingly. Any proposed change of adult entertainment use at a parcel is subject to all applicable codes and laws.
- (e) An adult-themed merchandise store, adult bookstore, adult business or limited adult cabaret shall not be entitled to change to another classification of adult entertainment establishment and shall not obtain licensing therefor.
- (f) If an existing adult entertainment establishment is operating pursuant to a set of conditions, either imposed by a governmental agency or bargained for in a contract, those conditions shall remain in effect to the extent that they are consistent with sections [122-1531](#) through [122-1536](#)
- (g) An adult entertainment establishment of any classification shall not display or exhibit any adult material on the exterior of the premises, including in doors and windows.
- (h) No adult entertainment establishment licensed hereunder shall be permitted to allow specified sexual activities to occur on the premises.
- (i) This [section 122-1533](#) shall sunset automatically, and the city commission shall enact new adult entertainment regulations consistent with the First Amendment of the United States Constitution, when there exist no functioning adult entertainment establishments in the HRCC-1 zoning district.

(Ord. No. 97-10, § 1(2-7.28(C)), 7-3-1997; Ord. No. 01-13, § 3, 9-18-2001; Ord. No. 04-14, § 6, 7-7-2004; Res. No. 06-292, § 1, 9-6-2006)

**Sec. 122-1534. Licensing.**

- (a) The owner or operator of an adult entertainment establishment shall obtain a business tax receipt pursuant to [section 66-87](#). The licensing official shall notate the license as "adult entertainment establishment: \_\_\_\_\_," filling in this blank by reference to the following classifications: adult bookstore/video store, adult-themed merchandise store, adult performance establishment, limited adult cabaret, adult motion picture theater or adult business.
- (b) Adult entertainment businesses existing and recognized by the city as of May 1, 2004, are granted a de facto temporary license to continue in operation while they comply with the terms of [section 122-1533](#)

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- (c) Any applicant aggrieved by a decision of the licensing official, either by the choice of adult entertainment classification(s) or by the refusal to license a business as adult entertainment, may appeal the decision to a special master (other than the code enforcement special master) appointed by the city commission. The appeal shall be made in writing not later than ten days from the date the decision of the licensing official is rendered to the applicant. The special master shall conduct a hearing at the earliest mutually convenient time, giving notice and opportunity to be heard to the applicant. The applicant may be represented by counsel. The special master shall issue a written decision within ten days of the hearing. The decision of the special master shall constitute final administrative agency action.
- (d) All city licensing approvals shall be provided to an owner of an adult entertainment establishment not later than 45 days from the date of application for a business tax receipt and the applicant's compliance with all building codes.
- (e) In addition to the business tax set forth in [section 66-109](#)(1), the owner of an adult entertainment establishment shall pay to the city on or before each October 1 an annual fee of \$200.00 to defray the expense of regulation.

(Ord. No. 01-13, § 3, 9-18-2001; Ord. No. 04-14, § 7, 7-7-2004; Res. No. 06-292, § 1, 9-6-2006)

**Sec. 122-1535. Separation requirements.**

- (a) Except as provided in subsection (b), an adult entertainment establishment in the HRCC-1 zoning district shall not be located within 250 feet of any parcel upon which any of the following uses is located:
  - i. Any public park or playground;
  - ii. Any public or private school;
  - iii. Any licensed day care facility;
  - iv. Any church, synagogue or other place that is used primarily for purposes of religious worship.
  - v. Any publicly owned building, including but not limited to a government building and a library.
  - vi. Any other adult entertainment establishment.
- (b) The separation requirement for an adult-themed merchandise store only shall be 150 feet from the uses set forth in subsection (a).
- (c) The separation requirements set forth above shall be measured by following the shortest route of ordinary fare from the nearest point of the parcel of the proposed or existing adult entertainment establishment to the other parcel (as listed above).

(Ord. No. 01-13, § 3, 9-18-2001; Ord. No. 04-14, § 8, 7-7-2004)

**Sec. 122-1536. Judicial review.**

Any person or entity denied licensing for an adult entertainment establishment may apply, in the manner provided by law, to the circuit court for relief from such decision.

(Ord. No. 04-14, § 9, 7-7-2004)

**Secs. 122-1537—122-1540. Reserved.**

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***DIVISION 13. TATTOO ESTABLISHMENTS***

[Sec. 122-1541. Tattoo establishments—Purpose.](#)

[Sec. 122-1542. Definitions.](#)

[Sec. 122-1543. General regulations.](#)

[Sec. 122-1544. Licensing.](#)

[Sec. 122-1545. Separation requirements.](#)

[Sec. 122-1546. Additional policies and procedures.](#)

**Sec. 122-1541. Tattoo establishments—Purpose.**

The purpose of this division is to regulate tattoo establishments for the health, safety, and welfare of the residents and visitors of the City of Key West; and to establish reasonable regulations for tattoo establishments to be located in Key West, in order to eliminate or to reduce secondary effects of such establishments upon both residents and visitors. These regulations shall be construed consistently with F.S. chs. 458 and 459, or 466.

(Ord. No. 07-14, § 2, 9-18-2007)

**Sec. 122-1542. Definitions.**

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

- (1) *Tattooing* means the creation of an indelible mark, figure, word, or graphic illustration upon a human body by the insertion of pigment under the skin or by the production of scars. This definition does not include the application of henna tattoos.
- (2) *Tattoo establishment* means any commercial activity, whether conducted intermittently or full-time, that involves the application of permanent tattoo material.
- (3) *Tattoo artist* means a person that applies an indelible mark, figure, work, or graphic by the insertion of pigment under the skin or by the production of scars. This term shall also apply to body illustrations.

(Ord. No. 07-14, § 2, 9-18-2007)

**Sec. 122-1543. General regulations.**

- (a) The purpose of this section is to limit the number of tattoo establishments within the corporate boundaries of Key West in order to address their adverse secondary effects. The city commission finds the potential and actual adverse secondary effects to be: the potential deterioration of a preserved historic district; an increase in the incidence of disease; and land use incompatibilities.
- (b) There are no tattoo establishments in the City of Key West; therefore, all tattoo establishments shall be established in compliance with all city regulations.

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- (c) All tattooing shall be performed inside the principal structure.
- (d) All tattooing shall be performed by a person licensed to practice medicine or dentistry under F.S. chs. 458 and 459 or 466, or by a person under his general supervision. As used in this section, the term "general supervision" shall mean the supervision of the tattooist by a supervising physician, osteopathic physician, or dentist, which supervision shall not require the physical presence of the supervisor when procedures are performed, but shall require the following items:
  - (1) The supervising physician, osteopathic physician, or dentist, initially upon assuming duties as the supervisor and semi-annually thereafter, shall review and inspect the techniques, procedures, and equipment utilized by the tattooist in the performance of tattooing.
  - (2) The supervising physician, osteopathic physician, or dentist shall provide semi-annual training for the tattooist in the areas of infection control, sterilization, and emergency procedures.
  - (3) The supervising physician, osteopathic physician, or dentist and the tattooist shall develop jointly written procedures regarding the medical condition for individuals to receive tattoos, treatment of routine minor problems resulting during or from tattooing, and detailed procedures to be followed in the event of emergency situations developing during the performance of or as a result of tattooing. These written procedures will be maintained in a readily available location on the premises of the tattooist and a copy shall be maintained by the supervising physician, osteopathic physician, or dentist. Such written procedures will be readily available for inspection and review by agents of any or all of the following: the agency for health care administration, the board of medicine, the board of osteopathic medical examiners, the board of dentistry, and the city license officer.
- (e) A person certified in the use of a defibrillator, CPR, first aid, and blood borne pathogens shall be present on-site during the time tattooing is performed. All certificates must be prominently displayed in the establishment and copies of all certificates shall be submitted each year at the time of city licensing renewal.
- (f) A Florida Department of Health (FDOH) biomedical waste permit shall be prominently displayed at all time.
- (g) All biomedical waste shall be disposed of in compliance with the FDOH permit.
- [(h) Reserved.]
- (i) Smoking shall be prohibited in the tattoo establishment.
- (j) Food or drink shall not be permitted in the work area.
- (k) Autoclave equipment shall be spore tested monthly or every 40 hours of use, whichever occurs first. All testing and maintenance records shall be available for inspection.
- [(l) Reserved.]
- (m) There shall be a separate sink located away from restroom facilities for all tattoo establishment personnel for hygiene purposes.
- (n) Floor area in the tattoo application work area shall be a sealed hard-surface tile, concrete, etc.
- (o) The removal of tattoos shall be prohibited in any tattoo establishment.

(Ord. No. 07-14, § 2, 9-18-2007)

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**Sec. 122-1544. Licensing.**

- (a) All city licensing approvals shall be provided to an owner of a tattoo establishment not later than 45 days from the date of the submittal of a complete application for a business tax receipt and the applicant's compliance with all building codes.
- (b) In addition to the business tax set forth in [section 66-109\(1\)](#), the owner of a tattoo establishment shall pay to the city, on or before each October 1, an annual fee of \$1,000.00 to defray the expense of regulation.
- (c) Any applicant aggrieved by a decision of the licensing official, either by the choice of tattoo classification(s) or by the refusal to license a business as a tattoo establishment, may appeal the decision to a special master (other than the code enforcement special master) appointed by the city commission. The appeal shall be made in writing not later than ten days from the date the decision of the licensing official is rendered to the applicant. The special master shall conduct a hearing at the earliest mutually convenient time, giving notice and opportunity to be heard to the applicant. The applicant may be represented by counsel. The special master shall issue a written decision within ten days of the hearing. The decision of the special master shall constitute final administrative agency action.

(Ord. No. 07-14, § 2, 9-18-2007)

**Sec. 122-1545. Separation requirements.**

- (a) The proposed site shall be at least 500 feet from any other such use.
- (b) The proposed site shall be at least 500 feet from the nearest house of worship, school (public or private), child care center, library, or public park. The beach area adjacent to the Atlantic Ocean shall not be considered a public park for the spacing criteria.
- (c) The separation requirements set forth above shall be measured by following the shortest route of ordinary fare from the nearest point of the parcel of the proposed tattoo establishment to the other parcel (as listed above) in subsections (a) and (b).

(Ord. No. 07-14, § 2, 9-18-2007)

**Sec. 122-1546. Additional policies and procedures.**

- (a) Customer shall present identification.
- (b) Customer shall sign a consent form.
- (c) Customer shall not be visibly impaired by any substance, intoxicated or under the influence of any substance and shall sign a waiver attesting to such.
- (d) Records for each customer shall be kept for five years.
- (e) Customer shall receive oral and written instructions required for the receiving of and care of each tattoo.
- (f) Tattoo artist shall use only single-use disposable ink containers.
- (g) Tattoo artist shall only use sterile disposable one-time use needles.
- (h) All artists shall wear medical grade gloves.

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(Ord. No. 07-14, § 2, 9-18-2007)