



CHAPTER 3

SITE DESIGN STANDARDS

3.00.00	GENERALLY	3-3
3.00.01	Purpose and Intent	3-3
3.00.02	Design Principles	3-3
3.01.00	PROTECTION OF NATURAL FEATURES AND RESOURCES	3-3
3.01.01	Purpose and Intent	3-3
3.01.02	Applicability	3-3
3.01.03	Standards for the Protection of Wetlands	3-3
3.01.04	Riparian/Littoral Setbacks	3-4
3.01.05	Limitations on Armoring of Shorelines	3-4
3.02.00	FLOOD DAMAGE PREVENTION	3-4
3.02.01	Findings of Fact	3-4
3.02.02	Purpose and Intent	3-4
3.02.03	Objectives	3-5
3.02.04	Applicability	3-5
3.02.05	Basis for Establishing the Areas of Special Flood Hazard	3-5
3.02.06	Designation of Floodplain Administrator	3-5
3.02.07	General Standards	3-6
3.02.08	Specific Standards in A-Zones	3-7
3.02.09	Specific Standards in V-Zones	3-9
3.03.00	SITE DESIGN STANDARDS FOR LAND USE DISTRICTS	3-11
3.03.01	Design Standards for Subdivisions	3-11
3.03.02	Maximum Dwelling Units and Housing Types	3-11
3.03.03	Design Standards for Lots	3-11
3.04.00	SITE DESIGN STANDARDS FOR PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT	3-12
3.04.01	Purpose and Intent	3-12
3.04.02	Applicability	3-13
3.04.03	Standards and Criteria	3-13
3.05.00	LANDSCAPING AND TREE PROTECTION	3-13

3.05.01	Purpose and Intent	3-13
3.05.02	Scope and Applicability	3-13
3.05.03	Specifications for Landscaping and Buffers	3-14
3.05.04	Tree Protection	3-15
3.05.05	Florida Yards and Neighborhoods Requirements	3-17
3.06.00	STORMWATER MANAGEMENT REQUIREMENTS	3-17
3.07.00	SITE DESIGN STANDARDS FOR CLEAN MARINAS	3-18
3.07.01	Clean Marina Designation Requirement	3-18
3.07.02	Alternative Clean Marina Designation Option	3-18
3.07.03	Continuing Duty to Maintain Clean Marina Designation	3-18
3.07.04	Duty to Provide Public Access	3-18
3.08.00	DARK SKY REQUIREMENTS, LIGHTING, AND SEA TURTLE PROTECTION	3-18
3.08.01	Purpose and Intent	3-18
3.08.02	Scope and Applicability	3-18
3.08.03	Regulations	3-19
3.08.04	Appeals	3-21
3.09.00	GREEN BUILDING REQUIREMENTS	3-21
3.09.01	Purpose and Intent	3-21
3.09.02	Findings	3-21
3.09.03	LEED Requirements for New Construction	3-22
3.09.04	Infeasibility Exemption	3-23
3.09.05	Appeals	3-23
List of Tables		
3.03.02	Maximum Dwelling Units and Housing Types	3-11
3.03.03	Standards for Impervious Surfaces	3-12
3.09.03	Fee Schedule	3-23

3.00.00 GENERALLY

3.00.01 Purpose and Intent

The purpose of this chapter is to provide design standards applicable to all development activity within the Town.

- A. No building or other structure shall be constructed, installed, erected, or altered except in compliance with the site design and development standards set forth in this ULDC.
- B. Where an overlay district applies to a site, the standards for that district shall apply in addition to the standards of the underlying land use district.
- C. In addition to standards for all development within a land use district, supplemental standards for accessory and temporary uses are set forth in Chapter 4. Such supplemental standards shall apply in addition to the standards of the land use district and overlay district, if applicable, in which the development is located.
- D. Where conflict arises between standards required in a land use district, in an overlay district, by supplemental standards, or by other legally binding document, the following rules shall be used in the application of standards:
 1. Where an unexpired Town-approved site plan or unexpired Town-approved development agreement issued prior to the effective date of this ULDC, court order, or other legally binding document which authorizes development applies to the site, the standards in the legally binding document shall apply.
 2. In all other situations, the stricter standard shall apply.

3.00.02 Design principles

Development design shall first take into account the protection of natural resources. All development shall be designed to avoid unnecessary impervious surface cover; to provide adequate access to lots and sites; and to avoid adverse effects of shadow, glare, noise, odor, traffic, drainage, and utilities on surrounding properties.

3.01.00 PROTECTION OF NATURAL FEATURES AND RESOURCES

3.01.01 Purpose and Intent

It is the purpose of this regulation to promote restoration, connectivity, and preservation of the beach and dune system, maritime hammock, riparian zones, and wetlands within the Town of Marineland and to maintain ecological processes and functions and biodiversity in perpetuity.

3.01.02 Applicability

No approval for development shall be issued by the Town that is not consistent with the provisions of this chapter.

3.01.03 Standards for the Protection of Wetlands

1. There is hereby created a wetlands protection zone in which special restrictions on development apply.

2. The boundaries of this zone shall be the most landward extent of the following:
 - a. Areas delineated as wetlands by the FDEP or Water Management District;
 - b. Areas within the jurisdiction of the USACOE.
3. Activities within wetlands shall be consistent with the goals, objectives and policies protecting wetlands contained in the Comprehensive Plan.

3.01.04 Riparian/Littoral Setbacks

For the purpose of shoreline protection, development other than water dependent uses as listed in Section 2.04.03 shall occur at least fifty (50) feet landward of the mean high water line. All vegetation management within the riparian zone shall be consistent with Section 3.05.00.

3.01.05 Limitations on Armoring of Shorelines

Coastal armoring shall conform to the Florida Department of Environmental Protection's coastal armoring regulations and in addition shall comply with the following criteria:

1. All coastal armoring permits will be reviewed by Town for consistency with the Section 3.08 of this ordinance: Dark Sky Requirements, Lighting, and Sea Turtle Protection.
2. All new and restored dune systems shall be maintained in perpetuity by the property owner. Additional permits from DEP may be required.
3. Seawalls are prohibited. To avoid the use of structures that sever natural connections between riparian, intertidal and subaqueous areas soft living shoreline protection strategies shall be used. Designs to create a living shoreline include vegetation management, beach nourishment and dune restoration, tidal marsh enhancement and creation, bank grading to reduce the impact of erosion, marsh toe revetments and sills, beach sills, permeable offshore breakwater systems, and artificial reefs.
4. Each living shoreline protection strategy shall be constructed with habitat compatible materials, as determined by DEP, and shall be required in lieu of reconstruction or replacement of any existing coastal armoring.

3.02.00 FLOOD DAMAGE PREVENTION

3.02.01 Findings of Fact

- A. The flood hazard areas of Marineland are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- B. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous

to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

3.02.02 Purpose and Intent

It is the purpose of this section to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights and velocities;
- B. Require that uses vulnerable to floods including facilities which serve such uses be protected against flood damage throughout their intended life span;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- D. Control filling, grading, dredging and other development which may increase erosion or flood damage; and
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

3.02.03 Objectives

The objectives of this section are to:

- A. Protect human life, health and to eliminate or minimize property damage;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, roadways, and bridges and culverts located in floodplains;
- F. Maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and
- G. Ensure that potential homebuyers are notified that property is in a flood hazard area.

3.02.04 Applicability

The provisions of this section apply to all areas of special flood hazard within the jurisdiction of Marineland.

3.02.05 Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency in the Flood Insurance Study (FIS) for the Marineland, with an effective date of July 17, 2006, with the accompanying maps and other supporting data, are adopted by reference and declared to be a part of this

ULDC. The Flood Insurance Study and Flood Insurance Rate Map are on file in the Town Offices.

3.02.06 Designation of Floodplain Administrator

The Town of Marineland hereby appoints the Town Administrator to act as Floodplain Administrator and administer and implement the provisions of this section. In addition to any duties for the implementation of this ULDC, specific duties pertaining to implementation of flood damage prevention regulations of this section include the following:

- A. Advise applicants that additional Federal, State of Florida, or local permits may be required, and if such additional permits are necessary, especially as it relates to Chapters 161.053; 320.8249; 320.8359; 373.036, 380.05; 381.0065, and 553, Part IV, Florida Statutes;
- B. Require that copies of such permits be provided to the Town and maintain such permits on file with development orders or permits pertaining to the development site;
- C. Notify adjacent communities, the Department of Community Affairs, Division of Emergency Management, the St. Johns River Water Management District, the Federal Emergency Management Agency and other Federal and/or State of Florida agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse;
- D. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained;
- E. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (A-Zones) or bottom of the lowest horizontal structural member of the lowest floor (V-Zones) of all new or substantially improved buildings, in accordance with Section 3.02.08(A) and (B) and Section 3.02.09(B), respectively;
- F. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings have been flood-proofed, in accordance with Section 3.02.08;
- G. Interpret the exact location of boundaries of the areas of special flood hazard. When there appears to be a conflict between a mapped boundary and actual field conditions, the Floodplain Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Chapter 9;
- H. Coordinate all change requests to the FIS, FIRM and FBFM with the requester, State of Florida, and FEMA, and
- I. Where Base Flood Elevation is utilized or required, obtain and maintain records of lowest floor and floodproofing elevations for new construction and substantial improvements in accordance with Section 3.02.08(A) and (B), respectively.

3.02.07 General Standards

- A. In all areas of special flood hazard, all development sites including new construction and substantial improvements shall be reasonably safe from flooding, and meet the following provisions:
1. New construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 2. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State of Florida requirements for resisting wind forces;
 3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage. See the applicable Technical Bulletin or Bulletins from FEMA for guidance;
 4. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage. See the applicable Technical Bulletin or Bulletins from FEMA for guidance;
 5. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 7. New and replacement sanitary sewage systems shall be designed to prevent infiltration of flood waters into the systems and discharges from the systems into flood waters;
 8. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ULDC shall meet the requirements of “new construction” as contained in this section;
 9. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ULDC, shall be undertaken only if said non-conformity is not furthered, extended, or replaced; and
 10. All applicable additional Federal, State of Florida, and local permits shall be obtained and submitted to the Floodplain Administrator. Copies of such permits shall be maintained on file with the development permit.
- B. Standards for subdivisions and other development (including manufactured homes):
1. All subdivision proposals shall be consistent with the need to minimize flood damage;

2. All subdivision proposals shall demonstrate the availability of public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage; and
3. All subdivision proposals shall demonstrate that adequate drainage will be provided to reduce exposure to flood hazards.

3.02.08 Specific Standards in A-Zones

In all A-Zones where base flood elevation data have been provided (Zones AE, A1-30, and AH), as set forth in Section 3.02.07, the following provisions shall apply:

A. Residential construction

All new construction or substantial improvement of any residential building (including manufactured homes) shall have the lowest floor of habitable space, elevated to no lower than one (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate automatic equalization of flood hydrostatic forces on both sides of the exterior walls shall be provided in accordance with standards of Section 3.02.08(C). All conversions of non-habitable space to habitable space are considered substantial improvements and shall meet the requirements of this Section.

B. Non-residential construction

All new construction or substantial improvement of any commercial, industrial, or non-residential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than one (1) foot above the base flood elevation. All buildings located in A-Zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building components below the base flood elevation plus one (1) foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied using the FEMA Floodproofing Certificate. Such certification along with the corresponding engineering data, and the operational and maintenance plans shall be provided to the Town Administrator.

C. Elevated buildings

New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

1. Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 2. The bottom of all openings shall be no higher than one (1) foot above foundation adjacent interior grade (which must be equal to or higher in elevation than the adjacent exterior grade); and
 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they provide the required net area of the openings and permit the automatic flow of floodwaters in both directions;
 4. Fully enclosed areas below the lowest floor shall solely be used for parking of vehicles, storage, and building access. Access to the enclosed area shall be minimum necessary to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator); and
 5. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms.
- D. Standards for manufactured homes and recreational vehicles
All manufactured homes that are placed, or substantially improved within Zones A1-30, AH, and AE, on sites (i) outside of an existing manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood, the lowest floor be elevated on a permanent foundation to no lower than one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
All recreational vehicles placed on sites within Zones A1-30, AH, and AE must either:
1. Be on the site for fewer than 180 consecutive days,
 2. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions), or
 3. Meet all the requirements for new construction, including anchoring and elevation requirements in accordance with Section 3.02.08(D).
- Adequate drainage paths around structures shall be provided on slopes to guide water away from structures.
- E. Floodways
Located within areas of special flood hazard established in Section 3.02.07, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry

debris, potential projectiles and have significant erosion potential, the following additional provisions shall also apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements and other developments within the regulatory floodway unless certification (with supporting technical data) by a registered professional engineer is provided through hydraulic and hydrologic analyses performed in accordance with standard engineering practice demonstrating that encroachments would not result in any increase in flood levels during occurrence of the base flood discharge.
2. Development activities including new construction and substantial improvements that increase the water surface elevation of the base flood by more than one (1) foot may be allowed, provided that the developer or applicant first applies – with the community’s endorsement – for a conditional FIRM revision, and receives the approval of FEMA.
3. When fill is proposed, in accordance with the permit issued by the Florida Department of Health, within the regulatory floodway, the development permit shall be issued only upon demonstration by appropriate engineering analyses that the proposed fill will not increase the water surface elevation of the base flood in accordance with Section 3.02.08(E)(1).
4. For all structures located seaward of the Coastal Construction Control Line (CCCL), the lowest floor of all new construction and substantial improvements shall be elevated to the regulatory flood elevation established by the Florida Department of Environmental Protection or by FEMA in accordance with Section 3.02.07, whichever is higher. All non-elevation design requirements of Section 3.02.09 shall apply.

3.02.09 Specific Standards in V-Zones

Located within areas of special flood hazard established in Section 3.02.07 are coastal high hazard areas, designated as Zones V1–30, VE, or V (with BFE). The following provisions shall apply for all development activities:

- A. Meet the requirements of Chapter 10 regarding submittal requirements and Section 3.02.07, and Section 3.02.08 except for 3.02.08(E).
- B. All new construction and substantial improvements in Zones V1– V30, VE, and V (with BFE) shall be elevated on pilings or columns so that:
 1. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to no lower than one (1) foot above the base flood elevation whether or not the structure contains a basement; and
 2. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading will be those values associated with the base flood. Wind loading values will be those required by applicable

State of Florida or local, if more stringent than those of the State of Florida, building standards.

- C. A registered professional engineer or architect shall develop or review the structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this section.
- D. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures. The Floodplain Administrator shall maintain a record of all such information.
- E. All new construction and substantial improvements shall be located landward of the reach of mean high tide.
- F. Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of twenty (20) pounds per square foot (either by design or when so required by local codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - 1. Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
 - 2. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). The water loading shall be those values associated with the base flood. The wind loading values shall be those required by applicable Florida or local, if more stringent than those of the State of Florida, building standards.
- G. Such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be finished, partitioned into multiple rooms, or temperature-controlled.
- H. Prohibit the use of fill for structural support. No development permit shall be issued for development involving fill in V-Zones unless it has been demonstrated through appropriate engineering analyses that the subject fill does not cause any adverse impacts to the structure on site or adjacent structures. Placement of fill that would result in an increase in the base

- flood elevation or cause adverse impacts by wave ramping and deflection may be permitted, provided that the permit applicant first applies for and receives a conditional FIRM revision, fulfilling the requirements for such revisions as established by FEMA.
- I. Prohibit man-made alteration of sand dunes and mangrove stands that would increase potential flood damage.
 - J. Standards for Manufactured Homes
 - 1. All manufactured homes to be placed or substantially improved on sites: (i) outside a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or, (iv) in an existing manufactured home park or subdivision in which a manufactured home has incurred “substantial damage” as the result of a flood, must meet the standards of Section 3.02.09(B) through (H).
 - K. Recreational vehicles placed on sites within Zones VE, V1–V30, V (with base flood elevation) on the FIRM must:
 - 1. Be on the site for fewer than 180 consecutive days; and
 - 2. Be fully licensed and ready for highway use (on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
 - 3. Meet the requirements of Section 3.02.09(B) through (H).
 - 4. In addition, there shall also have a plan for removal in case of a threat.
 - L. For all structures located seaward of the Coastal Construction Control Line (CCCL), the bottom of the lowest horizontal structural member of the lowest floor of all new construction and substantial improvements shall be elevated to the flood elevation established by the Florida Department of Environmental Protection or the base flood elevation, whichever is the higher. All non-elevation design requirements Section 3.02.09(B) through (K) shall apply.
 - M. When fill is proposed, in accordance with the permit issued by the Florida Department of Health, in coastal high hazard area, the development permit shall be issued only upon demonstration by appropriate engineering analyses that the proposed fill will not increase the water surface elevation of the base flood nor cause any adverse impacts to adjacent properties by wave ramping and deflection.

3.03.00 SITE DESIGN STANDARDS FOR LAND USE DISTRICTS

3.03.01 Design Standards for Subdivisions

All subdivisions shall comply with F.S. § 177 regarding requirements for the subdivision of land, shall be approved by the Town Council, and shall comply with all requirements of this ULDC.

3.03.02 Maximum Dwelling Units and Housing Types

Residential development in the following land use districts shall comply with the standards set forth in Table 3.03.02 for maximum total dwelling units and housing type.

Table 3.03.02 Maximum Dwelling Units and Housing Types

LAND USE DISTRICT	MAXIMUM TOTAL DWELLING UNITS	PERMISSIBLE HOUSING TYPE
Sustainable Mixed Use (SMU)	241 units	Single-family detached Two-family (duplex) Townhouse Multiple-family
Institutional Research (IR)	36 units	Dormitory
Tourist Commercial (TC)*	35 units (resort residential)	Resort residential Hotel Motel
Conservation Public Lands (CPL)	2 units	Single-family detached
Conservation (CONS)	1 unit	Single-family detached
Planned Unit Development (PUD)	Based on the underlying land use district.	

*Within the Tourist Commercial land use category, 2 hotel units can be substituted for 1 resort residential unit.

3.03.03 Design Standards for Lots.

- A. Except as specifically provided in this ULDC, no lot existing at the time of adoption of this ULDC shall be reduced, divided, or changed so as to produce a lot or tract of land which does not comply with the dwelling unit requirement of Section 3.03.02.
- B. The standards for maximum impervious surface and floor area ratio (FAR) are set forth in Table 3.01.02(A).

Table 3.03.03 Standards for Impervious Surfaces.

Land Use District	Maximum Impervious Surface (%)			Floor Area Ratio
	Use	Lot size	Max %	
SMU	Single-family	<10,000 sq. ft.	50	N/A
	Single-family	>=10,000 sq. ft.	70	
	Multi-family	N/A	70	
	Use			

	Single use commercial	N/A	85	
	Mixed use	N/A	85	
IR	85			2.0
TC	85			2.0
GC	95			0.6
UTL	90			N/A

- C. Where cluster development is proposed under unified development control in a PUD, the calculation of impervious surface shall apply to the entire site and shall not be applied to individual lots within the development site.
- D. Lots in residential districts shall be designed to comply with the maximum density allowed in the Comprehensive Plan for each land use district, as presented in Section 3.03.02 of this ULDC.
- E. Height requirements are determined by association with a particular street type, as outlined in Section 4.01, with the exception of the Public Utilities land use category. The maximum height of structures in this land use category shall not exceed 35 feet.

3.04.00 SITE DESIGN STANDARDS FOR PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT

3.04.01 Purpose and Intent

It is the purpose of the planned unit development overlay (PUD) to provide flexible land use and design regulations and to permit planned diversification and integration of uses and structures. The PUD is designed to:

- A. Promote more efficient and economic uses of land;
- B. Lower development and building costs by permitting smaller networks of utilities and streets and the use of more economical building types and shared facilities;
- C. Provide for open spaces and common areas and provide usable and suitably located recreation facilities within the development;
- D. Allow the controlled development of land uses most suitable to the proposed site and surrounding neighborhoods; and,
- E. Allow clustering or other innovative designs to protect sensitive environmental areas within the proposed site.

3.04.02 Applicability

Any use which is permitted or permissible by exception in any land use district may be included in a PUD.

3.04.03 Standards and Criteria

- A. *Density of development.* The total number of dwelling units and/or the total floor area shall not exceed that permitted in the equivalent land use district based on the uses proposed, or as approved by the Town Council.
- B. *Open space.* The open space area shall be recorded upon the final development plan of the PUD. The open space shall be utilized as a park, for either passive or active recreation or as a conservation area. The open space

shall either be dedicated to a public government entity or be maintained by a community association composed of residents of the PUD. Land recorded as open shall not be encroached upon by any residential, commercial or industrial primary or accessory use.

C. *Waiver of yard, dwelling unit, frontage criteria, and use restriction.*

Minimum yard, lot size, type of dwelling unit, height and frontage requirements and use restrictions are waived for the PUD, provided the spirit and intent of the Zoning Ordinance is complied within the total development of the PUD.

D. *Project size.* A PUD shall consist of a minimum of two (2) acres.

E. *Access.* Access to each single family dwelling unit shall be provided via either a public right-of-way or a private vehicular or pedestrian way owned by the individual lot owner in fee or in common ownership with the residents of the PUD.

3.05.00 LANDSCAPING, BUFFERS, AND TREE PROTECTION

3.05.01 Purpose and Intent

It is the purpose of this section to promote the public health, safety and general welfare, conserve water resources, minimize the negative environmental impacts of landscape maintenance, provide an aesthetic balance to manmade urban settings, protect and preserve native tree species, and minimize loss of trees to development by:

- A. Establishing minimum standards for the design, installation, and maintenance of landscaped areas that are consistent with the water-efficient landscaping principles and practices of The Florida Yards and Neighborhoods Program;
- B. Providing specific guidelines for landscaping, fertilization, and use of pesticides;
- C. Establishing specific guidelines for landscape buffers that will improve the appearance of the Town, buffer adjacent incompatible uses, and screen vehicular movement from pedestrian and public view; and
- D. Establishing minimum standards for tree maintenance that will provide shade for ground surfaces, provide for protection and preservation of trees, and ensure a minimum number of trees on any lot or parcel.

3.05.02 Scope and Applicability

- A. *Applicability.* This ordinance shall be a minimum standard and shall apply:
 - 1. To all new construction landscape within the incorporated areas of the Town;
 - 2. To the expansion or renovation of any existing development when the expansion or renovation of the existing development is equal to twenty-five percent (25%) of the assessed value of the lot improvements according to the Property Appraiser or when the

total square footage of a structure is expanded by twenty-five percent (25%) or greater; and

3. To all existing landscape that is renovated, changed, or altered if the renovation, change, or alteration of the landscape involves twenty-five percent (25%) or more of the landscape.

B. *Exemptions.* This ordinance shall not apply to the following:

1. Non-invasive food plants on residential properties;
2. Licensed plant or tree nurseries or botanical gardens with respect to those plants and trees that are planted and grown for sale to the general public in the ordinary course of the licensed business or for public purposes;
3. The Town of Marineland or its authorized agents for the purpose of removal of a tree on Town-owned property that is dead or a hazard to the public;
4. Utility companies or their authorized agents for the purpose of removal of a tree that is a substantial hazard to overhead wires or for trimming that is necessary to establish or maintain service;
5. The trimming or pruning of trees;
6. The removal of underbrush and removal of trees less than four (4) inches DBH;
7. The removal of trees or plants identified as noxious, invasive, or ill-suited for the property in accordance with the Florida Yards & Neighborhoods Handbook; and
8. Removal of a dead or diseased tree, as attested to by the County forester or a certified arborist.

C. When an adjoining or abutting property is rezoned, the burden of providing a buffer during subsequent development shall be with the property being developed and not the property that has remained unchanged.

D. During a declared emergency, such as a hurricane, tropical storm, flood, severe windstorm or other act of God, the Town Administrator may temporarily waive the requirements of this section to allow for cleanup.

3.05.03 Specifications for Landscaping and Buffers

A. Landscaping installation

1. Canopy trees shall not be installed under any overhead utility line, over any buried utilities, or within any utility easement.
2. Trees shall be properly guyed, braced, or staked at the time of planting to ensure establishment and erect growth of the tree. Nail staking or other methods that cause cosmetic or biological damage to the tree are prohibited. Trees shall be re-staked within twenty-four (24) hours in the event of a failure in the staking or guying. Stakes shall be removed not later than twelve (12) months after installation.

B. Landscape area requirements

1. All lots shall have at least one (1) canopy tree per 3,000 square feet of land area within the lot or parcel, or fraction thereof.
2. Multifamily residential, office, commercial, or public land uses shall devote a minimum of fifteen (15) percent of the total developed area to pervious landscape areas.
3. Industrial land uses shall devote a minimum of ten (10) percent of the total developed area to landscape development.
4. Credit for existing trees. The requirement set forth in Section 3.05.03(B)(1) – (3) may be met, in part, through the preservation of existing trees in accordance with the following schedule:

DBH of existing tree	Credit
4 to 6.9	1
7 to 10.9	2
11 to 14.9	3
15 to 19.9	4
Over 20	1 credit for each 3.5 inches DBH

3.05.04 Tree Protection

A. Prohibitions

1. No authorization shall be granted to remove a protected tree where the developer or property owner has failed to take reasonable measures to design and locate the proposed improvements so that the number of protected trees to be removed is minimized.
2. In conjunction with any development, building or land clearing: It shall be unlawful for any person to cause, authorize, assist or permit the removal of or damage to any protected tree; or to root rake, grade or permit the movement or storage of equipment, material, debris or fill within the drip line of any protected tree which is not authorized or approved for removal in accordance with the provisions of this section.

B. Protected trees and any tree four (4) inches DBH or more that is proposed to be preserved shall be identified on a tree survey submitted with an application for site plan approval, application for a building permit where site plan approval is not required, or an application for a permit authorizing tree removal. Requirements for preparation and submittal of the tree survey and for application for a tree removal permit are set forth in Section 10.02.00.

C. In the event that authorization is granted to remove a protected tree, replacement trees shall be planted in accordance with the Florida Yards & Neighborhoods Handbook.

D. Heritage trees.

1. Generally

- a. All heritage trees (any hardwood tree or cedar tree that is twenty-four (24) inches or larger DBH) are protected.

- b. Removal of a heritage tree shall be subject to the permitting requirements and limitations of Section 10.02.03 and the additional permitting requirements of this section.
 - c. When a heritage tree is removed in accordance with a permit issued pursuant to the requirements and limitations of Section 10.02.03 and this section, the heritage tree shall be replaced on an inch-for-inch basis. (This means, for example, that removal of a twenty-four (24) inch DBH heritage trees requires the planting of replacement trees with a total DBH of twenty-four (24) inches.)
 - d. Any individual who removes a heritage tree without a permit shall be required to plant twice the otherwise-required replacement trees. If replacement trees cannot be planted and maintained on the site, they shall be planted and maintained on such public or authorized private land as directed by the Town Council.
 - e. Trees planted for replacement of a heritage tree shall be a minimum of six (6) inches DBH.
2. *Exemptions.* The following shall be exempt from the tree removal permitting requirements of Section 10.02.03 and this Section:
- a. The removal of any heritage tree during or following a declared emergency or an act of nature, when the Town Administrator determines that permitting requirements will hamper private or public work to restore order to the Town.
 - b. The removal of any heritage tree which the Town Administrator finds to be in such a hazardous or dangerous condition as to endanger the public health, welfare, or safety and therefore to require immediate removal.
 - c. The removal of any heritage tree from a utility easement or road right-of-way which the Town Administrator finds to be interfering with the safe and proper use of such easement or right-of-way
- E. Protective measures.
1. Protective are required during site development in order to assure the health and survival of protected trees and heritage trees. Protective measures are required to avoid:
 - a. Mechanical injuries to roots, trunk, and branches;
 - b. Injuries by chemical poisoning; injuries by grade changes;
 - c. Injuries by excavations; and
 - d. Injuries by paving.
 2. A circular tree protection zone shall be established around each protected tree and heritage tree as follows:
 - a. If the drip line is less than six (6) feet from the trunk of the tree, the zone shall be that area within a radius of six (6) feet around the tree.

- b. If the drip line is more than six (6) feet from the trunk of the tree, but less than twenty (20) feet, the zone shall be that area within a radius of the full drip line around the tree.
 - c. If the drip line is twenty (20) feet or more from the trunk of the tree, the zone shall be that area within a radius of twenty (20) feet around the tree.
3. All development activities shall be prohibited within the tree protection zone, including any construction of buildings, structures, paving surfaces, stormwater retention or detention ponds, and temporary construction activities, including all digging, storage of construction material, and parking of construction vehicles.
 4. Prior to the commencement of construction, the tree protection zone shall be enclosed within a fence or similar barrier as follows:
 - a. Wooden posts, at least 1.5 by 3.5 inches, shall be implanted in the ground deep enough to be stable and with at least three (3) feet visible above ground.
 - b. The wooden posts shall be placed not more than six (6) feet apart, and shall be linked together by a rope or chain.
 5. Permitted activities within the tree protection zone:
 - a. Excavating or trenching by utilities service providers for installation of underground utilities. Underground utilities shall be no closer to the tree than ten (10) feet.
 - b. Placement of ground covers, and the preparation of the ground surface for such covers.

3.05.05 Florida Yards and Neighborhoods Requirements

- A. *Irrigation.* Installed in-ground irrigation systems are prohibited. All landscapes shall be designed to exist predominantly on rainfall once plants are established.
- B. *Fertilization.* No synthetic fertilizer shall be used on the landscape. Non-synthetic fertilizer may only be used in accordance with the Florida Yards & Neighborhoods Handbook.
- C. *Pesticides.* Only biological and biorational pesticides (such as horticultural oils and insecticidal soaps) may be used on the landscape. Products that contain both herbicides and fertilizer together are prohibited and shall not be used on the landscape.
- D. *Soil.* To provide healthy soils able to support minimal input landscapes, existing soils and vegetation shall be preserved to the greatest extent practical and compaction of soils shall be minimized during construction. Any compaction of landscape areas occurring during construction activities shall be mitigated before planting by tillage, aeration, and/or application of organic soil amendments.
- E. All landscaping materials, including trees, shrubs, and ground cover shall be consistent with the “Right Plant, Right Place” principles in accordance with the Florida Yards & Neighborhoods Handbook.

- F. All new construction landscape shall meet the requirements for certification as a Florida-friendly Yard.
- G. Before a Certificate of Occupancy may be issued, the property owner or their representative shall submit documentation that the landscape for the property is certified as a Florida-friendly Yard.
- H. Upon sale or transfer of title to property certified as a Florida-friendly Yard, the new property owner shall obtain recognition of the landscape at the Golden Oak recognition level within one (1) year of the date of sale or transfer of title.

3.06.00 STORMWATER MANAGEMENT REQUIREMENTS

- A. The applicant shall demonstrate compliance with the rules of the St Johns River Water Management District governing the discharge of stormwater from the site.
- B. Additionally, the applicant shall demonstrate that the post-development load for total nitrogen and total phosphorus discharged from the project area will not exceed the undeveloped natural load for total nitrogen and total phosphorus discharged from the project area.
- C. If compliance with this requirement cannot be met through compliance with the rules of the SJRWMD, then the applicant shall provide additional stormwater treatment.
- D. In providing any additional stormwater treatment necessary, the applicant shall utilize low impact development practices and technologies, including but not limited to rain gardens, green roofs, exfiltration systems, bioretention swales, cisterns, and pervious pavement, which may be interconnected in treatment trains flowing from one low impact development practice or technology into the next to increase nutrient removal efficiencies.
- E. If low impact development practices and technologies are inadequate or infeasible, the applicant may meet this requirement by increasing capacity in the centralized stormwater treatment system.

3.07.00 SITE DESIGN STANDARDS FOR CLEAN MARINAS

3.07.01 Clean Marina Designation Requirement

Within 1 year of the commencement of operations, all applicants for land use approval to construct or operate a marina within the Town of Marineland shall initiate and achieve designation through the State of Florida Department of Environmental Protection "Clean Marina" Program.

3.07.02 Alternative Clean Marina Designation Option

In lieu of designation by the Department, the marina operator may demonstrate that it has met the requirements for designation as a Clean Marina by submitting a letter from a qualified professional stating that the requirements have been met, along with supporting documentation.

3.07.03 Continuing Duty to Maintain Clean Marina Designation

On an annual basis following designation as a clean marina under either option above, the owner/operator shall submit to the Town a letter from the Department or a qualified professional stating that the marina continues to maintain its status as a clean marina.

3.07.04 Duty to Provide Public Access

All marinas operated within the Town of Marineland shall make at least __% of the available slips open to the boating public on a first come/first serve basis at prevailing market rates.

3.08.00 DARK SKY REQUIREMENTS, LIGHTING, AND SEA TURTLE PROTECTION

3.08.01 Purpose and Intent

The purpose of these outdoor lighting regulations is to protect sea turtles and coastal marine life from harms associated with excessive outdoor lighting. In addition, these regulations are intended to protect people and property values within the Town of Marineland from the nuisance and harm of excessive outdoor lighting that may hinder or decrease night time visibility, create a hazardous glare that may affect automobile and vehicle drivers ability to optimally operate their vehicle in a safe manner, create blinding brightness that leaves unsafely dark shadowed areas, or create an artificial atmospheric glow that prevents residents of the Town from enjoying the night sky above their homes.

3.08.02 Scope and Applicability

A. Relation to Endangered Species Act.

Nothing in this article shall be construed to authorize or license any act prohibited by federal or state law, including the Endangered Species Act. Artificial lighting not otherwise regulated by this Section that may be in violation of the Endangered Species Act shall be reported to the United States Department of Interior, Fish and Wildlife Service, for resolution and enforcement under federal law.

B. Exemptions.

Specifically exempted from the regulations of this ordinance are temporary emergency lighting fixtures and public owned lighting fixtures that are aids to navigation, motion sensors and traffic control devices.

3.08.03 Regulations

A. General Requirements (All Uses).

1. All light fixtures shall be designed, positioned, shielded, or otherwise modified such that the source of light and any reflective surfaces of the fixture shall not be directly visible by a person who is in a standing position on the beach.
2. Lights shall not directly or indirectly illuminate the beach.
3. Tinted glass, or any window film applied to window glass that meets the shading criteria for tinted glass, shall be installed on all exterior windows of all buildings within the Town.

4. Lights illuminating signs shall be shielded or screened such that they do not illuminate the beach and the source of the light shall not be visible by a person who is in a standing position on the beach.
 5. To provide cohesiveness and uniformity, a lighting plan prepared by an architect or engineer licensed to practice in the state of Florida shall be submitted to the Town as part of an application for site plan or subdivision approval, and said professional shall:
 - a. certify that the lighting plans are compliant with the requirements of the design standards and regulations provided for herein; or
 - b. so certify to the extent said lighting plans are compliant with the requirements of the design standards and regulations provided for herein and provide a written explanation for any deviations.
- B. Commercial Uses.
1. All lighting levels shall comply with IESNA illuminance regulations.
 2. Commercial buildings and projects, including outparcels, shall be designed to provide safe, convenient and efficient lighting for pedestrians and vehicles. Lighting shall be designed in a consistent and coordinated manner for the entire project. Lighting shall be used to accent key architectural elements and/or to emphasize landscape features, and shall be designed and installed to avoid the creation of hot spots, glare, or a nuisance.
 3. All light fixtures shall be designed as dark skies lighting and shall be an integral design element that complements the design of the project through style, material or color. All light poles and fixtures shall be black, dark green or some similarly dark color that is consistent with the architectural design scheme of the property. Lighting of on-site buildings shall be limited to wall-washer type fixtures or up-lights, which do not produce spillover lighting or glare. Site lighting shall not incorporate floodlight fixtures mounted on building walls, roofs, or poles. Light fixtures shall be full cut off with zero light above 90 degrees.
 4. A light fixture (the pole and light source/fixture) shall be a maximum of 30 feet in height within any parking lot, and a maximum of 16 feet in height within any non-vehicular pedestrian area (with height being measured from the finished grade to the top of the light fixture).
 5. At service stations and convenience centers, lighting under awnings, canopies, porte-cocheres, etcetera, should be recessed. If not recessed, the box type or other lighting fixture shall be opaque on all sides (no light shall emanate from any side of the fixture). Additionally, the following lighting standards shall apply:
 - a. The light source shall be metal halide (a maximum of 250 watts) or fluorescent;

- b. The metal halide shall be phosphor coated when used with a clear flat glass lens, or may be clear when used with a diffused flat glass lens; and
 - c. The maximum foot-candle level shall be 30 fc (average maintained maximum) - see the IES Lighting Handbook, 8th edition, at Chapter 11, Figure 11-1, Part IV, Outdoor Facilities, Service Stations (lighting level at grade).
6. Illumination levels at the property line shall range between a minimum of 0.0 fc and a maximum of 1.0 fc, with as close to 0.0 fc as reasonably feasible when lighting is located next to residential. To keep light rays and glare from encroaching onto adjacent properties, illumination shall be installed with house-side shields and reflectors, and shall be maintained in such a manner as to confine light rays to the premises. The applicant shall submit a photometric plan prepared by an engineer licensed to practice in the State of Florida to the Town as part of an application for site plan approval, and said professional shall certify that the lighting plans are complementary with landscaping plans and compliant with the requirements of this guideline.

C. Commercial Parking Areas.

Except for areas of service stations and convenience centers located under an awning, canopy, porte-cochere, etcetera, as noted in Section 3.08.03(B)(5) above, parking areas shall be illuminated as follows, with horizontal lamps highly recommended:

1. Parking area lighting shall be shielded from adjacent properties by utilizing flat glass lenses, houseside shields, and "NEMA" type II, III, and IV reflectors.
2. The lamp source shall be metal halide. Wattage shall not exceed 400 watts per bulb. Illumination levels shall range between a minimum of 0.6 fc to a maximum (outside a 20-foot radius from the pole) of 3.6 fc, not including overflow lighting in a transition zone adjacent to a service station and convenience center canopy.
3. Phosphor coated lamps shall be utilized in all fixtures where the lamp source is not hidden by the fixture housing or equipped with a diffused lens.

D. Pedestrian Walkways and Bikeways.

Pedestrian walkways and bikeways shall be illuminated as follows:

1. The lamp shall be decorative in appearance, style and finish and shall be consistent with the architectural standards of the surrounding area. Fixtures shall have the lamp source shielded from view. Translucent diffusers may be an acceptable substitute to avoid visual glare and brightness.

2. The lamp source shall be metal halide. Wattage shall not exceed 150 watts. Illumination levels shall range between a minimum of 0.5 fc to a maximum of 2.5 fc.
 3. Phosphor coated lamps shall be utilized in all fixtures where the lamp source is not hidden by the fixture housing or equipped with a diffused lens.
- E. Residential Uses.
1. No insufficiently shielded outdoor light fixture shall be installed.
 2. Any insufficiently shielded outdoor light fixtures shall be adapted to comply with this ordinance by adding a properly designed hood or shield, or by re-aiming the fixture.
 3. Outdoor light fixtures shall not be located within the side yard setbacks or within the rear yard setbacks or 20 feet of the rear property line, whichever is less. The total number of exterior lamps located in front of the house (defined as including the front facade of the main house and extending outward to the front property line) shall be no more than 10 lamps, and the total number on the entire property shall be less than 15.
 4. Security Lighting.
Security lighting shall be controlled and activated by infrared sensors, motion sensors, a security alarm system or a panic button.
 5. Decorative Lighting.
 - a. Whenever practicable, accent, architectural or building lighting shall be directed downward onto the building or object and not toward the sky or onto adjacent properties. Direct light emissions shall not be visible above the roof line or beyond the building/object edge.
 - b. Any accent, architectural or building lighting that is not regularly turned off by 10 p.m. shall be equipped with an automatic timer to ensure that it is off by 11 p.m.
 - c. Spotlighting on landscaping and foliage shall be sufficiently shielded and confined to the target landscaping.
 6. Enforcement.
Residential Lighting may be enforced on the basis of a valid, formal complaint filed in writing to the Town Administrator or his designee.

3.08.04 Appeals

Any applicant aggrieved by any order, requirement, decision or determination of the enforcement official in the enforcement of this article, shall have the right to appeal the order to the Town Administrator or his designee.

3.09.00 GREEN BUILDING REQUIREMENTS

3.09.01 Purpose and Intent

The Town of Marineland is committed to minimizing the short term and long term negative impacts construction has on the environment. The intent of this

section is enhance the public welfare by incorporating green building measures into the design, construction, and maintenance of buildings in order to provide owners and occupants of residential homes, commercial buildings, offices, industrial buildings, and mixed use developments with energy and water savings, good indoor air quality, and healthy, pleasant, and productive surroundings. A further intent of this section is to benefit the community by having buildings constructed that are resource-efficient and conserve energy.

3.09.02 Findings

The Town of Marineland finds that:

- A. Green building practices recognize the relationship between natural and built environments. Green building design, siting, construction, and operation can have a significant positive effect on energy and resource efficiency, reduction of waste and pollution generation, and the health and productivity of a building's occupants over the life of the building. This is a critical component of sustainable development that meets the needs of the present without compromising the ability of future generations to meet their own needs.
- B. Green building benefits are spread throughout the systems and features of the building. Green buildings may use recycled content building materials, consume less energy and water, have better indoor air quality, and use less wood fiber than conventional buildings. Construction waste is often recycled and remanufactured into other building products, resulting in reduced landfill impacts.
- C. Design, siting, and construction decisions made by the Town in the construction and remodeling of Town buildings can result in significant energy cost savings to the Town over the life of the buildings.
- D. Green building design, siting, construction, and operational techniques have become increasingly widespread in commercial and residential building construction. National and regional systems have been established to serve as guides and objective standards for green building practices. The U.S. Green Building Council has established the Leadership in Energy and Environmental Design (LEED) rating systems for construction projects.

3.09.03 LEED Requirements for New Construction

All new construction projects within the Town of Marineland shall achieve a minimum of LEED certified status under the appropriate version of LEED unless exempted under the procedures established by this section. New construction projects shall strive for LEED platinum certification under the appropriate version of LEED.

A. Applicable Version of LEED.

1. A construction project of any size consisting of a new commercial building, office building, industrial building, or mixed used building that combines residential use with commercial or industrial use shall proceed for LEED certification under the version of LEEDNC presently adopted by the Town.

2. A construction project consisting of a multifamily residential building with four (4) or more stories shall proceed for LEED certification under the version of LEEDNC presently adopted by the Town.
3. A construction project that consists of a single family home, single family homes, or a multifamily residential building less than four stories shall proceed for LEED certification under the version of LEEDHOMES presently adopted by the Town.

B. LEED Checklist.

1. Every applicant who files a building permit application for construction of a new building shall provide to the Town Administrator:
 - a. a completed LEED checklist demonstrating which credits the project will complete; and
 - b. the registration of the proposed project with the United States Green Building Council.
2. The Town shall not issue either a land development permit or a building permit unless the LEED checklist demonstrates that the proposed building will achieve enough points to attain at a minimum LEED certified status.
3. The Town will not issue a permanent certificate of occupancy unless and until the applicant produces verifiable documentation from USGBC affirming that the project is at minimum LEED certified. However, upon completion of construction, satisfactory inspection by the Town building inspector or his designee and confirmation that all documentation has been submitted for required certification, the Town building inspector or his designee may issue a temporary certificate of occupancy. Upon issuance of a temporary certificate of occupancy, the applicant shall pay a fee to ensure successful completion of the certification as set forth below. If the developer achieves certification status, the fee paid shall be refunded to the applicant. The fee is defined in the table below:

Table 3.09.03 Fee Schedule

Refundable Certification Fee	Less than 50,000 square feet	More than 50,000 square feet
	\$0.26/square foot	\$17,500.00

C. Green Building Certification.

1. Compliance and enforcement.

The building inspector or his designee shall determine whether the requirements listed on the LEED checklist are implemented at each stage of construction, including at the foundation inspection, framing inspection, and prior to issuance of a final certificate of occupancy. The building inspector or his designee may conduct other inspections, as needed, to ensure compliance with this chapter. The building inspector or his designee shall review the information submitted by the applicant and determine whether the applicant will achieve the required certification as set forth herein. If the building inspector or his designee finds that the

applicant is not reasonably expected to achieve LEED certification, the building inspector or his designee shall make the following findings:

- a. If the covered project has not met the requirements for certification as set forth herein, whether the applicant has made a good faith effort to comply with the ordinance;
- b. If the applicant has not made a good faith effort to comply, or if the applicant fails to submit the documentation within the time period as set forth in the regulations, or fails to submit such documentation within a reasonable time period as determined by the building inspector or his designee, whether the final building permit approval or certificate of occupancy should be withheld;
- c. If the applicant has not complied with this section, whether the applicant should be required to undertake further actions to mitigate this noncompliance.

3.09.04 Infeasibility Exemption

The building inspector or his designee may issue an exemption from any of the requirements of this section upon finding that circumstances exist that make it a hardship or infeasible for the applicant to meet those requirements. The burden shall be on the applicant to show circumstances to establish infeasibility. These circumstances may include, but are not limited to:

- A. The availability of markets for materials to be recycled;
- B. The availability of green building materials and technologies; and
- C. The compatibility of green building requirements with existing building standards.

3.09.05 Appeals.

Any applicant may appeal to the Town council the determination of noncompliance