

FOOTNOTE(S):

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State Law reference— Local Government Comprehensive Planning and Land Development Regulation Act, F.S. § 163.3161 et seq.

ARTICLE I. - IN GENERAL

Sec. 34-1. - Short title.

This chapter shall be known and cited as the Town of Juno Beach Comprehensive Zoning Ordinance.

(Ord. No. 207, § 1.10, 8-8-1979)

Sec. 34-2. - Purpose.

The purpose of this chapter is to establish comprehensive controls for the development of land in the town based on the comprehensive plan for the town and enacted in order to protect, promote and improve the public health, safety, morals and the general welfare of the people. The objectives of this chapter are to provide for: efficiency and economy in the ~~process of development~~ process; the appropriate and best use of land; preservation, protection, development and conservation of the natural resources of land, water, and air; convenience, traffic and circulation of people and goods; the use and occupancy of buildings; healthful and convenient distribution of population; adequate public utilities and facilities; promotion of the civic amenities of beauty and visual interest; promotion of planned unit developments as a means of achieving better land use and design; and development in accordance with the comprehensive plan. To accomplish these purposes, the town council shall divide the entire town into districts of such number and shape as may be deemed best suited to carry out the purpose of this chapter, and within these districts may regulate, determine and establish:

- (1) Height, number of stories, size, bulk, location, erection, construction, repair, reconstruction, alteration and use of buildings and other structures, for trade, profession, residence and other purposes;
- (2) Use of land and water for trade, profession, residence and other purposes;
- (3) Size of yards, and other open spaces;
- (4) Percentage of lot that may be occupied;
- (5) Density of population;
- (6) Conditions under which various classes of nonconformities may continue, including authority to set fair and reasonable amortization schedules for the elimination of nonconforming uses;
- (7) Use and types and sizes of structures in those areas subject to seasonal or periodic flooding and/or storm damage so that danger to life and property in such areas will be minimized;
- (8) Performance standards for use of property and location of structures thereon;
- (9) Architectural design of structures.

All such regulations shall be uniform throughout each district, but the regulations in one district may differ from those in other districts. For each district designated for the location of trades, callings, commercial enterprises, residences or buildings designated for specific use, regulations may specify those uses that shall be excluded or subjected to reasonable requirements of a special nature.

(Ord. No. 207, § 1.20, 8-8-1979)

Sec. 34-3. - Intent.

- (a) The intent of this chapter is that it be inclusionary; permitted uses, accessory uses, and special exception uses specifically stated for each zoning district shall be the only uses permitted. Any use proposed within any given zoning district which is not a stated use within said district is expressly prohibited, subject to the provisions of Section 34-242.
- (b) In addition, unless specifically stated to the contrary in this chapter, all other town ordinances, resolutions and other regulations shall be complied with.

(Ord. No. 207, § 1.30, 8-8-1979)

Sec. 34-4. - Definitions.

For the purposes of this chapter, the following terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural; and the plural the singular; the term "used for" shall include the meaning "designed for"; the term "structure" shall include the term "building"; the term "lot" shall include the terms "plot" and "tract"; the word "shall" is mandatory and not directory.

Accessory apartment means a second dwelling unit, either in, detached from, or added to a single-family detached dwelling, for use as a complete, independent living facility. Such a dwelling unit is an accessory use to the main dwelling unit, and shall not be counted when calculating density for property in the district if the accessory apartment is 750 square feet or less in living area. An accessory apartment shall have a maximum living area (air conditioned space) of 500 square feet when the lot area is less than 10,000 square feet, and shall be permitted a maximum 1,250 square feet of living area when the lot area is 10,000 square feet or more. However, the Saturn Lane Historic District shall be permitted a maximum living area of 750 square feet and shall have no minimum lot size requirement.

Accessory use or building means a subordinate use or building customarily incidental to and located upon the same lot occupied by the main use or buildings; including public or private utilities serving the main use or building. Accessory use is also known as secondary use.

Acre means, for the purpose of calculating dwelling units, an area or parcel of land containing 43,560 square feet.

~~*Adult day care home* means a residence in which basic health services are provided for one to five adults, 18 years of age or older, not related by blood or marriage and who require such services for part of a 24-hour day. Such residence shall meet all licensing requirements of the state department of elder affairs and operate in accordance with F.A.C. ch. 58A-6.~~

Airline route means the distance measured on a map from one location to another.

Aisle means a roadway within a parking lot.

Alley means a right-of-way or easement which affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

Alteration means any change in size, shape, occupancy, character, or use of a building or structure.

Architectural feature means a structural or decorative feature which enhances design quality and is consistent with the overall architectural design of the structure on which it is placed and all other structures on the site. Such architectural features include, without limitation, roof structures, wall caps, windows, varying forms, planters, and similar quality design features.

Area regulations means the regulations of building size, setbacks or yards, parking and loading requirements and similar regulations not determining use of property.

Foster care home means a residence licensed by the state department of children and family services which houses foster residents and provides a family living environment for the residents, including such supervision and care as may be necessary to meet the physical, emotional and social needs of residents and serving either children or adult foster residents.

Frontage means ~~all the property on one side of a street or a place between two intersecting streets or places measured along the line of the street or place, or if the street or place is dead-ended, then all of the property abutting on one side between an intersection street or place and the dead end of the street or place~~ all or a portion of a lot line which directly abuts a public or private right-of-way, excluding alleys and private driveways.

Fuel service station means a retail establishment which primarily sells, dispenses and installs gasoline and automotive lubricants and products. Such establishments may include the sale of typical convenience store items.

Garage, private, means a building or space used as an accessory to or part of a main building permitted in any residential district, and providing for the storage of motor vehicles and in which no business, occupation or service for profit is in any way conducted.

Garage, storage, means any building or premises, other than a private garage, used exclusively for the parking or storage of motor vehicles.

Ground cover means material such as, but not limited to, grass, rocks, pebbles, mulch and tree bark.

Group home means one of the following: a foster care home, a family care home, or family day care home, ~~or adult day care home.~~ These group homes are provided for pursuant to the requirements of F.S. chs. 402, and 419 and 429 and shall not include substance abuse treatment providers licensed pursuant to F.S. ch. 397.

Gym. See Health spa/gym

Habitable space means all that interior living space in a dwelling unit which is provided with heating and/or air conditioning facilities such as to render the space habitable in all seasons and weather.

Health spa/gym means an enclosed facility or spa providing equipment, classes, instruction, and similar assistance for conducting a variety of activities designed to improve health and physical fitness, including but not limited to, aerobic exercise and dancing, massage, weight lifting, running, swimming, racquetball, basketball, weight reduction and similar activities. Accessory uses, limited to patrons of the facility, include babysitting and food and beverage services.

Helistop means a designated public or private landing area used for the operation of motorcraft where no basing facilities are provided.

Holiday decorations means a display, including lighting and ornamentation, which is a nonpermanent installation celebrating national, state, and local holidays or holiday seasons.

~~*Homeowners' association* means an entity created by a recorded instrument providing for the operation and maintenance of commonly owned facilities or common open space.~~

Hot tub/whirlpool means a small swimming pool with a maximum of thirty-six (36) square feet in surface area.

Hotel/motel means a building or a group of buildings, or part thereof in which sleeping accommodations are offered to the public on a daily basis, regardless of the number of rooms, and which may include as well additional services such as restaurants, meeting rooms, and recreational facilities; as distinguished from transient residential facilities.

Impervious means land surfaces which do not allow the penetration of water including paved roads, sidewalks, driveways, parking lots and highly compacted areas including shell and clay.

Individual freestanding retail use means a retail use located in a freestanding building which contains only one retail business and which is not part of any retail center.

Interior lots (RV park). See section 34-566(c) for definitions.

separate, habitable building or structure. Examples are awnings, cabanas, garages, ramadas, storage structures, carports, fences, windbreaks, or porches.

Medical marijuana dispensary means a facility that is operated by an organization or entity holding all necessary licenses and permits from which marijuana, cannabis, cannabis-based products, or cannabis plants are cultivated, delivered, purchased, possessed, or dispensed for medical purposes and operated in accordance with all applicable laws, regulations, and ordinances.

Mechanical equipment means and includes but is not limited to heating, ventilating, air conditioning, and pool equipment machinery; fuel oil and propane tanks; accessory communications equipment such as signal sending and receiving dishes, etc.; public utility service fixtures, including telephone, telegraph, electricity, natural or propane gas, potable water, and sewer facilities; and elevator facilities.

Minor structure means and includes pile-supported, elevated dune and beach walkover structures, beach access ramps, walkways and stairways; viewing platforms; gazebos, boardwalks, slab patios, and other paved areas not exceeding 144 square feet in area; sand fences, privacy fences; and lifeguard support stands.

Municipally owned or operated refers to the municipality of the Town of Juno Beach.

Neighborhood parks means areas typically less than five acres which serve neighborhood-type recreational needs.

Nonconforming lot means a lot which was of lawful area and dimension when platted but, due to the creation of or revisions to this chapter, no longer conforms to the current regulations of the district or zone in which it is situated.

Nonconforming structure means a structure which was lawfully existing when constructed but which, due to the creation of or revisions to this chapter, no longer conforms to the area regulations of the district or zone in which it is situated.

Nonconforming use means a use which was permitted when instituted but which, due to the creation of or revisions to this chapter, no longer conforms to the current regulations of the use district on which it is situated.

Occupant means a business or entity occupying a building or building space. Such business or entity shall be considered as one occupant, regardless of the number of business tax receipts held by any one business or entity.

Offices, medical and dental means outpatient establishments offering patients medical services, examinations and treatments by professionals trained in healing or health-related practices, including, but not limited to, medical doctors, dentists, chiropractors, osteopaths, podiatrists, optometrists, or any similar profession licensed by the state, as well as those technicians and assistants who are acting under the supervision and control of an on-site licensed health care practitioner. These uses shall not include establishments where patients are provided services or otherwise lodged overnight and are subject to the additional regulations set forth in article IV, division 15 of this chapter.

Offices, professional, means establishments providing executive, management or professional services to the public, including but not limited to the following: advertising services; business offices of private companies; business offices of utility companies; public or nonprofit agencies; trade associations; employment offices (excluding day labor and labor pool services), professional or consulting offices for accounting, architecture, computer technology, design, engineering, landscape architecture, law, urban planning and similar professions; property and financial management; real estate; telecommunication services; and travel agencies.

Open space means that area of a lot which is unencumbered by buildings, accessory structures, driveways, or automobile parking areas, except for garden walls and fences and recreational equipment as provided herein. Such space is to be generally maintained in a natural or cultivated living landscape.

Ornamental feature for fence/wall means a feature added to a fence or wall which enhances its design quality, that is consistent with the overall architectural design of the structure on which it is placed and the

principal structures on the site. Such ornamental features shall include decorative columns or posts, varying forms, planters, and similar quality design features (excluding wall caps).

Outbuilding means a building located separately from other buildings in a development, but within the same legally described parcel, and in which there is only one occupant.

Outparcel means a separate legally described parcel within a commercial development and on which there is only one occupant.

Outpatient substance abuse treatment provider includes the following licensed facilities as specifically listed in F.S. § 397.311(18): (a) day or night treatment on an outpatient basis only; (b) detoxification services on an outpatient basis only; (c) medication-assisted treatment for opiate addiction [addiction] on an outpatient basis only; and (d) outpatient treatment and intensive outpatient treatment.

Parapet means that portion of a wall which extends above the roofline.

Parking lot, public or private, means an open area or plot of land used for the storage or parking of motor vehicles to provide off-street parking, either for profit or gratis, for commercial or residential uses, other than single-family.

Parking required means those parking facilities determined as the minimum facilities necessary to comply with this chapter as set forth in the Schedule of Off-Street Parking Requirements in section 34-981(b)(5).

Perimeter lots (RV park). See section 34-566(c) for definitions.

Perimeter wall/fence means a wall or fence delineating the outer boundary or fringe of a development site.

Person means and includes all natural persons, individuals, public or private corporations, firms, associations, joint ventures, partnerships, municipalities, governmental agencies, political subdivisions, public officers or any other entity whatsoever, or any combination of such, jointly or severally.

Pharmacy is an establishment primarily engaged in the retail sale of a variety of prescription and non-prescription drugs and medicines, prosthetic supplies, surgical instruments and supplies, and sale and/or rental of aids for invalids. This use is subject to the additional regulations set forth in article IV, division 15 of this chapter.

Pier means a structure extending into navigable water for use as a landing place, promenade or fishing.

Pioneer zone means the seaward side of the dune where grasses such as sea oats, vines such as railroad vine, and other low-lying plants are dominant.

Pool equipment machinery. See Mechanical equipment.

Principal entrance means the main access to a building through which the majority of patrons enter.

Proportional (tower). See Tower, proportional.

Rear building facade means the elevation of a building providing for restricted entry to employees and servicing only and/or which facade is different from the other facades and clearly represents the rear of the building.

Recreational vehicle (RV) means as defined by F.S. §§ 320.02(1)(b) and 513.01(9).

Residence, adult extended care, means a dwelling unit for elderly adults who may require extended medical care, and/or personal attention. Such unit shall exist only in a comprehensive adult care facility which shall include on-site health care facilities. Such residence is not considered a dwelling unit.

Residential areas includes all areas in the town so zoned by this chapter. Furthermore, for the purpose of this chapter, a residential condominium shall be deemed a residential area regardless of the zoning district in which it is located.

Residential substance abuse treatment provider includes the following licensed providers or facilities as specifically listed in F.S. § 397.311(18), providing overnight services: (a) day or night treatment with

Tree means a woody plant having a height of not less than 12 feet and a canopy spread of not less than ~~ten~~ six feet measured at three radius points from the trunk, and a clear trunk of not less than ~~six~~ four feet at the time of planting.

Use means the purpose for which land or water or a structure thereon is designed, arranged, or intended to be occupied or utilized or for which it is occupied or maintained. The use of land or water in the various zoning districts is governed by this chapter.

Utility trailer means a trailer used to haul and carry anything other than a boat.

Variance means a relaxation of the terms of this chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship on the land. As used in this chapter, a variance is authorized only for height, area, and size of structure or size of yards, parking requirements and other area requirements and open spaces. Establishment or expansion of a use or density otherwise prohibited or not permitted shall not be allowed by variance.

~~*Vegetation line* means the extreme seaward boundary of natural, native terrestrial vegetation which spreads continuously inland. It includes the line of vegetation on the seaward side of dunes or mounds of sand typically formed along the line of highest wave action, and, where such vegetation line is clearly defined, the same shall constitute the vegetation line. In any area where there is no clearly marked vegetation line, recourse shall be had to the nearest clearly marked line of vegetation on each side of such area. The vegetation line for the unmarked area shall be the line of constant or average natural elevation connecting the two clearly marked lines of vegetation on each side. Such line shall not be affected by occasional springs of grass seaward from the dunes and shall not be affected by artificial fill, the addition or removal of turf, or by other artificial changes in the natural vegetation in the area. Where such changes have been made, and thus the vegetation line has been obliterated or has been created artificially, the line of vegetation shall be reconstructed as it originally existed, if such is practicable; otherwise, it shall be determined in the same manner as in other areas where there is no clearly marked vegetation line.~~

Vehicle means as defined by F.S. ch. 316.

Vehicle repair facility means a retail establishment where vehicle minor and/or vehicle major repairs are rendered.

Vehicle minor repair means installation of auto parts such as tires, batteries and similar items (e.g., brakes, mufflers, etc.) and provision of routine services such as tune-ups and lubrication, etc.

Vehicle major repair means body repair, painting, engine or transmission removal, valve and cylinder work, etc. Vehicle major repair facilities are prohibited in all zoning districts within the town as such uses are not deemed to be acceptable retail establishments, which are permitted within certain zoning districts in the town.

Viewing platform means a raised wooden deck area which may include railings, benches, and a roofed structure (e.g., tiki hut).

Vines means plants which normally require support to reach mature form.

Walkway means a surface adjacent to a building which is intended to be used by pedestrians.

Yard means a required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure except roof overhang, from 30 inches above the general ground level of the graded lot upward, except as otherwise provided herein; provided, however, that fences, walls, vegetation, poles, posts and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility. The term "court" means an uncovered open space enclosed on two or more sides by external walls of a building.

Yard, front, means a yard adjacent to a street and extending across the entire front of the lot to the face of the building wall closest to the front property line or the required front yard setback, whichever is greater. Through lots extending through blocks in such a way as to have frontage on two public or private streets shall provide front yards adjacent to each street. The depth of required front yards shall be measured perpendicular to a straight line joining the foremost points of the side lot lines. The foremost points of side

5. Is planned in accordance with natural characteristics of the land, including but not limited to slope, elevation, drainage patterns (low areas shall be used for lakes or drainage easements), natural vegetation and habitats, and unique physical features;
 6. Preserves environmental features and native vegetation to the maximum extent possible, and complies with the Environmentally Sensitive Lands Ordinance;
 7. Protects estuarine areas when concerning marina siting, drainage plans, alteration of the shoreline, provisions for public access and other concerns related to water quality and habitat protection;
 8. Complies with all sections of this chapter.
- b. Appearance review criteria.
1. Is of an architectural style representative of or reflecting the vernacular of Old Florida style which is indigenous to the town and which is commonly known and identified by its late Victorian (Key West Cracker), Spanish revival (Mediterranean), Modern (early to mid-20th century), or combination thereof style of architecture. Summarized briefly, common features of the vernacular of Old Florida style that identify the Victorian (Key West Cracker), and Spanish revival (Mediterranean) architectural style include wood or concrete block with stucco siding; simple pitched roofs; tile, metal, or asphalt roofs; ornate details such as but not limited to exposed soffits, individualized vent and louver shapes, reliefs, and detailed window and door treatments; lush landscaping with private yards; and use of porches, balconies and patios. Common features of the vernacular of Old Florida Style that identify the Modern (early to mid-20th century) architectural style include clean geometric lines, often at right angles; an emphasis on function; materials such as glass, steel, iron, and concrete; and the use of natural light though large and expansive windows;
 2. Is of a design and proportion which enhances and is in harmony with the area;
 3. Elevator and stairwell shafts and other modern operations and features of a building shall be either completely concealed or shall incorporate the elements of the architectural style of the structure; rooftop equipment and elevator and mechanical penthouse protrusions shall be concealed; and parking garages and other accessory structures shall be designed with architectural features and treatments so that they are well proportioned and balanced and in keeping with the architectural style of the principal structure;
 4. Shall have all on-site structures and accessory features (such as but not limited to light fixtures, benches, litter containers, including recycling bins, traffic and other signs, letter boxes, and bike racks) compatible in design, materials, and color;
 5. Shall have a design in which buildings over 40 feet in height shall appear more horizontal or nondirectional in proportion rather than vertical, accomplished by the use of architectural treatments as described in these criteria;
 6. Shall locate and design mechanical equipment with architectural treatments so that any noise or other negative impact is minimized; and
 7. Complies with the town's community appearance standards (see article IV, division 14 of this chapter).

(Ord. No. 207, § 11.20, 8-8-1979; Ord. No. 517, 12-1-1999; Ord. No. 678, § 2, 12-10-2014)

Sec. 34-117. - Submission requirements.

Each site plan and appearance approval request shall include the items stated in the town's site plan and appearance approval checklist which is part of the town's development application form, as it may be

amended by the director from time to time. The development application form is available at the office of the planning and zoning department. When applicable, all plans submitted pursuant to this division shall require a state registered/licensed architect, engineer, and/or landscape architect seal with signature.

(Ord. No. 207, § 11.30, 8-8-1979)

Sec. 34-118. - Minor amendment to a previously approved site plan and appearance approval.

A minor amendment to a previously approved site plan and appearance approval may be approved by the director. The director shall make a written determination as to the approval, denial, or approval with modifications and/or conditions within 30 calendar days after the director has determined that the application and required supporting materials have been filed and are complete. A minor amendment shall be approved only if it meets the following requirements:

- (1) Any increase in the total floor area of any principal structure does not exceed ten percent, and there is no increase in the number of principal structures or in the number of residential dwelling units as specified by the previously approved site plan. However, a decrease in the total floor area of any building, or reduction of the number of principal structures, stories, or units as specified by the approved site plan may be approved as a minor amendment.
- (2) There is no change in the boundary of the approved plan.
- (3) Rearrangement of uses or locations on a property may be permitted unless they conflict with a specific provision herein or condition of the approved site plan.
- (4) There is a relocation of no more than ten percent of the total building footprint on a site. For example, if there are two buildings on a site and each has 5,000 square feet of building footprint, then the total building footprint for the site is 10,000 square feet.

If one building relocates 500 square feet and the other building relocates 1,000 square feet, then the total relocation is 1,500 square feet out of 10,000 square feet. This is a relocation of 15 percent of the total building footprint and would qualify as a major amendment under this provision.
- (5) Any increase in traffic generation shall be by no more than ten percent above that established by the site plan previously approved by town council. However, the county's traffic performance standards as specified in section 7.9 of the county Unified Land Development Code must be adhered to.
- (6) There is no increase in negative impacts on adjacent properties.
- (7) There is no major alteration in the architectural design. Major alteration in design shall mean any change in the character of the structure. However, an amendment to a previously approved site plan that was not reviewed under the current appearance criteria in section 34-116(2)b may be amended in architectural design to conform with the current appearance standards and not be considered a major alteration.

(Ord. No. 207, § 11.40, 8-8-1979; Ord. No. 434, 12-16-1992)

Sec. 34-119. - Expiration of approval.

- (a) A site plan and appearance approval shall be valid for two years from the date of such approval. If commencement of development has not begun prior to the date of two years following the approval date, said site plan and appearance approval shall become null and void. Commencement of development shall consist of receipt of a validly issued building permit and the first building inspection approval for a minimum of one principal structure or completion of 25 percent of the total cost of the infrastructure (water, sewer, roads, and drainage) on the site. Infrastructure costs for the project shall be reviewed and approved by the town engineer prior to final engineering plan approval.

- (b) Prior to the expiration of the two-year period, a one-year extension to commence development may be applied for with the town council. An extension may be granted upon a determination by the town council that the applicant has made a good faith effort to commence construction but has been prevented from doing so for reasons beyond the control of the applicant. The town council may, at the request of the applicant and in the exercise of its discretion, grant additional extension(s) pursuant to this paragraph when warranted by the totality of the circumstances.

(Ord. No. 207, § 11.50, 8-8-1979; Ord. No. 623, § 2, 8-26-2009)

Secs. 34-120—34-136. - Reserved.

DIVISION 5. - AMENDMENTS

Sec. 34-137. - Town council authority to amend the regulations and districts in this chapter.

The town council may amend the regulations and districts established in this chapter, subject to the requirements and procedures set forth in this division.

(Ord. No. 207, § 13.00, 8-8-1979; Ord. No. 450, 5-11-1994)

Sec. 34-138. - Initiation of procedure.

- (a) Except as provided herein, the zoning regulations set forth in this chapter may be amended, supplemented, changed or repealed in the same manner as other ordinances of the town, subject to applicable law. In addition, the planning and zoning board shall hold a public hearing on such matters. The public hearing shall be noticed in a newspaper of general circulation in the town a minimum of five days prior to the hearing.
- (b) A petition to designate a zoning classification or rezone any land within the town may be filed by the town or by the owner or authorized agent of the owner of property within the town. After the director has determined that a petition has been properly filed and is complete with all required supporting materials, the planning and zoning board shall set a date for a public hearing on the petition. The public hearing shall take place within 60 days of the determination by the director that a petition has been properly filed and is complete. All requirements of F.S. ch. 166 shall be followed in providing notice for a public hearing on such petition.
- (c) In addition to any statutory notice requirements applicable to a petition to designate a zoning classification or to rezone any property within the town, the town shall, as a courtesy, notify all property owners within 300 feet of the property subject to such a petition. The courtesy notices required by this section shall be sent by mail or provided by hand delivery. In addition to the courtesy notices described herein, the town shall require the property owner to post the notice on the property subject to a petition for rezoning. The notice shall be approved by the director and shall state:
 - (1) The proposed zoning district;
 - (2) The hearing dates when the petition is scheduled to be heard by the town planning and zoning board and by the town council, which date shall be at least 15 days after the date the notice is mailed and posted on the property; and
 - (3) That a copy of the rezoning petition is on file for inspection in the town planning and zoning department.

Except as otherwise required by F.S. ch. 166, failure of the town to provide either courtesy notices or to post a rezoning notice on the subject property shall not invalidate any action taken by the town on a petition.

county, department of transportation, South Florida Water Management District, department of environmental protection, or other agencies, as deemed necessary; and

- g. A de minimus development cannot be approved if property taxes are not current for any part or parent of a subject petition.

(Ord. No. 207, § 5.29, 8-8-1979; Ord. No. 383, 2-21-1990; Ord. No. 536, 5-9-2001)

Secs. 34-913—34-948. - Reserved.

DIVISION 3. - ADULT ENTERTAINMENT ESTABLISHMENTS

Sec. 34-949. - Intent; findings of fact; definitions.

- (a) Legislative intent. This division is intended to provide for the proper location of adult entertainment uses in order to protect the integrity of adjacent neighborhoods, educational uses, religious uses, parks and other commercial uses. Proper separation of adult entertainment uses prevents the creation of skid row areas that result from the concentration of these uses and their patrons. It is the intent of this division to limit the secondary effects of adult entertainment uses as set out in subsection (b) of this section. The standards in this division are intended to ensure that residential districts, religious uses, educational uses, parks and other commercial uses are located in areas free from the secondary effects of adult entertainment uses. The location of residential districts, religious uses, educational uses, parks and other commercial uses within viable, unblighted and desirable areas supports the preservation of property values and promotes the health, safety and welfare of the public.
- (b) Findings of fact. Based on the evidence and testimony which was presented originally to the board of county commissioners, at the time that the county adopted Ordinance No. 88-31 in reference to adult entertainment establishments, which is hereby incorporated herein by reference, and based upon the evidence and testimony presented at first reading and at the public hearing before the town council, including the findings incorporated in the Adult Entertainment Study for City of New York (November 1994) prepared by the Department of City Planning; Seattle Washington Director's Report of Department of Construction and Land Use on Proposed Land Use Code Text Amendment Adult Cabarets (1989); A Study of Land Use Regulation of Adult Entertainment Establishments prepared by the Springfield, Missouri, Department of Community Development (November, 1986); Report of St. Paul, Minnesota, entitled Effects on Surrounding Area of Adult Entertainment Businesses (June, 1978); Study and Recommendations for Adult Entertainment Businesses in the Town of Islip, New York, Department of Planning and Development (1980); and United States Attorney General's Commission on Pornography (1986), A Summary of a National Survey of Real Estate Appraisers Regarding the Effect of Adult Bookstores on Property Values, conducted by the Division of Planning, Department of Metropolitan Development, City of Indianapolis, January 1984; the town council hereby finds that:
 - (1) Commercial establishments exist or may exist within the unincorporated areas of the county, the town and adjacent municipalities, where books, magazines, motion pictures, prints, photographs, periodicals, records, novelties and/or devices which depict, illustrate, describe or relate to specified sexual activities are possessed, displayed, exhibited, distributed and/or sold;
 - (2) Such commercial establishments are or may be located within the town, or are so close in proximity to the town that the same may seek location within the town for such purpose and wherein such establishments the following occurs:
 - a. The superficial tissues of one person are manipulated, rubbed, stroked, kneaded, and/or tapped by a second person, accompanied by the display or exposure of specified anatomical areas;

- b. Dancers, entertainers or other individuals, who, for any form of commercial gain, perform or are presented while displaying or exposing any specified anatomical area; or
 - c. Lap dancing;
- (3) The activities described in subsections (b)(1) and (2) of this section occur at commercial establishments for the purpose of making a profit, and as such, are subject to regulation within and by the town, in the interest of the health, safety, morals and general welfare of the people of the town;
 - (4) This competitive commercial exploitation of such nudity and seminudity is adverse to the public's interest and the quality of life, tone of commerce, and total community environment in the town;
 - (5) When the activities described in subsections (b)(1) and (2) of this section are presented in commercial establishments within the town, other activities which are illegal, immoral or unhealthful tend to accompany them, concentrate around them, and be aggravated by them. Such other activities include, but are not limited to, prostitution, solicitation for prostitution, lewd and lascivious behavior, possession, distribution and transportation of obscene materials, sale or possession of controlled substances, and violent crimes against persons and property;
 - (6) When the activities described in subsections (b)(1) and (2) of this section are present in commercial establishments, they tend to blight neighborhoods, adversely affect neighboring businesses, lower property values, promote crime, particularly the kinds detailed in subsection (5) of this section, and ultimately lead residents and businesses to move to other locations;
 - (7) There is a direct relationship between the display or depiction of specified anatomical areas in subsection (2) of this section and an increase in criminal activities, moral degradation and disturbances of the peace and good order of the community, and the occurrence of these activities is hazardous to the health and safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community as a whole. These secondary effects are adverse to the public's interest and quality of life, tone of commerce and total community environment in the town;
 - (8) There will be an increased demand on the town's limited law enforcement resources as a result of these secondary effects and increase in criminal activities associated with adult entertainment establishments located in or near the town;
 - (9) Existing retail centers over 50,000 square feet within the town maintain on-site management/leasing offices and monitor the conduct of tenants which will assist the town in controlling criminal activity and reducing the secondary effects of adult entertainment establishments; and
 - (10) Locating adult entertainment establishments in existing and future large retail centers within the town will reduce certain secondary effects and visual blight which often accompany such establishments as they will be less visible to the general public, and such retail centers regulate their own aesthetics and signage. In order to minimize the visibility and visual blight, such establishments should be prohibited from locating in outbuildings and on outparcels of retail centers.
- (c) Supplemental definitions. In addition to the definitions in section 34-4 of this chapter, the following supplemental definitions shall apply in the interpretation of this division:

Adult arcade means any place or establishment operated for commercial gain which invites or permits the public to view adult material. For purposes of this section, the term "adult arcade" is included within the definition of adult theater.

Adult bookstore/adult video store means an establishment which sells, offers for sale or rents adult material for commercial gain; unless the establishment demonstrates either:

- (1) The adult material is accessible only by employees and the gross income from the sale or rental of adult material comprises less than 40 percent of the gross income from the sale or rental of goods or services at the establishment; or