

Ordinance 2008-45

(Amendments to zoning regulations – Chapter 23 Code of Ordinances)

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 23, ZONING, LAND USE AND DEVELOPMENT REGULATIONS BY REMOVING PUBLIC NOTICE FEES AND AUTHORIZING AN ADMINISTRATIVE SCHEDULE FOR SUCH FEES; MODIFYING THE SCHEDULE OF ZONING FEES; ALLOWING THE USE OF TEMPORARY LIVING QUARTERS IN AN EMERGENCY DECLARED BY THE CITY MANAGER; REQUIRING A TREE PLAN FOR PARKS WITHIN DEVELOPMENTS; AMENDING LANDSCAPING REQUIREMENTS IN PARKING AREAS; PROHIBITING THE USE OF LANDSCAPED BUFFERS FOR STORMWATER RETENTION; UPDATING REQUIREMENTS FOR UTILITY EASEMENTS; AMENDING THE TABLE OF USES TO PROHIBIT DORMITORIES IN RESIDENTIAL DISTRICTS AND REQUIRE A SPECIAL PERMIT FOR HEAVY CONSTRUCTION SERVICE BUSINESSES IN LCI LIMITED COMMERCIAL INDUSTRIAL DISTRICT; ADDING SPECIFIC BUILDING SETBACK REQUIREMENTS FOR C-5 VILLAGE CENTER DISTRICT; UPDATING REGULATIONS FOR SWIMMING POOLS; PROHIBITING SINGLE-FAMILY HOUSES AND DUPLEXES ON A NEW LOT ENTIRELY WITHIN A FLOOD PLAIN; MAKING MINOR CHANGES AND CORRECTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED by the City Commission of the City of Lake Wales, Polk County, Florida:

SECTION 1

Cross reference – reclaimed water system requirement

Sec. 23-217.3 *Application package* (for site development permit) is amended as follows:

3. Reclaimed water system. If a reclaimed water system is proposed or required under sec. 21-124 of this code, reclaimed ~~Reclaimed~~-water system plans, ~~if applicable,~~ shall be prepared in accordance with the requirements of section 21-128 and utility standards promulgated by the director of public works.

SECTION 2

Public notice reimbursement

Table 23-242 LAND USE APPLICATIONS – REQUIRED FEES under column titled “Reimbursement”:

For “23-216 Special Exception Use Permit” add double asterisk and remove fee as follows: *Public notice*** \$75.00

For “23-218 Zoning Map Amendment” add double asterisk and remove fees as follows:

*Public Notice***

\$100.00 per sign required

\$100.00 (planning board hearing)

\$440.00 (2 city commission hearings)

For “23-219 Comprehensive Plan Amendment (CPA)” add double asterisk and remove fee as follows:

*Public Notice***
\$100.00 (~~planning board hearing~~)
\$440.00 (~~2 city commission hearings~~)

For “23-220 Annexation, Reimbursement” add double asterisk and remove fee as follows:

*Public Notice*** ~~\$540.00~~

For “23-221 Vacation of Right-of-way” add double asterisk and remove fee as follows:

Public Notice ** ~~\$75.00~~

For “23-223 Vacation of Plat” add double asterisk and remove fee as follows:

*Public Notice*** ~~\$200.00~~

For “23-224 Planned Dev Project – Preliminary” add double asterisk and remove fee as follows:

Public Notice ** ~~\$100.00~~

For “23-244 Appeals” add double asterisk and remove fee as follows:

Public Notice ** ~~\$75.00~~

At bottom of table, add footnote as follows:

** *Public Notice Cost Reimbursement* - The applicant is responsible for paying public notice costs at the time of application. The administrative official shall maintain a schedule of public notice costs for each type of application, based upon typical costs for newspaper advertising, abutters' notices and site signs as required under the provisions of this ordinance. The schedule shall be updated at least annually to reflect current costs incurred by the City for such notice.

SECTION 3

Add fees for waivers and special permits for single-family expansions

Table 23-242. LAND USE APPLICATIONS – REQUIRED FEES is amended as follows:

Under column entitled “Type of Application” after “Special Exception Use Permit” add: Note: for fee for special permit for expansion of a non-conforming single-family house or duplex, see 23-372.3.a. on this table.

Under column entitled “Type of Application” before “Other fees” add: 23-372.3.a. Special permit - expansion of non-conforming dwelling and on same line under column entitled “Review Fee” add \$50.

Under column entitled “Type of Application” under “23-222 Site Plan” add: Waiver of strict compliance only and on same line under column entitled “Review Fee” add \$50.

SECTION 4

Reorganization of procedure for appeals

Sec. 23-244 **Appeals and variances** is hereby amended as follows:

Sec. 23-244. Appeals and variances.

Subsec. a. and c. are hereby moved to sec. 23-244.1.d. as shown below.

Subsec. b is hereby removed.

~~b. Upon appeal, the board of appeals may reverse, affirm or affirm with conditions a decision of the planning board to deny an application for special exception use provided the board has first determined that the planning board's denial of said application is not reasonable under these zoning regulations.~~

Sec. 23-244.1 Appeals Administrative appeal.

~~An appeal of a decision or interpretation by the administrative official made pursuant to these land development regulations shall follow the procedures provided by this section. Appeal of a decision by the board of appeals or city commission shall be filed with the circuit court within thirty days of the decision. Appeal of a decision of the historic preservation board shall follow the procedures provided by this section, except that such appeals shall be heard and determined by the city commission.~~

a. Petition for appeal

~~Any person appealing a decision of the administrative official shall file a petition with the administrative official on forms provided for that purpose the board of appeals within thirty days of the decision being appealed. The petition shall set forth, at minimum, the nature, circumstances and basis of the appeal, and contain any materials relevant to the appeal, along with the fees as review fee established by resolution of the city commission set forth on Table 23-242.~~

~~The administrative official shall schedule a hearing on the petition at the next available meeting of the board authorized to hear the appeal, based upon the review and public notice schedule established by that board.~~

Boards authorized to hear appeals:

1. Appeal of decisions of the administrative official or the planning board shall be heard by the board of appeals.
2. Appeal of decisions of the historic district regulatory board shall be heard by the city commission.

~~b. Stop work. During the period between the submission of the petition and the appeal hearing request and the board of appeals hearing, the administrative official may issue a stop work order on any permits related to the appeal if such permits may be affected by the appeal. Costs, lost time or other expenses incurred by the applicant stemming from such a stop work order shall be the responsibility of the applicant.~~

~~c. Public notice. The administrative official shall give public notice for a public hearing as per section 23.241.2.~~

~~d. Appeals hearing. The board of appeals authorized to hear the appeal shall hold a public hearing on the appeal. Following the public hearing, the board of appeals shall~~

rule on the appeal and shall issue a written order setting forth the findings of fact and the conclusions of law and the resulting decision.

~~Sec. 23-244.a~~ Upon appeal, the board of appeals The board hearing the appeal may reverse, affirm or modify, wholly or partly, any order, requirement, decision or determination made by the administrative official under these regulations, provided that the board has first determined that the decision was not based upon a reasonable administrative official's application of these zoning regulations. In conformity with the provisions of said zoning regulations, the board of appeals may make any necessary order, requirement, decision or determination, and to that end shall have all the powers of the board or official administrative official from whom the appeal was taken.

~~Sec. 23-244.c~~. The concurring vote of at least four members of the board of appeals hearing an appeal shall be necessary to reverse any order, requirement, decision, or determination of the administrative official or planning board or to decide in favor of the applicant on any matter appealed upon which the board of appeals is required to pass under this chapter.

- e. Appeal of a decision by the board of appeals or city commission shall be filed with the circuit court within thirty days of the decision.

SECTION 5

Allow temporary living quarters in emergency declared by city manager

Sec. 23-301.2. General regulations for structures is amended as follows:

b. Temporary structures

Temporary structures are those which are designed, constructed and intended to be used on a short-term basis. Temporary structures, including non-motorized trailers, are permitted for use as offices by developers during construction of housing developments. The use of temporary structures, motor homes, mobile homes, or similar facilities for living quarters is prohibited, except during a City emergency, such as a hurricane, declared by ~~the City Commission~~ the city manager upon a recommendation of the building official.

SECTION 6

Reconciliation of chapters 21 and 23 – utility requirements

Sec. 23-301.2 General regulations for structures is amended as follows:

d. Utilities

1. Water and sewer facilities. No dwelling unit or principal structure shall be permitted on a lot unless building plans provide for connection to city sewer and water systems as required under chapter 21 of this code. ~~No building shall be occupied unless it is connected to public sewage and potable water facilities or is approved by the director of public works for alternative sources for these services. All buildings within one hundred (100) feet of potable water service and two hundred (200) feet of sewer service shall connect to such facilities unless waived by the director of public works on the basis that the service is not adequate. Plans for sewer and water facilities including connections shall be submitted with any permit application for a structure. All developers of new residential and commercial projects in a reclaimed water service area as designated in section 21-~~

~~124 shall be required to construct in accordance with section 21-128 such lines, appurtenances or facilities as will be necessary to utilize reclaimed water for irrigation purposes.~~

2. *Reclaimed water system.* No dwelling unit or principal structure shall be permitted in a development where a reclaimed water system is required under chapter 21 of this code unless plans submitted with the permit application provide for connection to that system or a waiver has been approved by the director of utilities.

SECTION 7 Exemption from tree replacement requirements under approved park plan

Requirements for tree removal are amended as follows:

Sec. 23-302. “Land preparation” subsec. 302.2.b. “Tree replacement”:

a. Except for trees removed for the construction of buildings, retention areas, play courts, play fields, and other facilities, tree replacement requirements shall not apply where trees are removed selectively in accordance with a plan for landscaping parks and common open space areas as required per sec. 23-310.

Sec. 23-310. “Recreation area” subsec. a. “Design criteria” is hereby amended to add subsec. #6 to read as follows:

6. Existing trees shall not be removed for the development or expansion of a park or common open space area except in accordance with a plan approved by the administrative official. The preparation and approval of such plans shall be guided by the standards for tree removal in sec. 23-302.2.a. and standards for recreation areas in this section. Such plans shall be based upon a tree survey prepared by a professional arborist unless a waiver is granted by the planning board for minor projects. An effort shall be made to identify and preserve trees of desirable species and good condition and to create an appealing park with shady areas. Allowance shall be made for removal of a reasonable number of trees in wooded areas to create usable, park-like conditions and to improve growing conditions for remaining trees. The plan(s) shall be reviewed as part of the site development permit process (sec. 23-217) unless otherwise specified in the conditions of approval for the development.

SECTION 8 Correction – required right-of-way dedication for minor collector
Table 23-303C. RIGHT-OF-WAY DEDICATION REQUIREMENTS
is amended as follows:

Under column “RIGHT-OF-WAY WIDTH” for “Minor Collector”: ~~60 feet~~ 66 feet

SECTION 9 Curbing of landscaped islands

Requirements for off-street parking areas are amended as follows:

Sec. 23-306.2. *Layout of off-street parking areas, subsec. b. Paving and marking:*

b. Paving and marking. All driveways and parking areas shall be paved with asphalt, concrete, or other stable paving material unless paving is specifically waived by the planning board pursuant to section 23-222.5. Parking areas shall be striped or otherwise marked to designate individual parking spaces. Wheel stops,

curbing, or other barriers shall be provided at the head of parking spaces and curbing shall be provided around landscaped islands to prevent vehicles from encroaching on landscaped areas.

Sec. 23-307.1 Landscaping requirements, Vehicular use areas,

- c. *Parking lot requirements.* Barriers to prevent vehicles from encroaching on all landscaped areas in off-street parking areas shall be provided as required under sec. 23-306.

SECTION 10

Modification of landscaping requirements in parking areas

Sec. 23-307. Landscaping requirements. Subsec. 307.1.c. parking lot requirements, 2. *Interior* is amended as follows:

- B. Landscaped areas with a minimum of ten (10) feet in width and a minimum total area of one hundred (100) square feet shall be provided to prevent excessively long, continuous runs of parking spaces.
1. Except where a bay of parking spaces is located along a landscaped buffer meeting the requirements of this chapter, in no instance shall a no parking bay shall contain more than fifteen (15) continuous parking spaces or extend more than one hundred fifty (150) feet, whichever is more restrictive, without being interrupted by a landscaped area.

SECTION 11

Prohibit use of required landscape buffers for storm water retention

Sec. 23-308. Drainage is amended as follows:

Sec. 23-308.1 Design standards

Retention areas and other drainage facilities shall not be located in or encroach upon landscape buffers that are required under this chapter. This provision does not prohibit the landscaping of retention areas and drainage easements in accordance with a plan approved by the administrative official.

SECTION 12

Updating of utility easement requirements

Article III. General Development Standards, Division 1. Land Development, Sec. 23-309. Easements is amended as follows:

- ~~a. Except where alleys are permitted for the purpose, the city shall require easements of at least 15 feet in width centered along all rear lots for poles, wires, conduits, storm sewers, sanitary sewers, gas mains, water mains, heat mains, and other utility facilities. Where necessary or advisable in the opinion of the director of public works, similar easements shall be provided along side lot lines or across lots.~~
- a. Requirement for easements: Easements necessary for utilities, including electrical, storm water, sanitary sewer, potable water, reclaimed water and other facilities, shall be approved by the director of public works and recorded with the clerk of court prior to the issuance of a building permit for construction on any lot.
1. Preliminary subdivision plats, planned development project plans, and site plans shall include utility easements for review.

2. Such easements shall be designed and located in accordance with city utility standards and shall be approved by the director of public works prior to the approval of site plans and recording of the documents creating such easements.

b. Alteration of easement: No structures, including fences and walls, shall be constructed within a utility easement without the written approval of the director of public works. No alteration of drainage easements such as the addition of berms or other grading, shall be made without the written approval of the director of public works.

~~e. The easement requirements of this section may be waived or reduced by the city commission upon presentation by the applicant of evidence that the requirement is excessive or unnecessary for a particular subdivision.~~

c. Maintenance of easement: Easements shall be maintained in accordance with the requirements of Chapter 21 – Utilities of the Lake Wales Code of Ordinances.

d. Landscaping in easements: Easements may be landscaped subject to the following:

1. No trees or shrubs shall be planted within the easement except in accordance with a landscaping plan approved by the administrative official.
2. No fences or walls shall be erected within the easement without the written approval of the director of public works.
3. All shrubs shall be maintained at six (6) feet or less in height.
4. ~~No plants shall be placed in an easement if such plants will adversely affect or restrict the intended use of the easement.~~
- 5- 4. In an emergency, any obstacle or obstruction in an easement will be removed with no liability to the city.

~~e. Easement design should provide clear and orderly routes from one (1) block to the next and from one (1) development to the next. The easement system should be continuous and well-aligned to permit the installation of utility service lines in a manner resulting in the best appearance and should provide adequate clearance from traffic, drives and structures to ensure reliability of service.~~

~~f. Executed easements shall be provided by the owner for recording with the clerk of the court prior to issuance of building permits.~~

SECTION 13

Correction – approval of special sales on private property

Regulations on special sales are amended as follows:

Sec. 23-343. Auctions, sales, and events, temporary:

Temporary events, auctions and sales, not including garage yard sales, are permitted subject to the following provisions. For yard sales, see sec. 23-355. Sidewalk sales on

public streets are governed by Chapter 18 and are not subject to the provisions of this section.

- a. One-day auctions of real property are permitted on site, provided they are conducted between the hours of 9:00 a.m. and 8:00 p.m.
- b. Auctions, ~~and sales,~~ and special events ~~not exceeding three (3) days per month are permitted~~ in non-residential parking lots and on vacant lots or open areas in non-residential zoning districts may be permitted on a temporary or periodic basis by special permit issued pursuant to sec. 23-216, provided a minor site plan is approved pursuant to section 23-222.
- c. Regardless of the zoning district, auctions and sales at churches, schools, and government properties including parks and open areas, are exempt from the requirement for special permit or site plan approval provided that, for churches and schools, the event is sponsored by the institution on whose property the event takes place, that the event(s) is incidental to the principal use of the property, and the event is conducted in a manner compatible with the neighborhood.
- d. Auctions and sales are prohibited on residential properties except that ~~garage yard~~ sales are permitted pursuant to section 23-355.

Table 23-541. ACCESSORY USES – NONRESIDENTIAL PROPERTIES, under “restrictions” column, for “Special sale or event”:

Any use of parking area or outdoor display, sale, or storage of merchandise or services requires a special permit pursuant to section 23-216. See also Sec. 23-343. Auctions, sales, and events, temporary.

SECTION 14 Corrections – Home occupation regulations

Sec. 23-348. Home occupations is amended as follows:

- d. No goods or services of any kind shall be sold or transferred to a customer, consumer or client on the premises of a home occupation ~~,excluding~~ except via facsimile machine, telephone and/or postal transactions ~~and except as provided in subparagraph 9. herein.~~ No demonstration of products for sale will be permitted as part of a home occupation.

SECTION 15 Prohibited uses – clarification

Sec. 23-421. “Permitted and special exception uses allowed in zoning districts” is hereby amended as follows:

The types of uses allowed in the various standard zoning districts shall be as set forth in Table 23-421. Uses not listed on the table or not shown as permitted (P), special exception (S), or planned development project (PDP) are prohibited. No variances shall be granted to allow uses not otherwise allowed in a zoning district, except that housing types other than single-family may be allowed in a Planned Development Project (PDP) approved pursuant to section 23-224.

SECTION 16 Table of Uses – modifications

Table 23-421 “Permitted Uses and Special Exception Uses in Standard Zoning Districts” is hereby amended as follows:

Under “Lodgings” remove “dormitory” as a special exception permit use (S) in the R-1A, R-1B, R-1C, R-1D, and R-2 zoning districts.

Under “Professional and Commercial Uses” change “Construction support – Heavy” from a permitted use (P) to a special exception permit use in the LCI zoning district.

Under “Public and Government” show “Public facilities and offices” as a permitted use (P) in the CN and R zoning districts.

SECTION 17 Correction - setback from right-of-way in nonresidential districts

Table 23-422B footnote #1, first sentence is amended as follows:

¹ The minimum front setback shall be as designated or ½ the width of the ~~dedicated public street right-of-way~~ required right-of-way for the street on which the lot fronts, whichever is larger.

SECTION 18 Building setbacks in C-5 Village Center District

Table 23-422B DIMENSIONAL AND AREA STANDARDS – NONRESIDENTIAL DISTRICTS, footnote #3 is amended as follows:

³ Setbacks in the C-5 districts shall be as approved for the Planned Development Project. (See section 23-224.) In a C-5 district developed without a Planned Development Project, the building setbacks shall be as for the C-2 district.

SECTION 19 Setbacks for carports – correction

Table 23-522 ACCESSORY STRUCTURES RESIDENTIAL PROPERTIES is amended as follows:

“Restrictions” for “Detached carports or garages” are amended as follows:
Limited to one structure only, footprint not to exceed 600 square feet or 40% of the footprint of the principal structure, whichever is larger.
Garages and carports must meet the setbacks required for principal buildings.

Footnote number 1 referring to “detached carports or garages” is amended as follows:

¹ Permitted in front, side and rear yards provided setback requirements for principal structures are met. In cases where the front setback of the dwelling unit

is less than required in the zoning district, the minimum required front setback for the garage or carport shall be the front building line of the dwelling unit.

SECTION 20 Exemption on height restriction for required retention pond fences

Sec. 23-524. Fences and hedges (residential uses), **subsec. b. Dimensional requirements**, second paragraph is amended as follows:

The planning board may waive the height requirements for a valid purpose related to compatibility with the character of the neighborhood, addressing problems with slope or architecture, or screening and adjacent land use, ~~or~~ Fences required for compliance with a permit granted by an agency for structures such as retention ponds are exempt from height restrictions.

Sec. 23-543.c. Dimensional requirements (for fences, non-residential uses) is amended as follows:

1. *Maximum height.* The maximum height of a fence shall be four (4) feet in the front yard and six (6) feet in the rear and side yards except in the 1-1 Industrial districts, where the maximum height shall be eight (8) feet in any yard. The planning board may waive the height requirements for a valid purpose related to compatibility with the character of the neighborhood, addressing problems with slope or architecture, screening an adjacent land use, or security for industrial uses. ~~compliance with a permit granted by an agency for structures such as retention ponds.~~

The following uses shall be exempt from maximum height requirements:

- Utility and power substations;
- Water and wastewater facilities;
- Municipal facilities;
- Public swimming facilities;
- Storm water retention ponds (when fence is required by water management district)

SECTION 21 Regulations for swimming pools – accessory to residential use

Sec. 23-527. Swimming pools (residential) is amended as follows:

a. Definitions.

- ~~1. *Swimming pool.* A body of water in excess of 18 inches in depth, contained in a receptacle located indoors or outdoors; intended to be used by adults or children.~~
- ~~2. *Family pool.* A swimming pool used or intended to be used solely by the owner and his family or guests without payment of a fee.~~
1. Swimming pool, **Public.** A watertight structure of concrete, masonry, fiberglass, stainless steel or plastic which is located either indoors or

outdoors, used for bathing or swimming by humans, and filled with a filtered and disinfected water supply.

2. Swimming pool, **Private.** Any structure located in a residential area, that is intended for swimming or recreational bathing and contains water over 24" deep including but not limited to in-ground, above-ground and on-ground swimming pools, hot tubs and non-portable spas.
 - b. *Plans.* Plans for family pools shall meet the submittal specifications of the standard swimming code adopted by the city and shall be submitted to and approved by the building official in accordance with sections 7-151 and 7-152 of the Lake Wales Code of Ordinances.
 - c. *Location and setbacks.* A pool is permitted in a front yard provided the front yard setback for a principal structure is met. Pools in front yards shall be screened. The edge of the pool proper (not including deck unless elevated) and the enclosure must meet the five-foot setback requirement from any side or rear lot line.
 - d. *Enclosure.*
 1. Every swimming pool constructed within the city limits shall be completely surrounded by a fence or wall not less than four (4) feet in height. Exempt from the requirement for enclosure are:
 - A. Any pool constructed above ground where the edge of a pool is four (4) feet above ground ~~or~~ and having a removable ladder or, for an elevated pool deck four (4) feet above ground, having a self-latching gate equipped with a release device no less than fifty-four 54" from the bottom of the gate. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch diameter sphere.
 - B. Any pool constructed on private property where the individual homeowner has property consisting of twenty (20) acres or more with only one (1) dwelling thereon.
 2. All pools required to be enclosed shall ~~have a fence constructed with no openings, holes or gaps larger than 4 inches measured in any dimension, excepting doors and gates; if picket fences are erected or maintained, the horizontal dimension between the pickets shall not exceed 4 inches.~~ be provided with barriers. Such barriers shall not have any gaps, openings, indentations, protrusions, or structural components that could allow a young child to crawl under, squeeze through, or climb over the barrier. Openings in any barrier shall not allow passage of a 4-inch diameter sphere.

3. All pool enclosures having a gate or door which does not lead directly into an adjacent building shall be self-closing and equipped with a self-latching devices fitted at the minimum height of ~~3 feet, 6 inches~~ fifty-four (54) inches to keep the gate or door securely closed at all times when not in actual use.
4. During construction, the contractor or owner shall install and maintain a temporary fence or enclosure meeting the height and latching requirements of the above paragraphs.
- e. *Connection to sanitary or storm sewer system.* No person shall connect, or cause to be connected, any swimming pool to the sanitary system of the City of Lake Wales; no person shall cause or allow contents of any swimming pool to drain into said sanitary or storm system.
- f. *Conformance to standard swimming code.* No person shall construct or cause to be constructed any swimming pool which is not in conformance with provisions of the standard swimming pool code adopted by the City of Lake Wales as its official swimming code (see sections 47-151 and 47-152).
- g. *Prevention of nuisance.* Swimming pools which are not sufficiently maintained so as to prevent a hazard to the public health, safety and welfare in the nature of allowing growth of algae, bacteria and breeding of mosquitos and other pests are hereby prohibited.
- h. *Enforcement.* Any person violating the requirements of this subsection shall be subject to code enforcement procedures and penalties in accordance with Chapter 12, Lake Wales Code of Ordinances.

SECTION 22 Regulations for swimming pools – accessory to non-residential use

Sec. 23-546. Swimming pools (nonresidential) is amended as follows:

See Sec. 23-527 for regulations.

~~a. Definitions:~~

- ~~1. *Swimming pool.* A body of water in excess of eighteen (18) inches in depth, contained in a receptacle located indoors or outdoors; intended to be used by adults or children.~~
- ~~2. *Commercial swimming pool.* A swimming pool to be used, with or without payment of a fee, by the public or by the transient guest of a motel or hotel. Rules pertaining to commercial swimming pools also apply to swimming pools operated by clubs or community associations with or without payment of a fee.~~

~~b. *Plans.* Plans, specifications and pertinent data for all commercial~~

swimming pools shall be submitted to the department of health prior to construction. Such plans shall specify the following:

1. ~~Liquid capacity~~
 2. ~~Depth of liquid capacity~~
 3. ~~Method of filtration~~
 4. ~~Overall profile and diagram~~
- e. ~~The department of health's approval of the construction of all commercial swimming pools shall be a prerequisite before construction, and periodic inspection by the department of health will be undertaken to ensure that all sanitary and filtration equipment is properly installed and operating.~~
- d. ~~Plans for commercial swimming pools shall meet the submittal specifications of the standard swimming code adopted by the city and shall be submitted to and approved by the building official in accordance with sections 7-151 and 7-152 of the Lake Wales Code of Ordinances.~~
- e. ~~*Setbacks.* The edge of the pool proper (not including deck unless elevated) and the enclosure must comply with the setback requirements of the zoning district in which the property is located. See Table 23-422B, Dimensional and Area Standards—Nonresidential Districts.~~
- f. ~~*Enclosure.*~~
1. ~~Every commercial swimming pool constructed within the city limits shall be completely surrounded by a fence or wall not less than four (4) feet in height.~~
 2. ~~All pools required to be enclosed shall have a fence constructed with no openings, holes or gaps larger than four (4) inches measured in any dimension, excepting doors and gates; if picket fences are erected or maintained, the horizontal dimension between the pickets shall not exceed four (4) inches.~~
 3. ~~All pool enclosures having a gate or door which does not lead directly into an adjacent building shall be self-closing and equipped with a self-latching device fitted at the minimum height of three (3) feet, six (6) inches to keep the gate or door securely closed at all times when not in actual use.~~
 4. ~~During construction, the contractor or owner shall install and maintain a temporary fence or enclosure meeting the height and latching requirements of the above paragraphs.~~
- g. ~~*Connection to sanitary sewer system.* No person shall connect, or cause to be connected, any swimming pool to the sanitary system of the City of Lake Wales; no person shall cause or allow contents of any swimming pool to drain into said sanitary system.~~
- h. ~~*Conformance to standard swimming code.* No person shall construct or cause to be constructed any swimming pool which is not in conformance with provisions of the standard swimming pool code adopted by the City of Lake Wales as its official swimming code (see sections 17-151 and 17-152).~~
- i. ~~*Prevention of nuisance.* Swimming pools which are not sufficiently maintained so as to prevent a hazard to the public health, safety and~~

welfare in the nature of allowing growth of algae, bacteria and breeding of mosquitos and other pest are hereby prohibited.

~~j. *Enforcement.* Any person violating the requirements of this subsection shall be subject to code enforcement procedures and penalties in accordance with Chapter 12, Lake Wales Code of Ordinances.~~

SECTION 23

Residential lots in areas of special flood hazard

Article VI. RESOURCE PROTECTION STANDARDS, DIVISION 1. DEVELOPMENT IN FLOOD PRONE AREAS, Sec. 23-604. Provisions for flood hazard reduction, subsec. b. *Specific standards* is amended to read as follows:

1. *Residential construction.*
 - A. No single-family dwelling unit or duplex shall be constructed on a lot that lies entirely within an area of special flood hazard unless the lot was created prior to October 1, 2008.
 - B. New construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than on (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of paragraph (b)3 of this section.

Sec. 23-301. Lots and structures. *Sec. 23-301.2 General regulations for structures* is hereby amended as follows:

~~h. *Flood hazard areas. Elevation.* Structures in flood hazard areas shall comply with the elevation and other requirements of this chapter. the Flood Zone Regulations of article 1, div. 1.~~

Table 23-422A – DIMENSIONAL AND AREA STANDARDS – RESIDENTIAL DISTRICTS is amended by the addition of the following note at the end of the table:

See also “Provisions for flood hazard reduction” in Article VI, Div. 1.

SECTION 24

Definitions

Sec. 23-802 is hereby amended as follows:

Amend the definition of “dormitory” as follows:

~~*Dormitory, fraternity house or sorority house.* A building in which sleeping rooms are provided, with or without meals, and maintained as a place of residence exclusively for the use of students affiliated with an academic or professional college or university when approved and regulated by such institution. A dormitory, fraternity house or sorority house may include the living quarters containing independent cooking facilities designed for the resident manager only. Any residence for students, workers, or other groups of more than 5 unrelated people. A dormitory may have common cooking facilities and living areas in addition to sleeping quarters, and may have an apartment for a resident manager.~~

Amend the definition of “household” as follows:

Household. A family, ~~or one (1) or more~~ or group of up to five (5) unrelated persons, ~~whether related or not,~~ occupying living quarters as a single housekeeping unit.

Amend the definition of "waiver" as follows:

Waiver. ~~As used in connection with the provisions dealing with land development, a waiver is a modification of the terms of the land development regulation where such waiver will not be contrary to the public interest and where, owing to the conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of the regulation would not be necessary or where such waiver will allow for the construction of improvements in conformity with the intent of the land development regulations and consistent with the comprehensive plan while providing improved design standards. Approval granted under specific provisions of this chapter to deviate from a dimensional or other design requirement.~~

SECTION 25. If any clause, section or provision of this ordinance or any fee imposed pursuant to this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance or remaining fees shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

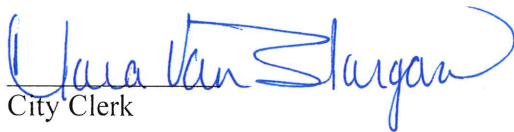
SECTION 26. This ordinance shall become effective immediately upon its passage by the City Commission.

CERTIFIED AS TO PASSAGE this 16th day of December, 2008.



Mayor/Commissioner
City of Lake Wales, Polk County, Florida

ATTEST:



City Clerk