

The intended use of the property for a minor repair garage must comply with the requirements of the land development code, specifically Section 2.6.2.195 and the definition of a “garage, repair – minor” under Section 8.1.1.20 as restated above.

The requested CG zoning is not compatible with the adjacent single-family subdivision, which has a land use of Residential Low (RL-2) in unincorporated Polk County and the Polk County Comprehensive Plan. However, compatibility can be achieved by incorporating design and operational techniques, to include: installing a solid, opaque fence and retaining existing vegetation/trees along the south property line; directing lighting away from adjacent property to prevent glare; limiting outside storage in compliance with §2.6.2.295, LDC; conducting all repairs inside enclosed buildings; and limiting hours of operation to prevent interference with resident’s enjoyment of their property. The requested Future Land Use Map Amendment to assign Neighborhood Activity Center Land Use and assign General Commercial (CG) zoning to the property are consistent with the Eagle Lake Comprehensive Plan. Additionally, the Neighborhood Activity Center Future Land Use and CG zoning is consistent with the future land use designation and zoning of the adjacent parcel, west of Eagle Avenue.

Based on this analysis, we find that the requested Neighborhood Activity Center Future Land Use designation and CG zoning are consistent with the applicable goals, objectives and policies of the Eagle Lake 2030 Comprehensive Plan, as amended. Furthermore, the requested future land use and zoning is consistent and compatible with the existing Neighborhood Activity Center and CG zoning located adjacent to the eastern and southern property boundary and north, across U.S. Highway 17.

RECOMMENDATION:

The requested Comprehensive Plan Amendment to amend the Future Land Use Map and assign Neighborhood Activity Center to the subject parcel and assign General Commercial (CG) zoning is hereby recommended for approval.

ATTACHMENTS:

- EXHIBIT A – Location Map
- EXHIBIT B – Aerial Photograph
- EXHIBIT C – Future Land Use
- EXHIBIT D – Zoning Map
- EXHIBIT E – Legal Description

EXHIBIT A – LOCATION MAP

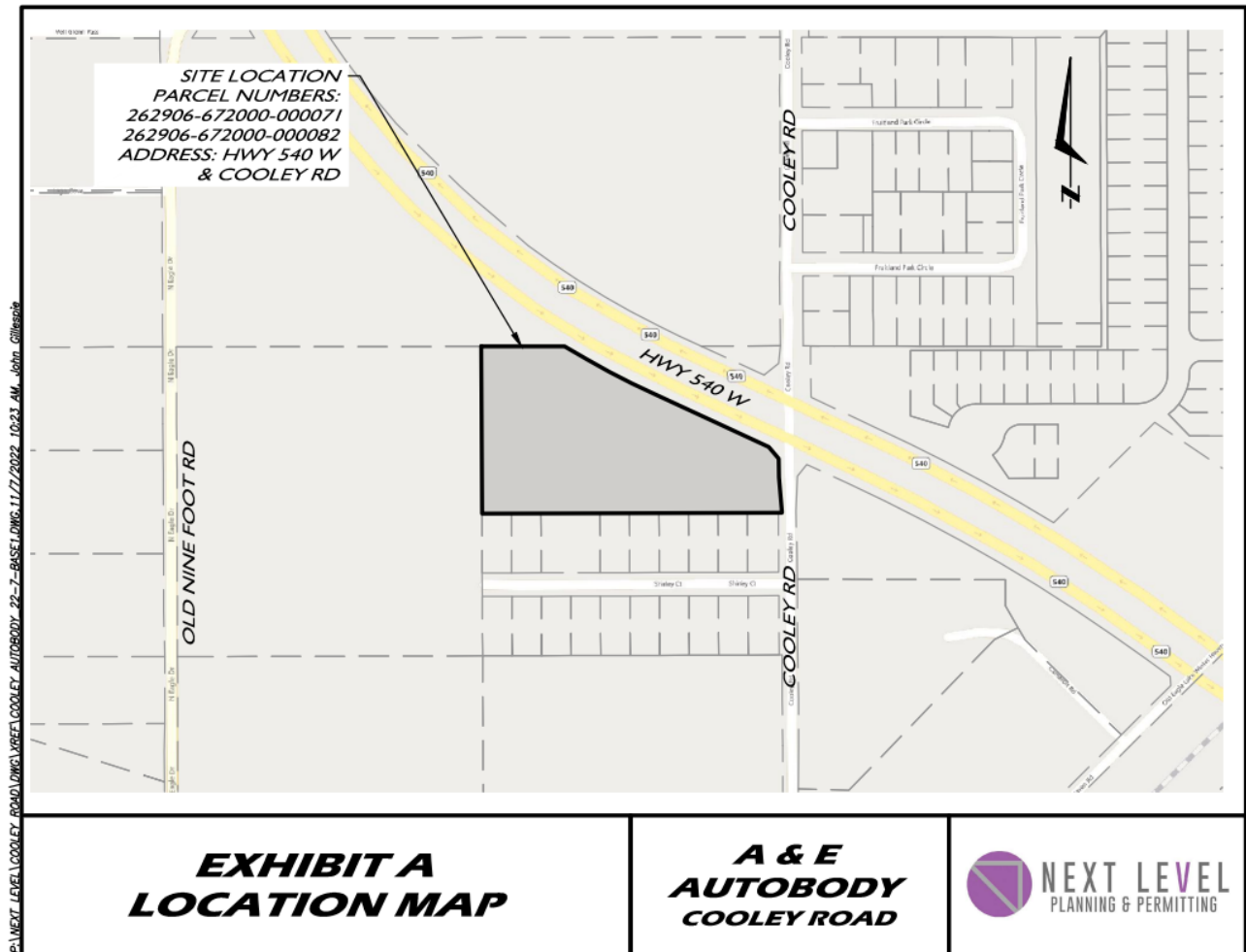


EXHIBIT B – AERIAL PHOTOGRAPH

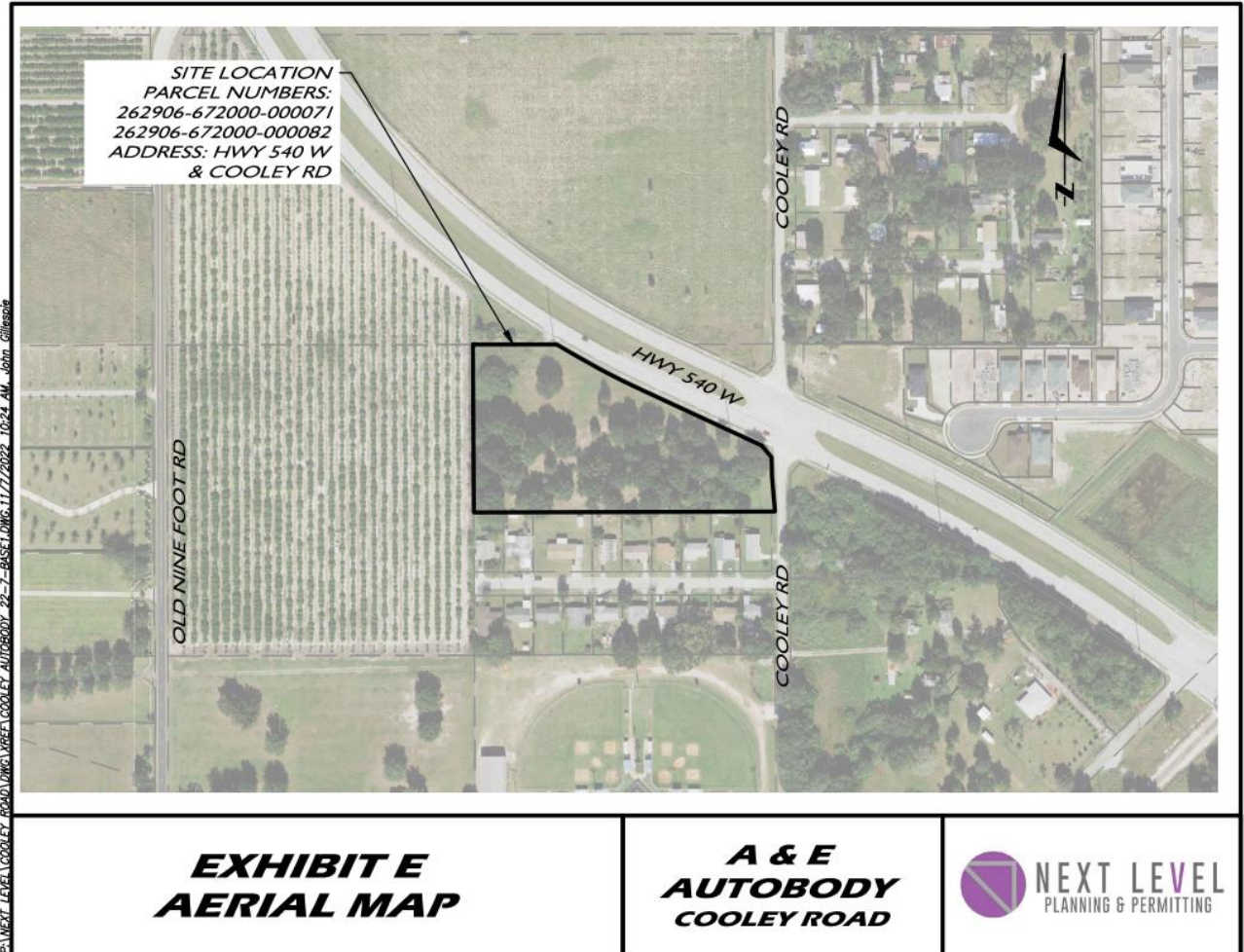


EXHIBIT C – FUTURE LAND USE

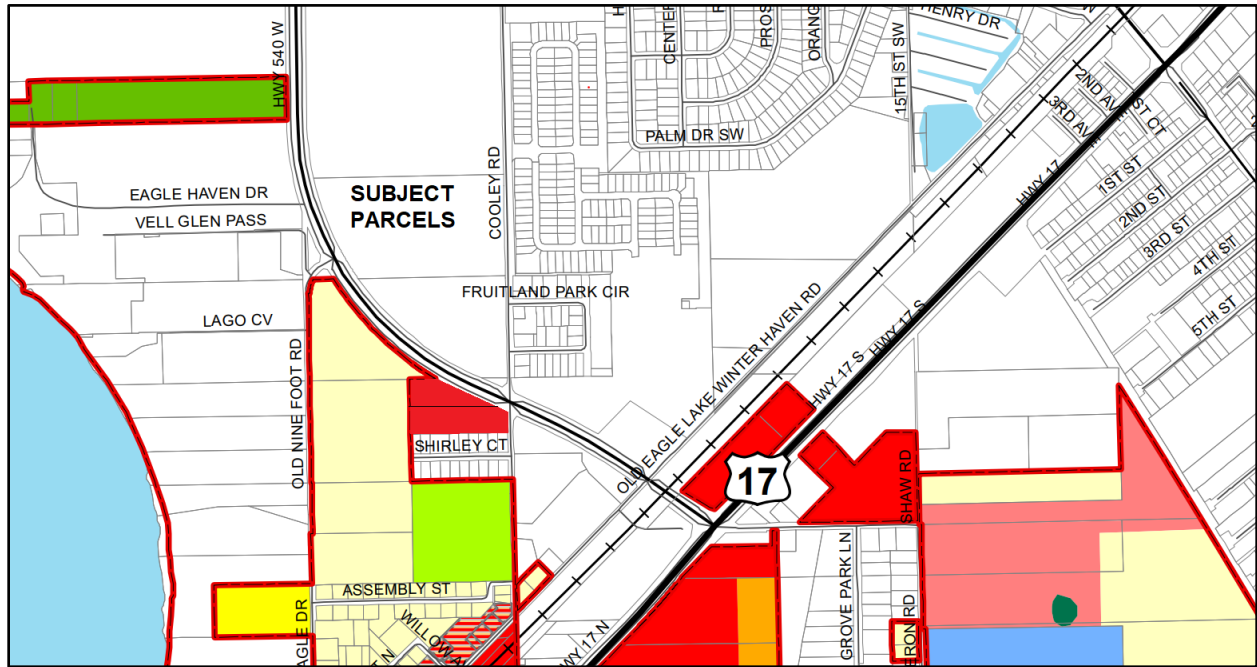


EXHIBIT D – ZONING MAP

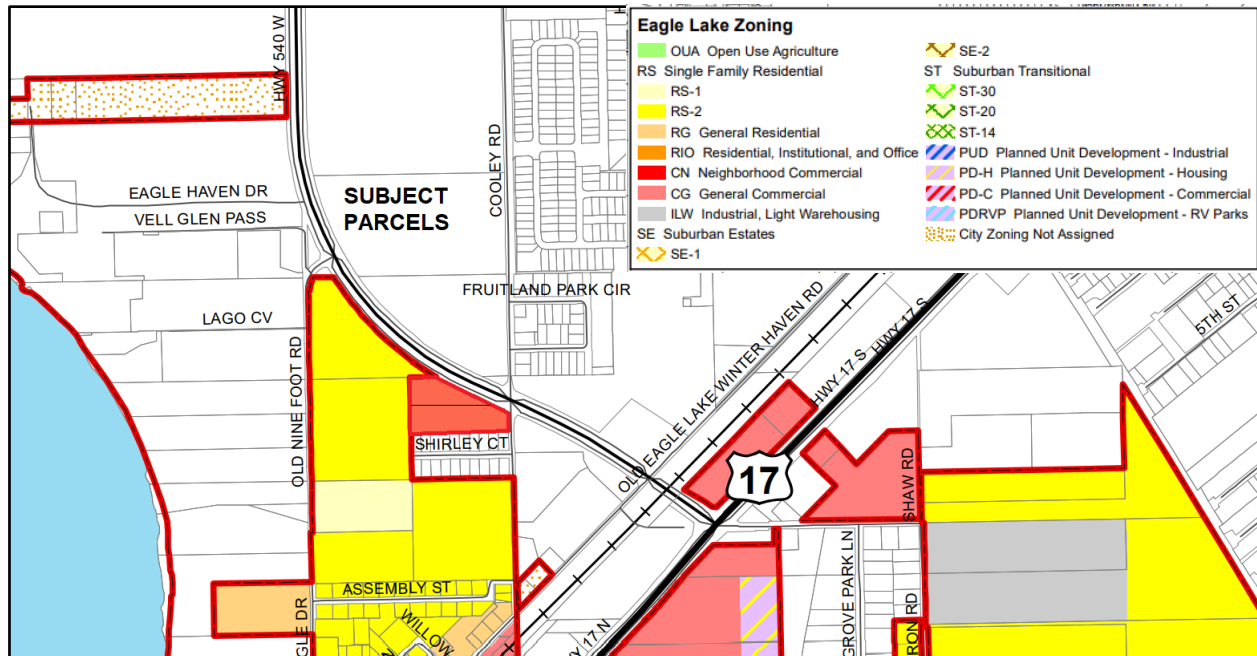


EXHIBIT E – LEGAL DESCRIPTION

The South $\frac{1}{2}$ of lot 8; and lot 7 less the South 304 feet thereof, in W.M Hampton's Subdivision, as shown by map or plat thereof recorded in the office of the clerk of the circuit court in and for Polk County, Florida, in Plat Book 2, Page 36.

AND

The South $\frac{1}{2}$ of lot 8, W.M Hampton's Subdivision of the northeast $\frac{1}{4}$ of the southwest $\frac{1}{4}$ of Section 6. Township 29 South, Range 26 East, according to the map or plat thereof as recorded in Plat Book 2, Page 36 of the public records of office of Polk County, Florida, less any part thereof conveyed to the State of Florida, Department of Transportation for road right-of-way purposes for State Road 655 as described in O.R. Book 3767, Page 2156, less a parcel of land being a portion of lot 8 of W.M. Hampton's subdivision in accordance with the Plat thereof recorded in Plat Book 2, Page 36 of the public records of Polk County, Florida, also lying in the southwest $\frac{1}{4}$ of Section 6, Township 29 South, Range 26 East, Polk County, Florida and being more particularly described as follows:

Commence at the $\frac{1}{2}$ inch iron pipe marking the northeast corner of the southwest $\frac{1}{4}$ of said Section 6; thence south $89^{\circ}54'05''$ west along the north line of said Lot 8 and the north line of the southwest $\frac{1}{4}$ of said Section 6, a distance of 23.98 feet to the westerly right-of-way line of Cooley Road (as shown on Florida Department of Transportation Right-of-way Map Section 16120-2504), said point also being the point of beginning; thence continue south $89^{\circ}54'02''$ west along the said north line of said Lot 8 and the north line of the southwest $\frac{1}{4}$ of said Section 6, a distance of 169.68 feet to a point on the northeasterly right-of-way line of State Road 540 realignment (as shown on Florida Department of Transportation Right-of-way Map Section 16120-2504); thence south $65^{\circ}13'32''$ east along the said northeasterly right-of-way line of State Road 540 realignment a distance of 148.19 feet to a point; thence north $51^{\circ}27'06''$ east along the said northeasterly right-of-way line of State Road 540 realignment a distance of 40.33 feet to a point on the aforesaid westerly right-of-way of Cooley Road; thence north $05^{\circ}30'03''$ east along the westerly right-of-way of Cooley Road a distance of 37.43 feet to the point of beginning.

Parcel Identification Number: 262906-672000-000071 and 262906-672000-000082

ORDINANCE NO.: O-23-03

AN ORDINANCE AMENDING THE CITY OF EAGLE LAKE, FLORIDA 2030 COMPREHENSIVE PLAN BY REVISING THE FUTURE LAND USE MAP SERIES TO ASSIGN NEIGHBORHOOD ACTIVITY CENTER FUTURE LAND USE TO TWO (2) ANNEXED PARCELS; AMENDING THE CITY OF EAGLE LAKE, FLORIDA ZONING MAP TO APPLY GENERAL COMMERCIAL (CG) ZONING TO THE SAME CERTAIN PARCELS; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND, PROVIDING AN EFFECTIVE DATE.(General Location: Two parcels of land totaling approximately 3.98 acres in size, lying southeast of the intersection of Cooley Road and County Road 540, West, with a street address of 0 Cooley Road, Eagle Lake, Florida 33839) (A & E Property)

WHEREAS, the Legislature of the State of Florida has, in Chapter 166, Florida Statutes, delegated the responsibility to local governmental units the power to adopt regulations designed to promote the public health, safety and general welfare of its citizens; and

WHEREAS, the City of Eagle Lake, Florida, pursuant to Section 163.3161, et. seq., Florida Statutes, the Community Planning Act, formerly the Florida Local Government Comprehensive Planning and Land Development Regulation Act, was required to prepare and adopt a comprehensive plan; and

WHEREAS, the City of Eagle Lake City Commission adopted the Eagle Lake 2030 Comprehensive Plan on April 18, 2011; and

WHEREAS, Chapter 163, Part II, Florida Statutes, the Community Planning Act, provides authority for local governments to amend their respective comprehensive plans and outlines certain procedures to amend adopted comprehensive plans; and

WHEREAS, the City of Eagle Lake received an application, dated November 17, 2022, for voluntary annexation of property described herein and attached as Exhibit A, pursuant to Section 171.044, Florida Statutes; and

WHEREAS, the City of Eagle Lake City Commission duly annexed the property described herein and identified as the amendment area into the corporate limits of the City of Eagle Lake on February 6, 2023; and

WHEREAS, the City of Eagle Lake received an application dated November 17, 2022 to amend the City's 2030 Comprehensive Plan Future Land Use Map by assigning

Commercial Future Land Use designation and the City's Zoning Map to assign General Commercial (CG) zoning to the property described herein; and

WHEREAS, pursuant to Section 163.3184, Florida Statutes, and Division VI of the Eagle Lake Land Development Code, after due public notice the City of Eagle Lake Planning Commission, as the "Local Planning Agency," held a public hearing on January 3, 2023 to consider making a recommendation to the City Commission regarding the application for an amendment to the Future Land Use Map and CG zoning; and

WHEREAS, pursuant to Section 163.3184, Florida Statutes, the Eagle Lake City Commission held a public hearing on January 3, 2023 and February 6, 2023 to consider the adoption of the proposed amendment to its Comprehensive Plan and Zoning Map; and

WHEREAS, the Eagle Lake City Commission considered all oral and written comments received during such public hearing, including the data and analysis provided for this amendment, and the recommendation of the Planning Commission.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Eagle Lake, Florida, as follows:

SECTION I. PURPOSE AND INTENT,

This Ordinance is hereby enacted to carry out the purpose and intent of, and exercise the authority set out in the Community Planning Act, Chapter 163, Part II, Florida Statutes, as amended.

SECTION II. FUTURE LAND USE MAP AMENDMENT.

The City of Eagle Lake City Commission hereby adopts the following amendment to the Eagle Lake 2030 Comprehensive Plan Future Land Use Map Series, which will be updated consistent with the action of the Eagle Lake City Commission set forth in this Ordinance.

1. The Comprehensive Plan Amendment application request an amendment to the Future Land Use Map Series designated as the amendment area described herein and consisting of 3.98 +/- acres.
2. The amendment area is specifically described by a legal description and location map attached hereto as Exhibits A and B and includes the following Parcel Identification Numbers: 262906-672000-000071 and 262906-672000-000082.
3. Prior to annexation by the amendment area was designated Residential Low (RL-2) on the Polk County Comprehensive Plan Future Land Use Map Series adopted by the Board of County Commissioners, Polk County, Florida.
4. Upon the legal effective date of this Ordinance, the Eagle Lake Future Land Use Map category for the amendment area will be designated as Neighborhood Activity Center as shown in Exhibit C, attached hereto Any future development of the

amendment area will be required to meet the standards of the Eagle Lake Comprehensive Plan.

SECTION III. ZONING ASSIGNMENT.

Upon the legally effective date of this Ordinance, the Zoning Classification for the amendment area will be designated as General Commercial (CG) as shown in Exhibit D, attached hereto, pursuant to the provisions of the Eagle Lake Land Development Code

SECTION IV. CONFLICT WITH OTHER ORDINANCES OR CODES.

All Ordinances or parts of Ordinances of the Code of Ordinances of Eagle Lake, Florida, in conflict with the provision of this Ordinance are hereby repealed to the extent of such conflict.

SECTION V. SEVERABILITY

Should any word, phrase, sentence or section of this Ordinance be held by a court of competent jurisdiction to be illegal, void, unenforceable, or unconstitutional, then such shall be severed from this Ordinance, and the remainder of the Ordinance shall remain in full force and effect.

SECTION VI. EFFETIVE DATE.

This Ordinance shall become effective on the 31st day after its adoption by the Eagle Lake City Commission.

ADOPTED ON THIS _____, 2023

EAGLE LAKE CITY COMMISSION:

ATTEST:

DAWN WRIGHT
CITY CLERK

BY: _____
CORY COLER, MAYOR

Approved as to Form:

HEATHER R. MAXWELL, ESQ.
CITY ATTORNEY

EXHIBIT A – LEGAL DESCRIPTION

LEGAL DESCRIPTION:

The South $\frac{1}{2}$ of lot 8; and lot 7 less the South 304 feet thereof, in W.M Hampton's Subdivision, as shown by map or plat thereof recorded in the office of the clerk of the circuit court in and for Polk County, Florida, in Plat Book 2, Page 36.

AND

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Parcel Identification Number: 262906-672000-000071 and 262906-672000-000082

EXHIBIT B – LOCATION MAP

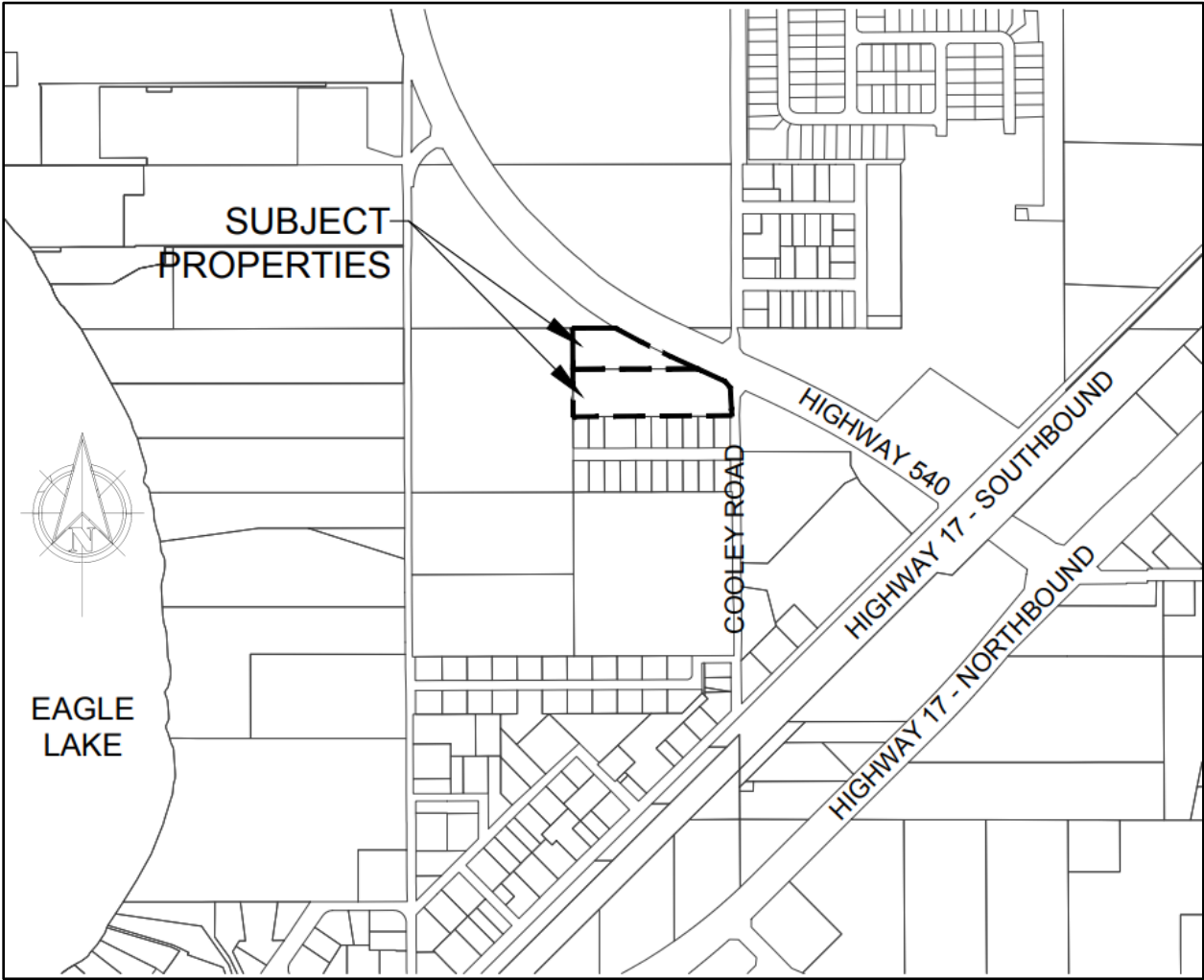


EXHIBIT C – FUTURE LAND USE MAP

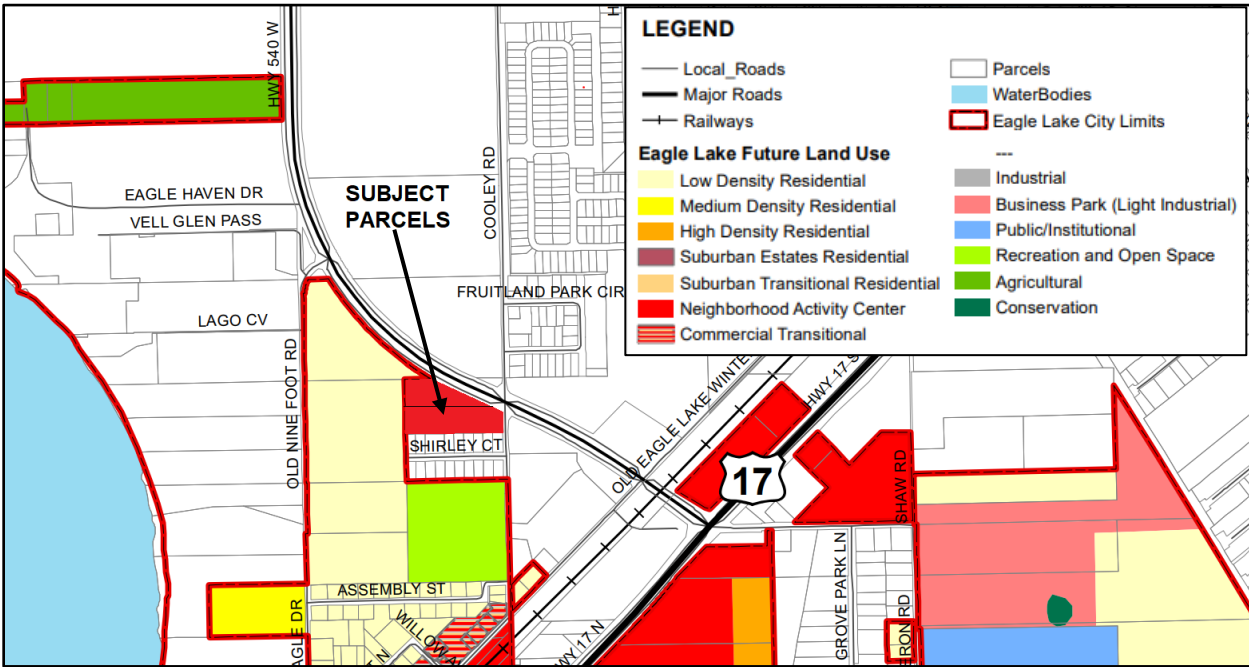
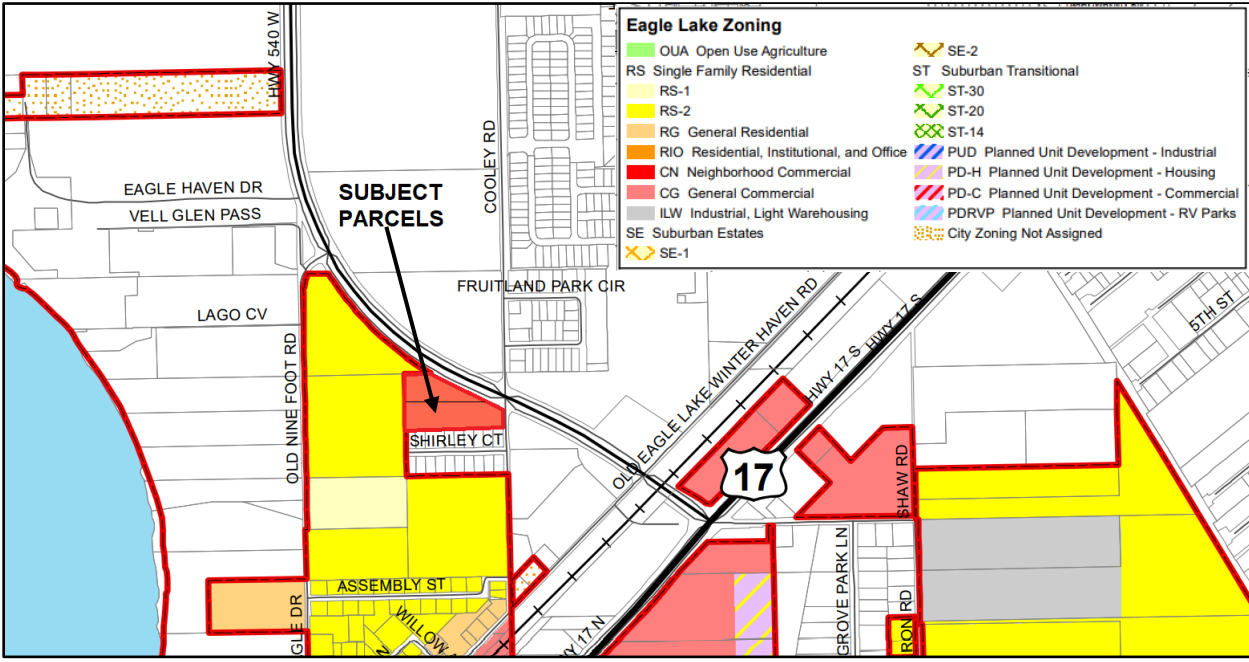


EXHIBIT D – ZONING MAP





NEXT LEVEL

PLANNING & PERMITTING

LETTER OF TRANSMITTAL

TO: Tom Ernharth
City of Eagle Lake
P.O. Box 129
Eagle Lake, FL 33839

DATE: November 17, 2022
PROJECT: A&E Autobody – Cooley Road
RE: Land Use & Zoning

WE ARE SENDING YOU THE FOLLOWING ITEMS:

<u>COPIES</u>	<u>DATE</u>	<u>NO.</u>	<u>DESCRIPTION</u>
	<u>11/14/2022</u>	<u>1034</u>	<u>Check in the amount of \$500 - Small-Scale Comprehensive Plan Amendment</u>
	<u>11/14/2022</u>	<u>1035</u>	<u>Check in the amount of \$750 – Zoning Amendment</u>
			<u>Comprehensive Plan Amendment/Zoning Application</u>
			<u>Letter of Authorization</u>
			<u>Map Exhibits – Location, Topo, Land use, Soils, Aerial, FEMA, & Wetlands</u>

☒ FOR YOUR APPROVAL ☒ FOR REVIEW AND COMMENT ☒ HAND DELIVERED ☐ OTHER
☐ FOR YOUR FILE ☐ FOR YOUR INFORMATION ☐ REGULAR MAIL
☐ FOR YOUR SIGNATURE ☐ PER YOUR REQUEST ☐ OVERNIGHT
☐ FOR YOUR USE ☐ OTHER ☐ ELECTRONIC MAIL

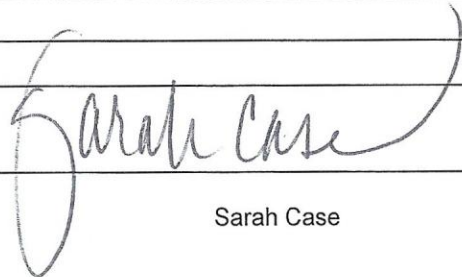
RECEIVED BY: _____ DATE: _____

REMARKS:

The enclosed application(s) is companion to request for Voluntary Annexation, submitted under separate cover.

COPY TO: A&E

SIGNED: _____



Sarah Case

sarah@nextlevelpolk.com

**COMPREHENSIVE PLAN AMENDMENT/ZONING
CITY OF EAGLE LAKE**

Date of Application: November 17, 2022

Application: CPA-large scale: CPA-small scale: COMM **Zoning:** CG

City only: Case number(s): **Date found complete:**

Please include:

1. Location map
2. Map showing property's Future Land Use designation and/or Zoning Map designation.
3. Existing Land Use Map
4. A copy in Microsoft Word of any documentation
5. If a Large Scale amendment, please include 14 copies of application and support materials.

I. APPLICATION SUMMARY

A. Applicant's Name and Address:

Sarah Case, Authorized Agent for You&Me, V&M, Inc.

Next Level Planning & Permitting
6700 South Florida Ave., Suite 4

Lakeland, FL 33813

Signature of Applicant: *Sarah Case*

Telephone: 863.398.9651

Name, Address, and Phone Number of Contact Person:

(same)

B. Property Description

1. Location (include location map and site map):

Please see attached Location Map

2. Total Site Acreage: 4 +/-

3. Current Land Utilization: Vacant

4. Parcel identification Number (Section, Township, Range, Subdivision and Parcel Number): 262906-672000-000071 & -000082

C. Land Use/Zoning Designation

1. Existing Future Land Use Category: RL-2 (Polk County)

2. Requested Future Land Use Category: COMM

3. Current Zoning District(s):

CG

4. Requested Zoning District(s):

5. Is the property within the Area of Critical State Concern? No
Please attach Green Swamp Impact Statement.

II. PLANNING AND DEVELOPMENT DEPARTMENT REVIEW

A. Natural Features Analysis

1. Topography: See attached Exhibit B - Topographical Map - Contours show SE slope

2. Soils: See attached Exhibit D - Soils Map depicting Soils #s14 & 15

3. Vegetation: See attached Exhibit E - Aerial Map

4. Flood Prone Areas: See attached Exhibit F - FEMA Map; Floodplain shown in SE corner of site

5. Wetlands: See attached Exhibit G - Wetlands Map; no Wetlands

6. Wildlife Habitat: None

B. Land Use Analysis

1. **Current Future Land Use Development Potential:** RL-1 (Polk County) - 1 DU p/AC = 2 DU
2. **Proposed Future Land Use Development Potential:** COMMERCIAL
3. **Current Population Projection Yield:** 2.62 per capita @ 2 DU = 5 persons
4. **Proposed Population Projection Yield:** Non- Residential
5. **General Analysis:** _____
See Impact Study

C. Special Designated Areas Analysis

N/A

1. **Special Management Area:** _____
2. **Aquatic Preserve:** _____
3. **Historic and/or Archaeological Preserves:** _____
4. **Air Installation Compatible Use Zones (AICUZ):** _____
5. **Historic Districts:** _____
6. **Coastal High Hazard Area (CHHA):** _____
7. **Groundwater Aquifer Recharge Area:** _____
8. **Wellhead Protection Zone:** _____

D. Public Facilities and Services Analysis

1. Potable Water

- a. **Provider:** City of Eagle Lake
- b. **Incremental Impact:** _____
- c. **Impact upon Level of Service (LOS):** _____

d. Improvements Needed: _____

2. Sanitary Sewer

a. Provider: City of Eagle Lake

b. Incremental Impact: _____

c. Impact upon Level of Service (LOS): _____

d. Improvements Needed: Connection to Forcemain (at Developer's expense)

3. Traffic Circulation

a. Provider: Proposed Ingress/Egress to 540 W (FDOT)

b. Incremental Impact: _____

c. Impact upon Level of Service (LOS): _____

d. Improvements Needed: Driveway improvement

4. Mass Transit

a. Service Provided to the Area: None Currently

b. Impact upon Level of Service (LOS): _____

c. Improvements Needed: _____

5. Drainage

a. Facilities Service Site: SWFWMD/FDOT

b. Impact upon Level of Service (LOS): 25 Yr./24-Hour Storm event w/Discharge; 100 Yr./24-Hour Storm event w/out discharge

c. Improvements Needed: On-Site Stormwater Retention (Owner's Expense) if building additions are proposed

6. Recreation

a. Incremental Impact: _____

b. Impact upon Level of Service (LOS): _____

c. Improvements Needed: _____

7. Solid Waste

a. Incremental Impact: _____

b. Impact upon Level of Service (LOS): _____

c. Improvements Needed: _____

E. Please describe in detail the 2010 Comprehensive Plan compatibility and zoning compatibility.

Please refer to attached Impact Study

If the Applicant is not the land owner, the following authorization
from the land owner must signed and notarized

I hereby authorize (See attached Letter of Authorization from Owner)
to act on my behalf on the following action:

Comprehensive Plan Change ☒, Zoning Change ☒, and/or Conditional Use _____

Sarah Case
Land Owner's Signature

11-17-2022
Date

Sarah Case, Next Level Planning & Permitting
Print Name

Address of Land Owner

State of Florida

County of Polk

The foregoing instrument was acknowledged before me by SARAH CASE

on this 17th day of November, 2002.

Valerie Wheatley
Notary

S
E
A
L



SITE LOCATION
PARCEL NUMBERS:
 262906-672000-000071
 262906-672000-000082
ADDRESS: HWY 540 W
& COOLEY RD

OLD NINE FOOT RD

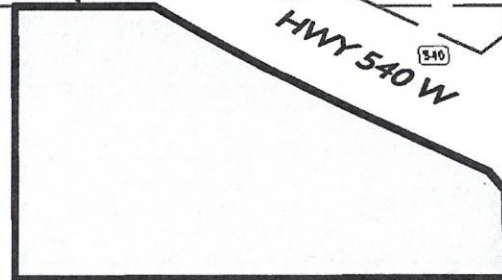
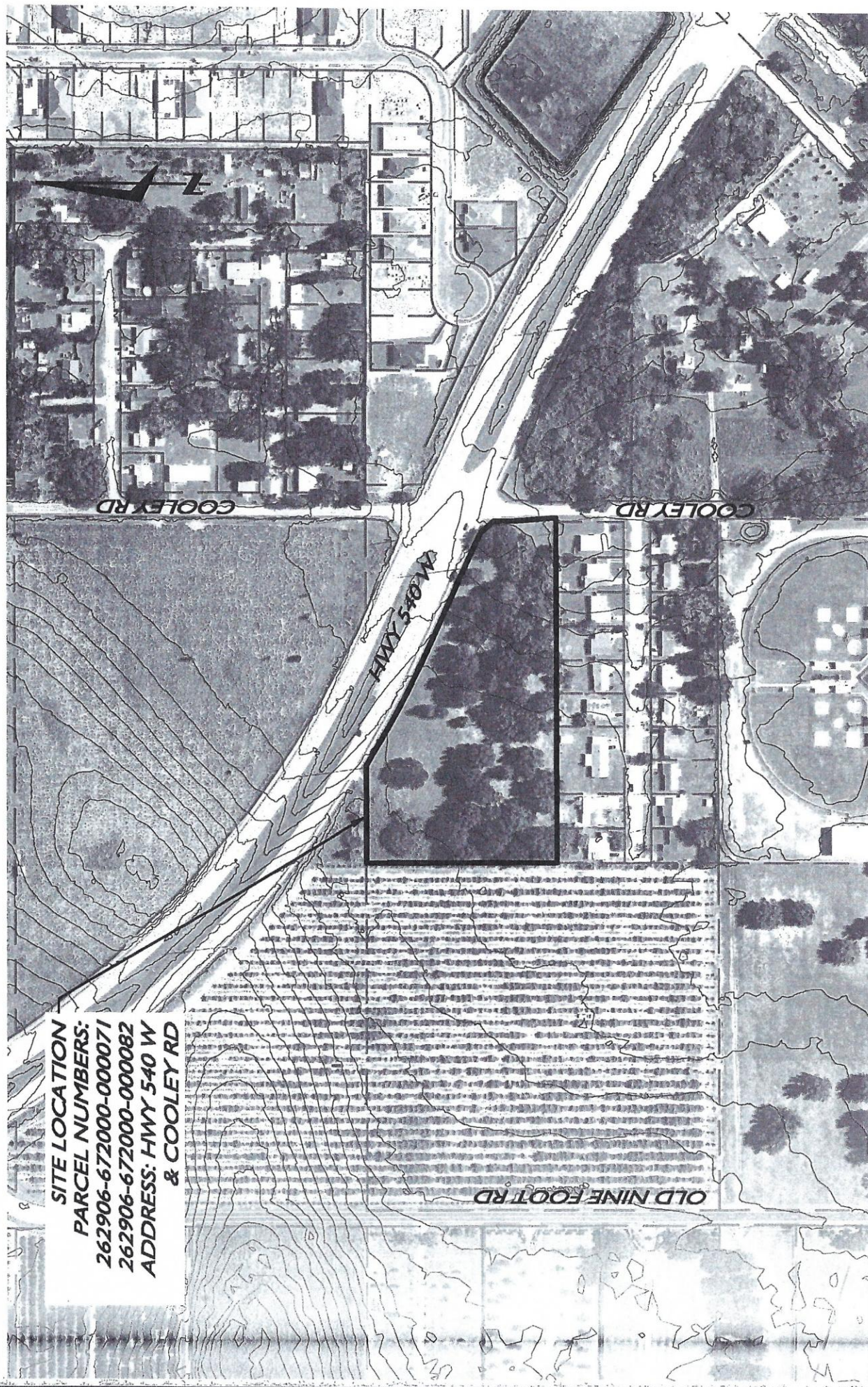


EXHIBIT A
LOCATION MAP

A & E
AUTOBODY
COOLEY ROAD



NEXT LEVEL
 PLANNING & PERMITTING



SITE LOCATION
PARCEL NUMBERS:
262906-672000-000071
262906-672000-000082
ADDRESS: HWY 540 W
& COOLEY RD

EXHIBIT B TOPOGRAPHICAL MAP

A & E
AUTOBODY
COOLEY ROAD



NEXT LEVEL
PLANNING & PERMITTING

SITE LOCATION
PARCEL NUMBERS:
262906-672000-000071
262906-672000-000082
ADDRESS: HWY 540 W
& COOLEY RD

OLD NINE FOOT RD

HWY 540 W

COOLEY RD

FRUITLAND
PARK

FRUITLAND
PARK CIR

NORMA
HEIGHT

SHIRLEY CT

HGHTS

HAMPTON W M
SUBDIVISION

HWY 540 W

CAMERON
RD

**EXHIBIT C
LAND USE MAP**

**A & E
AUTOBODY
COOLEY ROAD**



**NEXT LEVEL
PLANNING & PERMITTING**

SITE LOCATION
PARCEL NUMBERS:
 262906-672000-000071
 262906-672000-000082
ADDRESS: HWY 540 W
& COOLEY RD

OLD NINE FOOT RD

HWY 540 W

COOLEY RD

SOIL LEGEND

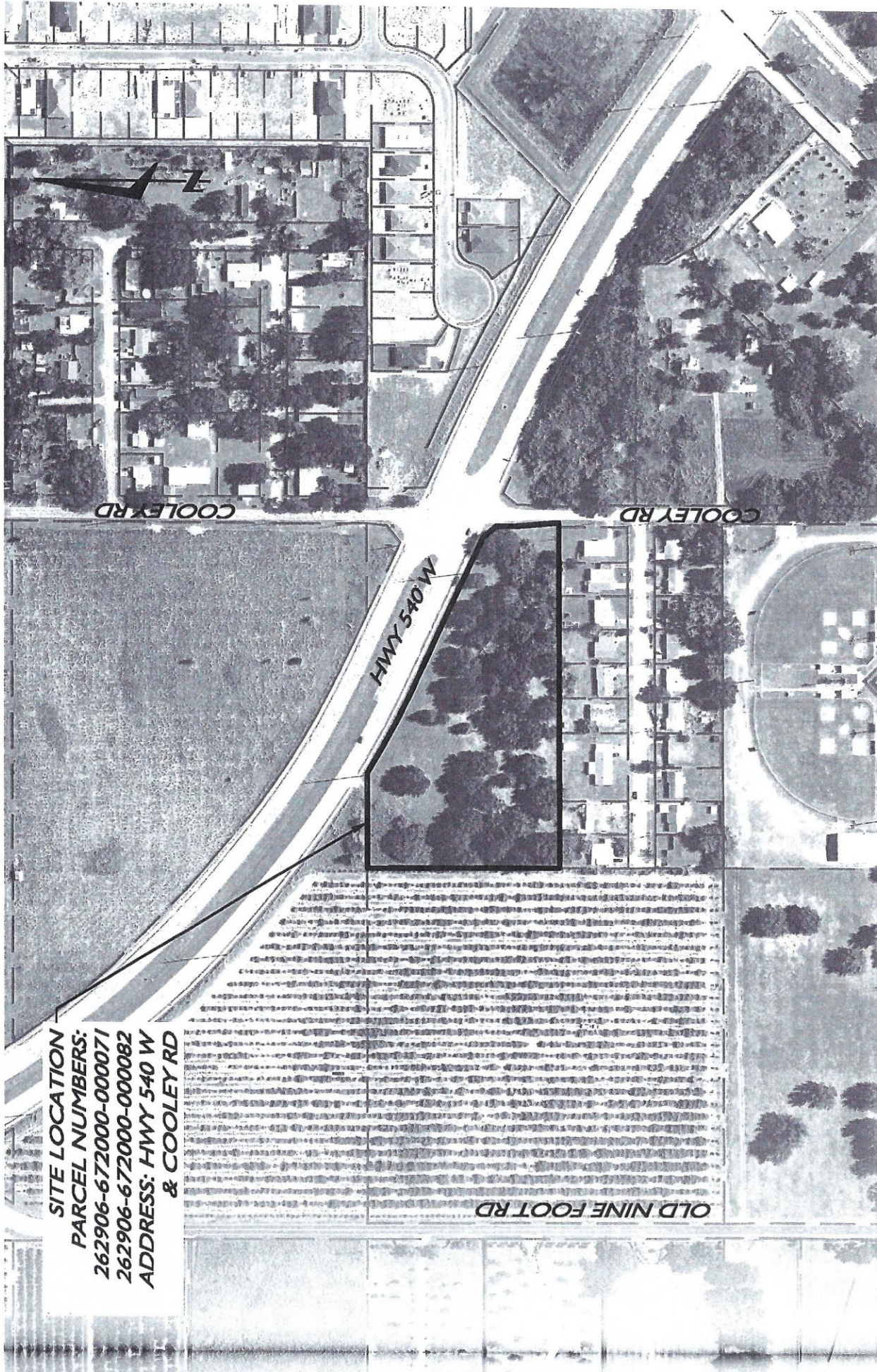
MAP NO.	SOIL TYPE
3	CANDLER SAND, 0 TO 5 PERCENT SLOPES
14	SPARR SAND, 0 TO 5 PERCENT SLOPES
15	TAVARES FINE SAND, 0 TO 5 PERCENT SLOPES
30	POMPAÑO FINE SAND

EXHIBIT D
SOILS MAP

A & E
AUTOBODY
COOLEY ROAD



NEXT LEVEL
 PLANNING & PERMITTING



SITE LOCATION
PARCEL NUMBERS:
262906-672000-000071
262906-672000-000082
ADDRESS: HWY 540 W
& COOLEY RD

EXHIBIT E AERIAL MAP

**A & E
AUTOBODY
COOLEY ROAD**



**NEXT LEVEL
PLANNING & PERMITTING**

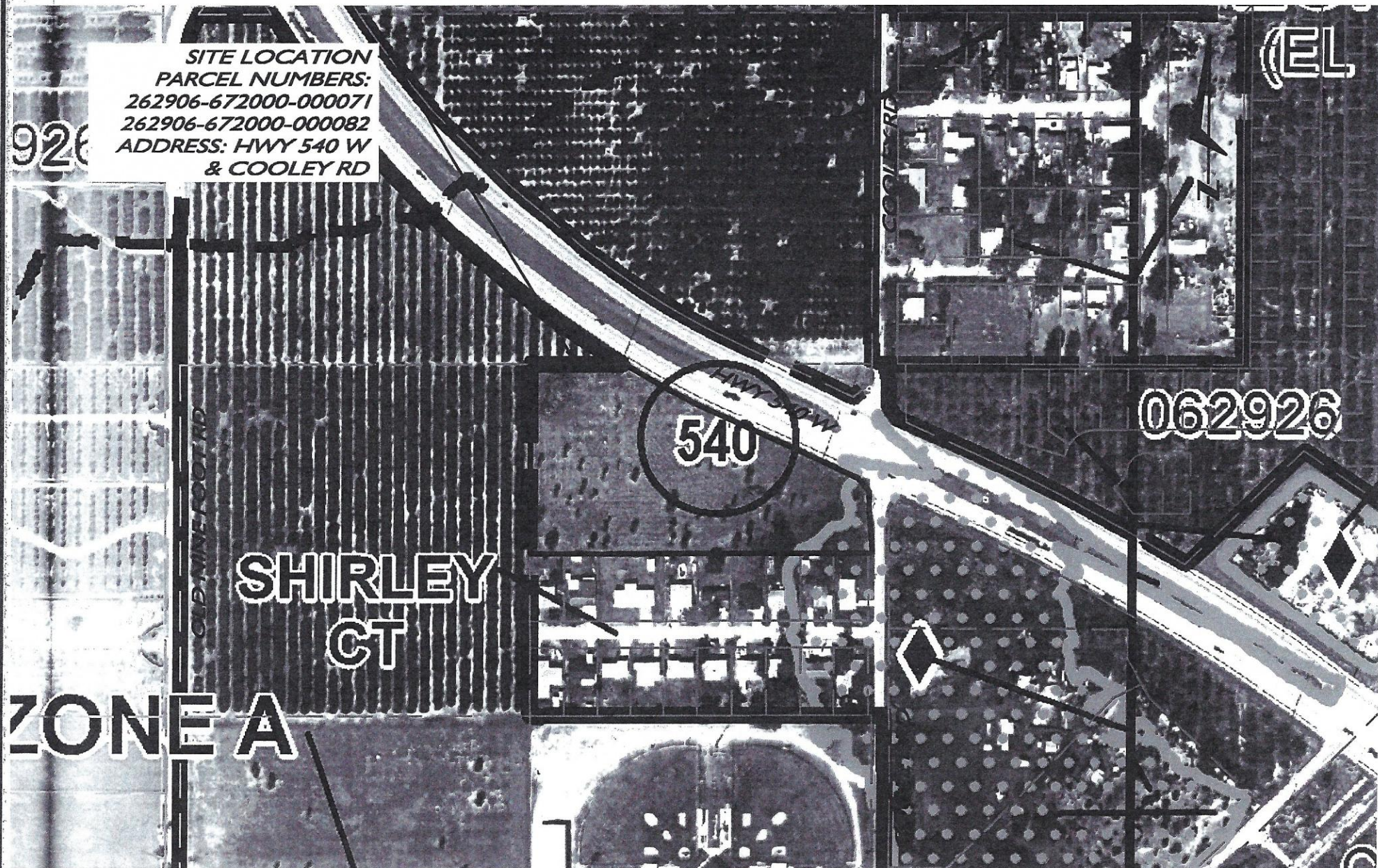


EXHIBIT F
F.E.M.A. MAP

A & E
AUTOBODY
COOLEY ROAD



NEXT LEVEL
PLANNING & PERMITTING

SITE LOCATION
PARCEL NUMBERS:
262906-672000-000071
262906-672000-000082
ADDRESS: HWY 540 W
& COOLEY RD

OLD NINE FOOT RD

HWY 540 W

COOLEY RD

COOLEY RD

Winter Haven

EXHIBIT G
WETLANDS MAP

A & E
AUTOBODY
COOLEY ROAD



NEXT LEVEL
PLANNING & PERMITTING



A&E AUTOBODY – COOLEY ROAD

LETTER OF AUTHORIZATION

Parcel 262906-672000-000082 & 262906-672000-000071

I hereby authorize Sarah Case of Next Level Planning & Permitting to apply for and sign any necessary applications needed for the Annexation, Land Use, and Zoning process through the City of Eagle Lake, Polk County, Florida regarding the above referenced Property.

Signature *V. Z. Arrington* *Pres.*
You&Me V&M, Inc. Title

STATE OF FLORIDA
COUNTY OF POLK

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☒ online notarization this 15th day of Nov., 2022, by Victoria Arrington, who is ☒ personally known to me or ☐ has produced _____ as identification and who (did) (did not) take an oath.

Valerie Wheatley
SIGNATURE OF NOTARY PUBLIC

Valerie Wheatley
PRINTED NAME OF NOTARY PUBLIC STAMP & DATE

MY COMMISSION EXPIRES 09/19/25



ORDINANCE NO. O-23-04

(Chapter 11 Health, Sanitation, Nuisances, Minimum Property Maintenance, and Housing Standards)

AN ORDINANCE OF THE CITY OF EAGLE LAKE, POLK COUNTY, FLORIDA, AMENDING EAGLE LAKE CODE OF ORDINANCE, CHAPTER 11, HEALTH, SANITATION, NUISANCES, AND MINIMUM PROPERTY MAINTENANCE STANDARDS; AMENDING ARTICLE I. IN GENERAL SECTION 11-1 THROUGH 11-8, ARTICLE II CODE ENFORCEMENT DIVISION 1 GENERALLY, SECTION 11-20 THROUGH 11-22, DIVISION 2 ENFORCEMENT PROCEDURE, SECTION 11-23 THROUGH 11-31, DIVISION 3 SUPPLEMENTAL ENFORCEMENT PROCEDURES SECTION 11-36 THROUGH 11-40, ARTICLE III NUISANCES DIVISION 1 GENERALLY SECTION 11-101 THROUGH 11-104, DIVISION 2 DEBRIS, WEEDS, WILD GROWTH, DANGEROUS AND UNSANITARY CONDITIONS SECTION 11-106 THROUGH 11-112, DIVISION 3 NOISE SECTION 11-120 THROUGH 11-127, DIVISION 4 LITTER, GARBAGE AND REFUSE SECTION 11-130 THROUGH 11-140, DIVISION 5 MOTOR VEHICLES OR VESSELS SECTION 11-146 THROUGH 11-148, ARTICLE IV MINIMUM PROPERTY MAINTENANCE STANDARDS DIVISION 1 SECTION 11-201 THROUGH 11-242, DIVISION 2 ABANDONED REAL PROPERTY SECTION 11-276 THROUGH 11-282, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

Be it enacted by the City Commission of the City of Eagle Lake, Polk County, Florida:

Chapter 11 Health, Sanitation, Nuisances, Minimum Property Maintenance, and Housing Standards

Article I. In General

11-1 LEGISLATIVE INTENT.

In accordance with authority granted by F.S. Ch. 162 and 166, it is the intent of the city commission to promote, protect, and improve the health, safety and welfare of the citizens of Eagle Lake; to provide an equitable, expeditious, effective and inexpensive method of enforcing any city code or ordinance where a violation exists; and to provide authority for the immediate issuance of a citation if a repeat violation is found, if a violation presents a serious threat to the public health, safety or welfare, or if a violation is irreparable or irreversible.

11-2 DEFINITIONS AND RULES OF CONSTRUCTION.

- (a) The following words, terms or phrases, when used in this article, shall have the meanings ascribed to them in this section:

Code enforcement board. The board appointed by the city commission in accordance with authority granted by F.S. § 162.03, and established to impose administrative fines severally.

Code enforcement officer. Any designated or authorized employee or agent of the city whose duty it is to enforce or assure compliance with city codes and ordinances.

Continuing violation. A violation which continues to occur after notice to correct the violation has been issued to the violator. Each day a violation continues shall constitute a separate infraction, and a penalty may be assessed for each day of continuing violation.

Person. Any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer or any other entity whatsoever, or any combination of such, jointly or severally.

Repeat violation. A violation of a provision of a code or ordinance by a person whom the code enforcement board has previously found to have violated the same provision within five (5) years prior to the violation.

Violation. Any act or failure to act which results in an infraction of a duly enacted city code or ordinance.

- (b) For the purpose of administration and enforcement of city codes, unless otherwise stated in this article, the following rules of construction shall apply:

The word "shall" is always mandatory and not discretionary;

The word "may" is permissive.

Unless the context clearly indicates the contrary, where regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and", "or" or "either" the conjunction shall be interpreted as follows:

- (1) "And" indicates that all the connected terms, conditions, provisions, or events shall apply.
- (2) "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
- (3) "Either" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

11-3 APPLICABILITY.

The provisions of this article shall apply in the incorporated area of Eagle Lake for the enforcement of city codes as they may be amended from time to time.

11-4 SEVERABILITY.

If any section, subsection, paragraph, sentence, clause or phrase of this Chapter is for any reason held by any court of competent jurisdiction to be unconstitutional or otherwise invalid, the validity of the remaining portions of these regulations shall continue in full force and effect, it being the intent of the city commission to have adopted these regulations without such unconstitutional or invalid section, subsection, paragraph, sentence, clause or phrase.

11-5 AUTHORITY AND LIABILITY OF CITY OFFICIALS.

- a) It is unlawful for any person to obstruct or resist the City Manager, his designee, or any person authorized by the City Manager in the discharge of his duties as provided for in this chapter. A person committing such obstruction or resistance is guilty of a misdemeanor and upon conviction therefor shall be punishable by a fine not to exceed five hundred dollars (\$500.00), imprisonment in jail not to exceed sixty (60) days or both.
- b) Any code inspector or any person authorized by this article shall be immune from prosecution, civil or criminal, for trespass upon real property while in the discharge of duties imposed by this article.
- c) The City Manager, his designee, or the City shall not be liable for any damages caused during the removal or impounding of any vehicle(s) or vessel(s) impounded or disposed of in accordance with the provisions of this chapter.

- d) In addition to enforcement procedures provided under this chapter, any person violating any prohibitions against an unlicensed, abandoned, wrecked, dismantled, derelict or inoperative vehicle(s), vessel(s), or any other property may be subject to code enforcement procedures and penalties in accordance with this chapter.

11-6 NOTICE TO ABATE A NUISANCE.

- a) It shall be the duty of any person receiving the notice of a public nuisance(s) as provided in this Chapter to comply with the provisions of the notice and to abate such nuisances(s) within ten (10) days after the receipt of such notice, and if such person shall fail or refuse to abate such nuisances(s) within ten (10) days from receipt of such notice without just cause, such failure is declared to be unlawful and shall constitute a misdemeanor. Each day such nuisances(s) persists shall constitute a separate violation.
- b) It is unlawful and shall constitute a misdemeanor for any person, after having received notice as provided in this chapter, to remove any nuisances(s) from any property to any other property upon which storage is not permitted.
- c) If the nuisance is not abated within the time provided, and after notice has been given in accordance with F.S. 162, the city may abate the nuisance and the cost of abatement may be charged to the owner of the nuisance or assessed against the land upon which the nuisance exists or both.

11-7 REPEAT VIOLATOR STATUS.

When a property owner violates any article within the City Code three (3) times within a five (5) year period and is notified in accordance with the procedures provided for herein, the owner shall be considered for an automatic code enforcement board hearing to be shown as repeatedly contributing to a nuisance, and any further violations of the same ordinance shall subject the owner to a repeat offender status and a fine not to exceed five hundred dollars (\$500.00) for each day the violation continues, in addition to any and all costs associated with enforcement of the City's Codes.

11-8 PENALTIES.

Any person violating the provisions of this Chapter shall be punished as provided in [Section 1-14.](#)

[Reserved 11-9 – 11-19](#)

Article II. Code Enforcement

Division 1. Generally

11-20 CODE ENFORCEMENT BOARD.

- (a) A code enforcement board is established in accordance with [Section 2-38 and 2-39](#) of this Code.
- (b) The members of the code enforcement board shall elect a chairman, who shall be a voting member, from among the members of the board. The presence of four (4) or more members shall constitute a quorum. Members shall serve without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the city commission or as are otherwise provided by law.
- (c) All findings by the board must be approved by a majority of those members present and voting. At least 4 members must vote in order for the action to be official
- (d) The city attorney shall either be the counsel to the enforcement board or shall represent the city by presenting cases before the code enforcement board, but in no case shall the city attorney serve in both capacities.
- (e) No member of the code enforcement board shall have the power to initiate enforcement proceedings for violations of the various codes.
- (f) The code enforcement board shall have the power to:
 - (1) Adopt rules for the conduct of its hearings.

- (2) Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the police department.
- (3) Subpoena evidence to its hearings.
- (4) Take testimony under oath.
- (5) Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance

11-21 SPECIAL MAGISTRATE.

(1) *Authority to appoint.*

The city commission of the City of Eagle Lake is hereby authorized to utilize a special magistrate in lieu of the code enforcement board on a regular basis or on a case-by-case basis as the city commission may deem appropriate. To effectuate the utilization of a special magistrate, the city commission by majority vote must adopt a resolution authorizing the use of a special magistrate on a regular basis or on a case-by-case basis. The city commission shall have the option to utilize a code enforcement board or special magistrate at any time the city commission deems appropriate in a manner consistent with law. The city commission shall also have the authority to appoint an alternate special magistrate.

(2) *Qualifications.*

The special magistrate shall be an attorney who resides in Polk County, or has a place of business located in Polk County, who possesses an outstanding reputation for civic pride, interest, responsibility and business or professional ability. The appointment as special magistrate or alternate special magistrate shall be made by the city commission on the basis of experience and interest in the fields of zoning, building control and code enforcement. In instances where the alternate special magistrate is serving, said alternate special magistrate shall have all of the powers and authority of the special magistrate as set forth herein and as otherwise provided by law.

(3) *Period of service and compensation.*

The special magistrate and alternate special magistrate shall be compensated for services rendered and shall serve at the pleasure of the city commission, and shall not be deemed a city employee.

(4) *Support services.*

The city shall provide such clerical, administrative personnel and legal services deemed reasonably necessary to support the special magistrate activities and assist in the proper performance of the magistrate's duties. The special magistrate is not authorized engage, hire, or use any person, except those provided by city, to assist in the performance of duties.

- (5) The special magistrate shall have the jurisdiction and authority to hear and decide any code enforcement matters the city commission shall determine as appropriate.

11-22 AFFIRMATION AND MODIFICATION OF PRIOR ORDERS.

The code enforcement board and special magistrate, as the case may be, shall have the jurisdiction and authority to affirm or modify penalties and decisions, as appropriate and to the extent permitted by law, imposed or entered by predecessor code enforcement boards and special magistrates.

Division 2. Enforcement Procedure

11-23 NOTICES.

Notice shall be provided in accordance with F.S. § 162.12 as amended from time to time.

11-24 APPEALS.

- (a) **Notice of violation.** Any owner aggrieved by the findings and order of the code enforcement officer as set forth in [Section 11-25](#) shall have the right to appeal said decision prior to the expiration of the time within which such owner was given to correct the nuisance. Any appeal taken pursuant to this section must be requested in writing and received by the City Clerk at 75 N 7th St., Eagle Lake, Florida. The enforcement officer will place the appeal on the agenda of the next scheduled regular code enforcement board hearing.
- (b) **Final administrative order.** An aggrieved party, including the city, may appeal a final administrative order of the code enforcement board to the circuit court. Such appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the board. An appeal shall be filed within thirty (30) days of the execution of the order to be appealed.

11-25 INITIATION OF PROCEEDINGS.

- (a) It shall be the duty of the code enforcement officer to initiate enforcement proceedings of the various codes.
- (b) Except as provided in subsections (c) and (d), if a violation of the codes is found, the code enforcement officer shall notify the violator and give him a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code enforcement officer shall notify the code enforcement board and request a hearing. A hearing shall be scheduled, and written notice of such hearing shall be provided as set forth in [Section 11-23](#) to said violator. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the code enforcement officer, the case may be presented to the code enforcement board even if the violation has been corrected prior to the board hearing, and the notice shall so state.
- (c) If a repeat violation is found, the code enforcement officer shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code enforcement officer, upon notifying the violator of a repeat violation, shall notify the code enforcement board and request a hearing. A hearing shall be scheduled, and written notice of such hearing shall be provided pursuant to [Section 11-23](#). The case may be presented to the code enforcement board even if the repeat violation has been corrected prior to the board hearing, and the notice shall so state.
- (d) If the code enforcement officer has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety and welfare, or if the violation is irreparable or irreversible in nature, the code enforcement officer shall make a reasonable effort to notify the violator and may immediately notify the code enforcement board and request a hearing.

11-26 CONDUCT OF HEARING.

- (a) Upon request of the code enforcement officer, or at such other times as may be necessary, the chairman of the code enforcement board may call a hearing of the board; a hearing may also be called by written notice signed by at least three (3) members of the board. Minutes shall be kept of all hearings, and all hearings and proceedings shall be open to the public. The city shall provide clerical and administrative personnel as may be reasonably required for the proper performance of its duties.
- (b) Each case before the code enforcement board shall be presented by a member of the administrative staff or the city attorney. If the city prevails in prosecuting a case before the code enforcement board, it shall be entitled to recover all costs incurred in prosecuting the case before the board.
- (c) The code enforcement board shall proceed to hear the cases on the agenda for the day. All testimony shall be under oath and shall be recorded. The code enforcement board shall take testimony from the code enforcement officer and the alleged violator. Formal rules of evidence

shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

- (d) At the conclusion of the hearing, the code enforcement board shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with the provisions of [Section 11-27](#).

11-27 FINDING OF FACT, CONCLUSIONS OF LAW, AND ORDER.

- (a) The finding of fact, conclusions of law, and order shall be by motion approved by a majority of those members present, except that at least four (4) members must vote in order for the action to be official.
- (b) The order may include a notice that it must be complied with by a specified date and that a fine may be imposed and, under the conditions specified, in [Section 11-28\(c\)](#), the cost of repairs may be added to the fine if the order is not complied with by said date.
- (c) A certified copy of such order shall be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property. The findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns.
- (d) If the order is complied with by the date specified in the order, the code enforcement board shall issue an order acknowledging compliance, and such order shall be recorded in the public records of the county. A hearing is not required to issue an order acknowledging compliance.

11-28 ADMINISTRATIVE FINES AND COSTS OF REPAIRS.

- (a) The code enforcement board, upon notification by the code enforcement officer that an order of the board has not been complied with by the set time, may order the violator to pay a fine in an amount specified by the board which shall not exceed two hundred fifty dollars (\$250.00) per day for each day the violation continues past the date set by the board for compliance. If a finding of a violation has been made pursuant to [section 11-27](#), a separate hearing shall not be necessary for issuance of the order imposing the fine.
- (b) The code enforcement board, upon notification by the code enforcement officer that a repeat violation has been committed, may order the violator to pay a fine which shall not exceed five hundred dollars (\$500.00) per day for each day the repeat violation is found to have occurred by the code enforcement officer. If a finding of a repeat violation has been made pursuant to [Section 11-27](#), a separate hearing shall not be necessary for issuance of the order imposing the fine.
- (c) If the code enforcement officer believes that the violation presents a serious threat to the public health, safety and welfare, or if the violation is irreparable or irreversible in nature, the code enforcement board shall notify the city commission which may direct the city manager to make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs in addition to the fine imposed pursuant to this section.
- (d) In determining the amount of the fine, if any, the code enforcement board shall consider the gravity of the violation, any actions taken by the violator to correct the violation, and any previous violations committed by the violator.
- (e) The code enforcement board may reduce a fine imposed pursuant to this section.
- (f) A fine imposed pursuant to this section shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to [Section 11-28](#), whichever occurs first.

11-29 LIENS.

- (a) A certified copy of the order imposing a fine shall be recorded in the public records of the county and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator.
- (b) Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of the state, including levy against the personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes.
- (c) A lien arising from a fine imposed pursuant to this section runs in favor of the city, and the city clerk may execute a satisfaction or release of lien entered pursuant to this section. The city shall be entitled to recover all costs incurred by recording and satisfying a valid lien.
- (d) After three (3) months from the filing of any such lien which remains unpaid, the code enforcement board may authorize the city attorney to foreclose on the lien, provided that no lien created pursuant to this section may be foreclosed on real property which is a homestead under section 4, Article X of the State Constitution.
- (e) No lien filed under this article shall continue for a period longer than twenty (20) years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose the lien is commenced in a court of competent jurisdiction. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.
- (f) In an action to foreclose a lien, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the foreclosure.

11-30 RECORDED STATEMENT CONSTITUTES LIEN.

Where the full amount due the city for costs expended by the city in accordance with the provisions of [Section 11-28](#) is not paid by the owner of property coming under this chapter within thirty (30) days after the cutting, destroying and/or removal of such weeds, grass, undergrowth, rubbish, debris, trash, deleterious and unhealthy growth or other noxious matter brought into compliance by the city, then in that case the code official shall cause to be recorded in the public records of the county, a sworn statement showing the cost and expense incurred for the work and the date, place or property on which such work was done, and the recordation of such sworn statement shall constitute a special assessment lien and privilege on the property, equivalent to the lien of municipal taxes and taking precedence over all other recorded liens, and such lien shall remain in full force and effect for the amount due on principal and interest, plus costs of court, if any, for collection, until final payment has been made.

11-31 ALTERNATIVE COLLECTION OF ABATEMENT AND VIOLATION CORRECTION SPECIAL ASSESSMENT LIENS.

- (a) At the city manager's option, a resolution may be prepared for consideration by the city commission identifying outstanding special assessments owed to the city for municipal abatement of nuisances and municipal correction of violations of the minimum property maintenance standards of the city, including municipal demolition of one (1) or more structures, and seeking authorization to collect such special assessments as non-ad valorem property tax pursuant to F.S. Ch. 197. The proposed resolution shall designate the name and address of the owner, a description of the lots or land and the charges to be assessed against such lots or land for abatement or corrective activity. If prepared, the resolution shall be presented to the city commission by the code official and, upon approval of the resolution by the city commission, outstanding charges shall be assessed against the property and shall be and remain a lien against such property prior to all other liens or interests, save and except taxes, and shall bear interest at the rate of eight (8) percent per annum from the date the resolution is approved by the city commission.
- (b) Before adoption of the resolution specified in paragraph (a), the city commission shall cause to be published a notice directed to the owner(s) of the subject property, designating a time and place where complaints will be heard with reference to the proposed assessment and when such

assessment will be finally approved and confirmed by the city commission. A copy of such notice shall be served upon the property owner(s) by first class U.S. Mail at the owner's last known address as same appears on the records of the property appraiser of the county. The failure to mail such notice or notices shall not invalidate any of the proceedings under this article.

- (c) At the time and place designated in the notice provided in paragraph (b), the city commission shall meet as an equalizing board to hear and consider any and all complaints as to such assessment and shall adjust and equalize the assessment, and when so equalized and approved and the resolution specified in paragraph (a) adopted, such assessment shall stand confirmed and be and remain a legal, valid and binding lien upon the property against which such assessment is made until paid.
- (d) To the extent not inconsistent with general or special law, special assessment liens created and perfected pursuant to the provisions set forth herein and unrecorded at the time of the filing for record of a notice of lis pendens against the subject property shall nonetheless be enforceable against the subject property and shall have the priority specified herein if the city's interest or lien did not arise until after the filing for record of such notice of lis pendens.
- (e) Only special assessments which may become a lien against homestead as permitted by Section 4, Art. X of the State Constitution may be collected using the alternative method described herein, if the property in question is entitled to homestead protection.

Reserved 11-32 – 11-35

Division 3. Supplemental Enforcement Procedures

11-36 CODE ENFORCEMENT CITATION SYSTEM.

- (a) In accordance with F.S. § 162.22, a code enforcement citation system is established to provide a supplemental means of enforcing city codes and ordinances under circumstances which are not conducive to enforcement through procedures provided in division 2.
- (b) The provisions of this division are additional and supplemental means of enforcing city codes and ordinances. Nothing contained herein shall prohibit the city from enforcing its codes or ordinances by any other means.

11-37 APPLICABILITY.

- a) A citation may be issued for violation of any city code or ordinance. For the purpose of enforcing codes and ordinances pursuant to the provisions of this division, any such violation shall constitute a civil infraction.
- (b) A citation may be issued for commencing any work or conducting any occupation within the incorporated area for which a permit or license is required without first obtaining such permit or license except as provided in subsection (d). For the purpose of enforcing codes and ordinances pursuant to the provisions of this division, any such violation shall constitute a civil infraction.
- (c) A citation may be issued at the direction of the city manager for violation of any city code or ordinance not specifically authorized by this section when, in the opinion of the city manager, implementation of the code enforcement citation system is the most effective means of eliminating a serious threat to the public health, safety or welfare. For the purposes of enforcing codes and ordinances pursuant to the provisions of this division, any such violation shall constitute a civil infraction.
- (d) The provisions of this division shall not apply to building codes adopted pursuant to F.S. § 553.73, as they apply to construction.

11-38 AUTHORITY AND POWERS OF CODE ENFORCEMENT OFFICER.

- (a) A code enforcement officer is authorized to issue a citation to any person when, based upon personal investigation, and not necessarily personal knowledge, the officer has reasonable cause to believe that:

- (1) The person has committed a civil infraction in violation of any duly enacted code or ordinance which is enforceable pursuant to this division; and
 - (2) The county court will hear the charge.
- (b) A code enforcement officer shall have no power of arrest nor shall the officer be subject to the provisions of F.S. §§ 943.085 through 943.244.
- (c) Refusal to accept a citation issued by a code enforcement officer shall constitute a misdemeanor of the second degree punishable as provided in [Section 11-40](#).

11-39 PROCEDURE.

- (a) Except as provided in subsection (c) below, if a violation is found, the code enforcement officer shall provide notice, prior to issuing a citation, that the person has committed a civil infraction in violation of a city code or ordinance. The officer shall establish a reasonable time period, which shall be no more than thirty (30) days, within which the person must correct the violation.
- (b) If, upon personal investigation, the code enforcement officer finds that the person has not corrected the violation within the time period allowed, the officer may issue a citation to the person who has committed the violation.
- (c) The code enforcement officer is not required to provide the person with a reasonable time to correct the violation prior to issuing a citation and may immediately issue a citation if the officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible.
- (d) A citation issued by the code enforcement officer shall be in a form reviewed by the city attorney and approved by the city manager and shall contain the following information:
- (1) The date and time of issuance.
 - (2) The name and address of the person to whom the citation is issued.
 - (3) The date and time the civil infraction was committed.
 - (4) The facts constituting reasonable cause.
 - (5) The number or section of the code or ordinance violated.
 - (6) The name and authority of the code enforcement officer.
 - (7) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
 - (8) The applicable civil penalty if the person elects to contest the citation.
 - (9) The applicable civil penalty if the person elects not to contest the citation.
 - (10) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, he shall be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.
- (e) After issuing the citation to the alleged violator, the code enforcement officer shall deposit the original and one (1) copy of the citation with the clerk of the county court.
- (f) The county court in and for the Tenth Judicial Circuit shall hear and consider charges of code and ordinance violations pursuant to the issuance of citations.

11-40 PENALTIES.

- (a) A violation of a code or ordinance enforced by procedures established in this division is a civil infraction with a maximum civil penalty not to exceed five hundred dollars (\$500.00) per violation.
- (b) Fines, penalties and administrative costs to be assessed for uncontested citations shall be established by a uniform fine schedule adopted by resolution of the city commission, said resolution being incorporated herein by reference.

- (c) If a citation is issued for a repeat violation and the citation is uncontested, the following shall apply:
- (1) Any person who commits a second violation of a code or ordinance shall be assessed a fine as set forth in the next class higher than that of the ordinance violated as specified in the uniform fine schedule, or, if there is not a higher class, an additional one hundred dollars (\$100.00) provided that such fine does not exceed the maximum civil penalty.
 - (2) Any person who commits a third violation of a code or ordinance shall be assessed a fine as set forth in the class two (2) higher than that of the ordinance violated as specified in the uniform fine schedule, or, if there is not a higher class, an additional one hundred dollars (\$100.00) provided that such fine does not exceed the maximum civil penalty.
 - (3) Each further repeat violation shall be assessed an additional one hundred dollars (\$100.00) above the amount of fine assessed for the previous violation provided that such fine does not exceed the maximum civil penalty.
- (d) Fines, penalties and administrative costs for contested citations shall be set as the court may deem appropriate but shall not exceed the maximum civil penalty.
- (e) Any person who willfully refuses to sign and accept a violation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree which is punishable by a fine not exceeding five hundred dollars (\$500.00) or by a definite term of imprisonment in the county jail not exceeding sixty (60) days or by both fine and imprisonment.

[Reserved 11-41 - 11-45](#)

Article III - Nuisances

Division 1. Generally

11-101 NUISANCE PENALTY (F.S. 823.01)

All nuisances that tend to annoy the community, injure the health of the citizens in general, or corrupt the public morals are misdemeanors of the second degree, and punishable as provided in F.S. 775.083, except that a violation of F.S. 823.10 (Place where controlled substances are illegally kept, sold, or used declared a public nuisance) is a felony of the third degree.

11-102 OUTDOOR SALES.

Outdoor sales of merchandise from a vehicle, in a Right of Way, stall, or any designated area shall constitute a roadside stand, curb market or open-air market, as defined herein, and are not permitted within the city.

EXCEPTION: May be allowed for special events with required permit.

11-103 CREATION UNLAWFUL.

It shall be unlawful for any person to create a nuisance, or suffer or permit a nuisance to exist upon property which is under his care, custody or control.

11-104 DUTY OF PROPERTY OWNER.

It shall be the duty of every owner of land lying within the corporate limits of the city to clear the same or destroy all nuisances that may be on such land. It shall also be the duty of every owner of land with a sidewalk abutting thereon to keep the sidewalk free and clear of all weeds, undergrowth, rubbish, debris and trash.

Division 2. Debris, Weeds, Wild Growth, Dangerous and Unsanitary Conditions

11-106 WEEDS, GRASS, OVERGROWTH, UNDERGROWTH, AND RANK GROWTH.

All premises and exterior property *to include* the portion of the adjoining public right-of-way between the property *and* the street, other than agricultural, shall be maintained free from weeds or plant growth in excess of 8 (eight) inches in height for improved property, twelve (12) inches in height for unimproved property, dead and or downed trees, stumps must be ground to or below grade, low hanging branches must be trimmed to a height of at least six (6) feet above grade. The removal of

any tree, four (4) inches or greater in diameter at breast height (DBH), cannot be removed without a permit.

EXCEPTION: Parcels over 1 acre need only mow and clean the first twenty-five (25) feet of the perimeter of the property.

11-107 JUNK AND TRASH.

All exterior property and premises shall be maintained in a clean, safe and sanitary condition. It shall be the duty of each property owner or household in this city to remove all debris from his or her property, including the streets, alleys, and sidewalks bordering thereon, and keep same in good, clean, and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

No owner or occupant shall permit old or broken lumber, rusted or unused equipment, discarded refrigerators, discarded stoves, old pipe, scrap metal, or other used, discarded and worn, unsightly articles or materials to remain in any yard or open area owned, occupied or in the possession of such person for a period of more than ten (10) days.

Further, unless authorized by the zoning category of the property, no owner or occupant of a building, structure or premises may utilize such property for the open storage of abandoned, untagged, or inoperative motor vehicles, iceboxes, refrigerators, stoves, glass, building material, rubbish, or similar items

11-108 DEAD TREES, LIMBS, BRANCHES AND ACCUMULATED LANDSCAPING MATERIALS.

It shall be the responsibility of the owner and/or occupant to remove and properly dispose of dead and/or downed trees, limbs, branches, bagged or piled grass clippings, bagged, or piled leaves and other piles or accumulations of material resulting from landscaping or maintenance of a parcel of land or lots. Stumps resulting from the removal of dead trees will be ground to or below grade level as to prevent a hazardous condition.

11-109 TREE DECLARED NUISANCE/ DANGEROUS.

- a) Any tree extending over a street, alley, highway, or parking lot shall be trimmed by the property owner or his authorized agent, on which the tree trunk is located, so as to provide a clear height above the street, alley, highway, or parking lot of not less than fourteen (14) feet.
- b) Any tree extending over a sidewalk or multi-modal trail shall be trimmed by the property owner, or his authorized agent, so as to provide a clear height above the sidewalk or multi-modal trail, of not less than eight (8) feet.
- c) The property owner of any tree which extends over a street, alley, highway, parking lot, sidewalk, or multi-modal trail shall remove any and all dead branches from the tree which, if dislodged, are likely to fall upon the public street, alley, highway or sidewalk.
- d) In the event that the property owner fails to meet the requirements of this section, the City may then issue a written notice of violation to the property owner giving fifteen (15) days to correct the violation. If the violation is not corrected within the given period of time the City has the option of correcting the violation at the property owner's expense.

11-110 DANGEROUS CONDITIONS - GENERAL.

It is unlawful for any person to maintain or permit the existence of any condition that is a danger to life, health, or property within the City. Dangerous conditions include, but are not limited to, any unsecured structure, structures in violation of the Florida Building Code, the International Property Maintenance Code, the Uniform Code for the Abatement of Dangerous Buildings, trees in danger of falling, all or in part, unprotected excavations, improper storage of hazardous or toxic materials, any abandoned or stored refrigeration unit, appliance, derelict vehicle, derelict vessel, or other condition that could trap a person, in such a place as to be easily accessible to persons without first having made adequate provisions to prevent entry into such without having removed all latches, catches, locking devices or the door thereof, so that escape from the interior may be had, or otherwise ensure lack of access.

11-111 GRAFFITI.

No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

11-112 OPEN FIRES, BONFIRES, CAMPFIRES, RECREATIONAL FIRES

11-112.1 DEFINITIONS

Open Fires: Includes, without limitation, campfires, bonfires, unpermitted controlled burns, burning of yard and household trash, burning of construction debris, burning of organic debris, and igniting of fireworks unless expressly exempted from a burn ban.

Recreational fires: Noncommercial burning of material other than for religious or ceremonial purposes which is not contained in a barbecue grill or a barbecue pit and the total fuel area is not exceeding three (3) feet in diameter and two (2) feet in height.

11-112.2 RECREATIONAL FIRES (FS 590.11)

- (1) It is unlawful for any individual or group of individuals to build a warming fire, bonfire, or campfire and leave it unattended while visible flame, smoke, or emission exists.
- (2) Anyone who violates this municipal code commits a misdemeanor of the second degree, punishable as provided in FS 775.082 or 775.083.

11-112.3 BONFIRES (FS 823.02)

Anyone concerned with causing or making a bonfire within 10 rods (165 feet) of any house or building shall be guilty of a misdemeanor of the second degree, punishable as provided in FS 775.082 or FS 775.083

Reserved 11-113 – 11-119

Division 3. Noise

11-120 SEVERABILITY.

If any provision of this division or the application thereof is held invalid, such invalidity shall not affect the other provisions or application of this division which can be given effect without the invalid provisions or application, and to this end the provisions of this division are hereby declared severable.

11-121 NOISE DISTURBANCE—DEFINED.

As used in the division, a "noise disturbance" is any sound which is:

- (1) Unreasonably loud and disturbing;
- (2) Of such character, quantity, or duration as to be injurious to human or animal life, or property;
- (3) Of such character, quantity, or duration as to unreasonably interfere with the comfortable enjoyment of life or property; or
- (4) Of such character, quantity, or duration as to unreasonably interfere with the normal conduct of business.

11-122 PROHIBITION OF NOISE DISTURBANCE.

No person or legal entity, through its officers, agents or employees, shall make, maintain, or cause to be made or maintained a noise disturbance as defined in this division. The continuation of a noise disturbance upon one's property following notice of its existence to that person making, maintaining, or causing to be made or maintained a noise disturbance shall be deemed to continue with the permission of the property owner and/or lessee.

11-123 SPECIFIC PROHIBITIONS.

The following specified acts and circumstances are hereby declared to constitute prohibited noise disturbances in violation of this division, provided, however, such enumeration is not and shall not be deemed to be exclusive, provided, further, that all other acts and circumstances meeting the definition of noise disturbance are likewise declared to be in violation of this division.

- (1) *Radios, televisions, tape players, compact disc players, musical instruments and similar devices.* Playing or permitting the playing of any radio, television, tape player, compact disc player, musical instrument or similar device, whether or not amplified, in such a manner or with such a volume as to annoy or disturb the quiet, comfort and repose of a reasonable person in a dwelling, place of business, hotel or other place of residence.
- (2) *Amplified human voice.*
Amplifying the human voice in such a manner or with such volume as to annoy or disturb the quiet, comfort, and repose of a reasonable person in any dwelling, place of business, hotel or other place of residence.
- (3) *Creating noise for purpose of advertising prohibited.*
Blowing any horn or whistle, ringing any bell, or using any other device whereby a noise is produced for the purpose of advertising any business, occupation, or article or for the purpose of attracting attention to such advertisement shall be prohibited. No person shall cause or procure the same to be done within the city.
- (4) *Other noises.*
All unnecessary or unauthorized noises, including animal noises, and annoying vibrations, shall be prohibited.

11-124 EXEMPTIONS.

The provisions of this division, except for those specified prohibitions set forth hereinabove, shall not apply to the following sounds:

- (1) The unamplified human voice;
- (2) Railway locomotives or cars;
- (3) Household or farming tools, appliances and equipment meeting manufacturer's specifications as to sound, if applicable;
- (4) Aircraft and airport activity conducted in accordance with federal laws and regulations;
- (5) Maintenance of public service facilities;
- (6) Law enforcement activities, including training;
- (7) Authorized target shooting;
- (8) Emergency signals during emergencies;
- (9) Emergency signal testing;
- (10) Motor vehicles operating on a public right-of-way subject to F.S. § 316.293;
- (11) Refuse collection and mosquito fogging;
- (12) Operation of any regulated utility;
- (13) Ordinary and customary construction activities exempt from or for which the City of Eagle Lake has issued a development permit, provided such activity occurs between 7:00 a.m. and 9:00 p.m.;
- (14) Organized athletic contests;
- (15) Sounds relating to and originating within any area zoned for commercial use;

- (16) Sounds relating to and originating within any area zoned for industrial use;
- (17) Sounds relating to and originating from legal, pre-existing, non-conforming commercial and industrial activities;
- (18) Boats and boating activities;
- (19) Emergency devices and vehicles used for the purpose of alerting persons of an emergency or the emission of sound in the performance of emergency work;
- (20) Lawful non-commercial public gatherings including, but not limited to, parades, festivals, and school functions;
- (21) Reasonable operation of equipment associated with the following activities between one-half (½) hour before sunrise and 10:00 p.m.:
 - Lawn care, soil cultivation;
 - Maintenance of trees, hedges and gardens, the use of lawn mowers, saws and tractors, tree trimming and limb clipping.

These exemptions do not apply to the specific prohibitions set forth in [Section 11-123](#) above.

11-125 SCHOOL-RELATED ACTIVITIES.

All authorized school-related activities are exempt from the provisions of this division.

11-126 SEPARATE VIOLATIONS.

Each separate occurrence shall constitute a separate violation and shall be punishable as such hereunder.

11-127 PENALTIES.

A person who violates [Section 11-122](#) and [Section 11-123](#) as set forth hereinabove, shall be subject to prosecution in the name of the state in the same manner as misdemeanors are prosecuted; and, upon conviction, such person shall be punished by a fine not to exceed five hundred dollars (\$500.00), or imprisonment in the county jail not to exceed sixty (60) days, or by both such fine and imprisonment.

Reserved 11-128 – 11-129

Division 4. Litter, Garbage and Refuse

The City of Eagle Lake hereby adopts by reference Polk County Ordinance 99-24, known as the "Polk County Litter Law" as may be amended from time to time in the future.

11-130 DEFINITIONS.

Containers means a device used to temporarily store garbage and/or rubbish.

Dump means to dump, throw, discard, place, deposit, or dispose of.

Garbage means any animal or vegetable waste resulting from handling, preparation, cooking and consumption of food.

Landfill means a site for the deposit of garbage, rubbish, or other waste to be legally deposited.

"Law enforcement officer" means any officer of the Florida Highway Patrol, the Polk County Sheriff's Office, a Municipal Police Department, Officers of the Florida Game and Freshwater Fish Commission, Polk County Code Enforcement Officers, and, solely for the purposes of this division, any employee of the Polk County Division of Parks and Recreation designated by the department as a Litter Control Officer.

Litter means any garbage; rubbish; trash; refuse; can; bottle; box; container; paper; tobacco product; tire; appliance; mechanical equipment or part; building or construction material; tool; machinery; wood; motor vehicle or motor vehicle part; vessel; aircraft; farm machinery or equipment; sludge from a waste treatment facility, water supply treatment plant, or air pollution

control facility; or substance in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

Motor vehicle means an automobile, motorcycle, truck, trailer, semitrailer, truck tractor, or semitrailer combination, or any other vehicle that is powered by a motor.

Person means any individual, firm, sole proprietorship, partnership, corporation, or unincorporated association.

Rubbish means any Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

Vessel means a boat, barge, or airboat or any other vehicle used for transportation on water.

11-131 ACCUMULATION OF RUBBISH OR GARBAGE.

All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

11-132 DISPOSAL OF RUBBISH.

Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in an approved container or rubbish disposal facility.

11-133 DISPOSAL OF GARBAGE.

Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved container or garbage disposal facility.

11-134 APPLIANCES, REFRIGERATORS, AND OTHER LARGE WASTE.

Appliances, Refrigerators, and other large waste not in operation shall not be discarded, abandoned or stored on any premises without first securing or removing the doors.

11-135 CONTAINERS.

The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leak-proof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

11-35.1 RESIDENTIAL TRASH CONTAINERS

Every occupant of a residential property shall place garbage or rubbish in approved containers. Containers may be placed at curbside no earlier than 1 day prior to collection day and must be removed no later than 1 day after collection day.

11-35.2 RESIDENTIAL RECYCLING CONTAINERS

Every occupant of a residential property shall place recycling materials in approved containers. Containers may be placed at curbside no earlier than 1 day prior to collection day and must be removed no later than 1 day after collection day.

11-136 DISTRIBUTION OF HANDBILLS.

Except as otherwise provided in this section, no person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or vehicle in any public place or private premises. It shall not be unlawful to distribute without charge a noncommercial handbill to a person in a vehicle or to an occupant of a non-posted residence willing to accept it. If the residence is inhabited and not posted and unless requested by anyone present not to do so, a handbill secured in a plastic bag may be attached to the front door or within 10 feet of the door.

11-137 DUMPING LITTER PROHIBITED.

Unless otherwise authorized by law or permit, it is unlawful for any person to dump litter in any manner or amount:

- (1) In or on any public highway, road, street, alley, or thoroughfare, including any portion of the right-of-way thereof, or any other public lands, except in containers or areas lawfully provided therefor. When any litter is thrown or discarded from a motor vehicle, the operator or owner of the motor vehicle, or both, shall be deemed in violation of this division;
- (2) In or on any lake, river, canal, or stream of the county, including canals. When any litter is thrown or discarded from a vessel, the operator or owner of the vessel, or both, shall be deemed in violation of this division; or
- (3) In or on any private property, unless prior consent of the owner has been given and unless such litter will not cause a public nuisance or be in violation of any other state or local law, rule or regulation.

11-138 - DUMPING RAW HUMAN WASTE PROHIBITED.

Unless otherwise authorized by law or permit, it is unlawful for any person to dump raw human waste from any train, aircraft, motor vehicle, or vessel upon the public or private lands or waters of the city or county.

11-139 - PENALTIES; ENFORCEMENT.

- (a) Any person who dumps litter in violation of [Section 11-137](#) of this division or raw human waste in violation of [Section 11-138](#) of this division is guilty of a noncriminal infraction, punishable by a civil penalty of \$100.00 for the first infraction and \$500.00 for the second or subsequent infractions. In addition, the court may require the violator to pick up litter or perform other labor commensurate with the offense committed.
- (b) Persons cited for an infraction under this division shall sign and accept a citation acknowledging receipt of the citation. Persons receiving a citation may pay the civil penalty within ten days of the date of receiving the citation. If a person fails to pay the civil penalty within ten days of receipt of the citation, the clerk's office shall issue a notice to appear. The clerk shall assess a \$10.00 late fee for each penalty paid after the initial ten-day period. The late fee shall be retained by the clerk's office for the purpose of defraying operating expenses. Payment of the civil penalty and applicable late fee shall be deemed an admission of the infraction and a waiver of the violator's right to a nonjury trial on the issue of the commission of the violation. Failure to pay the civil penalty and late fee when the citation has not been successfully contested shall result in the recording of a lien for the unpaid amount as well as for recording fees.
- (c) A citation issued pursuant to this division shall state the date and time of issuance, name and address of the person in violation, date of the violation, section of the ordinance or subsequent amendments thereto violated, name of the law enforcement officer issuing the citation, the date and time when the violator shall appear in county court if he or she wishes to contest the citation, and a conspicuous statement indicating the penalty for willful refusal to sign and accept the citation.
- (d) Any person who willfully refuses to sign and accept a citation issued pursuant to this division shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or 775.083

11-140 - ENFORCEMENT OF OTHER REGULATIONS.

This division does not limit the authority of any state or local agency to enforce other laws, rules, or ordinances relating to litter or solid waste management.

[Reserved 11-141 - 11-145](#)

Division 5. Motor Vehicles or Vessels

11-146 DEFINITIONS.

DERELICT, INOPERABLE MOTOR VEHICLE or VESSEL means A vehicle or vessel which cannot be used for its intended purpose for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its owner power.

11-147 MOTOR VEHICLE(S), OR VESSEL(S).

Except as provided for in other regulations, the presence of an unlicensed, abandoned, wrecked, dismantled, derelict or inoperative vehicle(s) or vessel(s), on any private or public property, is declared to constitute a public nuisance that shall be abated as such in accordance with the provisions of [Section 11-148](#). The tearing down, stripping or junking of such vehicle(s) or vessel(s) shall be permitted only where and when such use is specifically authorized, permitted, or licensed under other ordinances of the city and in strict accordance therewith; or which use is conducted entirely within the confines of an accessory building, carport, or garage, then only provided that such vehicle(s) or vessel(s) is the property of the owner or occupier of the lot and that such use is not a commercial use of the property, unless such use is authorized by other ordinances of the city.

Inoperable or Derelict Vehicle(s) or Vessel(s):

A vehicle or vessel, or parts thereof, shall be deemed to be "derelict" or inoperable if the vehicle(s) or vessel(s) is:

- 1) Inoperable to the extent that it is unable to perform its original intended function or;
- 2) Partially or wholly dismantled or;
- 3) In a condition that prevents legal operation or;
- 4) Junked or intended to be recycled, scrapped, or;
- 5) Unlicensed.

This section defining derelict, inoperable and abandoned vehicle(s) or vessel(s) shall not apply to the following:

- 1) A vehicle(s) or vessel(s) that is enclosed in a secure building.
- 2) A vehicle(s) or vessel(s) on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of the business enterprise as determined by the Eagle Lake Code of Ordinances.
- 3) A vehicle(s) or vessel(s) in an appropriate storage or depository facility maintained in a lawful place and manner by a governmental agency.
- 4) An antique motor vehicle as defined in F.S. 320.086 which is licensed as provided by law.
- 5) A vehicle(s) or vessel(s) which is covered by an intact custom vehicle or vessel cover made for the specific type and size of vehicle or vessel which it covers.
 - a) In no instance shall a person have more than one (1) custom covered vehicle or vessel on his or her residential property or two (2) custom covered vehicles, vessels, or combination thereof on his or her nonresidential property
 - b) No custom covered vehicle(s) or vessel(s) may be stored on public property or right-of-way.
- 6) A race car that is currently actively engaged in racing and equipped for racing with roll cage, windows removed, drivers name, sponsors and number displayed. Demolition race cars shall be considered derelict vehicles two weeks after the demolition race.
- 7) An automobile repair shop may only have derelict vehicles on the premises for the time necessary under agreement for repair with business customers. Automobile dealers may not have derelict vehicles on the premises for resale.

11-148 DISPOSITION AND IMPOUNDMENT OF VEHICLE(S) OR VESSEL(S):

- a) **PRIVATE PROPERTY:** No person in charge of any private property within the city shall allow any unlicensed, abandoned, wrecked, dismantled, derelict, inoperative vehicle(s), or vessel(s) to remain on any private property for a period longer than ten (10) days. This shall not apply to any

vehicle(s) or vessel(s) in an enclosed building, a carport, or any vehicle allowed under [Section 11-147 Motor Vehicle\(s\), or Vessel\(s\)](#).

- b) **PUBLIC PROPERTY:** No person shall allow any unlicensed, abandoned, wrecked, dismantled, derelict, or inoperative vehicle(s), or vessel(s) to remain on any public property for a period longer than five (5) days. This shall not apply to any vehicle in an enclosed building, a carport, or on a commercial property operated in a lawful manner for vehicle repair or restoration.
- c) If the vehicle(s) or vessel(s) is not removed in accordance with notice set forth in this chapter, the City Manager or his designee may cause the vehicle(s) or vessel(s) to be removed. The vehicle(s) or vessel(s) owner may have vehicle(s) or vessel(s) released upon proof of ownership by title, registration or bill of sale and paying all towing and storage fees to the private contractor. If the vehicle or vessel is unclaimed the private contractor may dispose of the vehicle or vessel in any manner permitted by law.

[Reserved 11-149 – 11-200](#)

Article IV Minimum Property Maintenance Standards

Division 1

[11-201 INTENT.](#)

- (a) The provisions of this Division shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.
- (b) This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare in so far as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

[11-202 APPLICABILITY.](#)

Where there is a specific conflict between a general requirement of this code and a specific requirement of this code, the specific requirement shall govern. Where differences occur between provisions of this code, and any referenced standard in this code, this code shall generally govern. Chapter 553, Florida Statutes, the Florida Building Code and all referenced standards in the Florida Building Code shall control all matters relating to new building construction, repair and remodeling. The Florida Fire Prevention Code / Florida Life Safety Code shall control all matters relating to fire safety. Where, in a specific case, different sections of this code specify different requirements, the most restrictive will govern.

[11-202.1 Maintenance.](#)

Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this section to be removed from, shut off from, or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.

[11-202.2 Application of Other Codes.](#)

Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of Chapter 553, Florida Statutes, and

any applicable building codes, including, but not limited to, the Florida Building Code. Nothing in this code shall be construed to cancel, modify or set aside any of the provisions of Chapter 553, Florida Statutes, or any applicable building codes to a particular project, including, but not limited to, the Florida Building Code or any referenced standard therein.

11-202.3 Existing remedies.

The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and insanitary.

11-202.4 Workmanship.

Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

11-202.5 Historic Buildings.

The provisions of this code shall not be mandatory for existing buildings or structures that are designated as historic by the National Park Service and listed on the National Register of Historic Places when such buildings or structures are judged by the Code Official to be safe and in the public interest of health, safety, and welfare.

11-202.6 Referenced Codes and Standards.

The codes and standards referenced throughout this code shall be considered part of this code and are accordingly adopted and incorporated herein by reference to the prescribed extent of such reference. Where differences occur between provisions of this code and the referenced standards, the more stringent standard shall apply.

11-202.7 Requirements Not Covered by Code.

Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health, and general welfare, not specifically covered by this code shall be determined by the Code Official using the following:

- a. Reference to the International Property Maintenance Code, 2015 edition;
- b. Reference to the manufacturer's suggested guidelines or instructions for installation and use;
- c. Reference to the Florida Building Code or any other applicable building code;
- d. Reference to the 1997 Uniform Code for the Abatement of Dangerous Buildings;
- e. Reference to primary law (including federal, state, and local sources);
- f. Reference to any generally accepted practice in the industry, occupation, or general use for which the existing fixture, structure or equipment is primarily designated for, or which the public health, safety, and welfare requires; or
- g. Reference to any other suitably acceptable source of custom or practice reasonably accepted by society and sufficiently reliable in nature such that the requirement would be generally known and accepted in the community.
- h. Any amendment to each of the aforementioned codes or other provisions of law shall include any amendments made from time to time.

The Code Official, upon observing a deficiency in a requirement necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health, and general welfare, shall, in addition to regular enforcement protocol, issue along with the first notice a written determination including the basis for requirement and the necessary steps to correct the deficiency observed to meet the requirement.

11-202.8 Code Officials.

Each Code Enforcement Officer and Building Official of the City is deemed a "Code Official" for purposes of this code. A code official may only exercise authority in enforcing this code for which the said code official is duly licensed. Code Enforcement is a division of the Department of Planning and Development. Any notices required to be delivered to the Code Official under this code shall be delivered to the responsible Code Official for the case.

11-202.9 Liability.

In accordance with § 768.28(9)(a), Florida Statutes, a City official or employee charged with the enforcement of this code shall not be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function, unless such officer, employee, or agent acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

11-203 SEVERABILITY.

If any section, subsection, paragraph, sentence, clause or phrase of this Division is for any reason held by any court of competent jurisdiction to be unconstitutional or otherwise invalid, the validity of the remaining portions of these regulations shall continue in full force and effect, it being the intent of the city commission to have adopted these regulations without such unconstitutional or invalid section, subsection, paragraph, sentence, clause or phrase.

11-204 DUTIES AND POWERS OF THE CODE OFFICIAL

11-204.1 Inspections.

The code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

11-204.2 Right of Entry.

Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the code official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the code official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this code, provided that if such structure or premises is occupied the code official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the code official shall first make reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry.

11-204.3 Identification.

The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

11-204.4 Notices and Orders.

The code official shall issue all necessary notices or orders to ensure compliance with this code.

11-204.5 Department Records.

The code official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records as long as the building or structure to which such records relate remains in existence, unless otherwise provided for by other regulations.

11-204.6 Modifications.

Whenever there are practical difficulties involved in carrying out the provisions of this code, the Building Official shall have the authority to grant modifications to structures for individual cases as may be deemed necessary in his or her discretion. Should a modification be denied, the requester may appeal the Building Official's decision to the Board of Adjustment and Appeals. No modification from the terms of this code shall be issued unless the Board of Adjustment and Appeals finds, based on competent substantial written evidence submitted to the Planning & Development Department at least seven (7) business days before the day of the scheduled meeting of the Board of Adjustment and Appeals, that all of the following conditions are met:

- a. The requested modification is in compliance with the intent and purpose of this code;
- b. The requested modification does not lessen health, life, safety and fire requirements;
- c. The circumstances giving rise to the requested modification are peculiar to the structure and do not arise from the actions of a structure owner or occupant;
- d. The requested modification, if approved, will not confer any special privilege that is denied by the provisions of this code to other similarly situated structures;
- e. Literal interpretation of the provisions of this code would deprive the structure owner or occupant of rights commonly enjoyed by other similarly situated structures; and
- f. The requested modification, if approved, is the minimum modification that will allow reasonable use of the structure.

All requests for modifications must be submitted to the City in writing. It is the requester's responsibility to include a proper mailing address with the written request for modification.

While it is preferred that the requester provide evidence supporting the modification to the Board of Adjustment and Appeals at the time of making the written request, to ensure that the requester is given adequate opportunity to provide the Board of Adjustment and Appeals with all relevant evidence, the Planning & Development Director shall, upon receipt of a request for modification, forward a notice, along with a copy of this Section, to the address supplied by the requester that identifies the Board meeting date and the deadline for document submittal.

Should a modification to this code be approved, the Board of Adjustment and Appeals shall draft a modification order and shall forward a copy of the modification order to the Code Official for placement in the Code Official's files and a copy of the modification order to the Building Official for placement in the Building Official's files.

Modifications to this code granted by the Board of Adjustment and Appeals are not variances and do not run with the land, and upon the application for a building permit from the City for the subject building, structure or premises by the owner or occupant thereof, such modifications shall cease to be in existence and the subject building, structure or premises must be brought into compliance with this code as a condition of issuance of the permit.

Any aggrieved person adversely affected by a decision of the Board of Adjustment and Appeals made pursuant to this Section shall, within thirty (30) days of rendition of the

decision, make appeal to an applicable Court of law in accordance with the Florida Rules of Appellate Procedure by filing with such Court a petition for writ of certiorari. Such an appeal shall be in the nature of that from a final administrative decision.

11-204.7 Alternative Materials, Methods and Equipment.

The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

11-204.8 Required Testing.

Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the code official shall have the authority, but not the obligation, to require tests to be made as evidence of compliance at the property owner's expense.

11-204.9 Used Material and Equipment.

The use of used materials which meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved by the code official.

11-204.10 Approved Materials and Equipment.

Materials, equipment and devices approved by the code official shall be constructed and installed in accordance with such approval.

11-205 UNSAFE STRUCTURES AND EQUIPMENT

When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be *placarded* pursuant to the provisions of this code.

11-205.1 Unsafe Structures.

An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

11-205.2 Unsafe Equipment.

Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

11-205.3 Structure Unfit for Human Occupancy.

A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in

disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

11-205.4 Unlawful Structure.

An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

11-205.5 Dangerous Structure or Premises.

For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous.

- a. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the requirements for existing buildings identified in Chapter 553, Florida Statutes, the Florida Building Code, the Florida Fire Prevention Code or the Florida Life Safety Code.
- b. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
- c. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
- d. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
- e. The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
- f. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.
- g. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
- h. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
- i. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for habitation or in such a condition that is likely to cause sickness or disease.

- j. Any building or structure, because of lack of sufficient or proper fire-resistance-related construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.
- k. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

11-205.6 Closing of Structures.

If a structure is unfit for human habitation and occupancy, and is not in danger for structural collapse, but is open such that the interior of the structure is easily accessible through open or broken windows, open or broken doors, or missing structural elements, the Code Official is authorized to issue a demand for correction in accordance with [Section 11-23](#) of this code.

Alternatively, should the structure

- (1) pose an imminent danger to the health, safety, and welfare of the general public;
- (2) be occupied periodically by transients or itinerants; or
- (3) be utilized for illegal conduct in violation of any federal, state or local law,

the Code Official is authorized to have the structure immediately closed up so as not to be an attractive nuisance by posting a notice at each entrance to the building and by sealing each accessible entrance.

When the Code Official elects to post a "notice " on a structure at each accessible entrance, in accordance with subsection (1), (2) or (3) above, the Code Official shall send a bill for the City's expense in closing the structure to the owner of the property underlying the structure or the agent of such owner of the property underlying the structure by United States certified mail, return receipt requested. Should the City's bill be returned unclaimed, the City may then post the bill on the closed structure and at a conspicuous location at City Hall for ten (10) days, which, on the tenth day after posting, shall constitute the equivalent of delivery. After billing by the City, if the full amount due the City is not paid by the owner of the structure or the agent of the owner of the structure within thirty (30) days after receipt of the bill or after the expiration of ten (10) days after posting the bill, the Code Official shall cause to be recorded in the public records of the county, a sworn statement showing the cost and expense incurred for the work and the date, place and property on which such work was done, and an affidavit of constructive service by posting, if any, and the recordation of such sworn statement shall constitute a special assessment lien on the property equivalent to the lien of municipal taxes and taking precedence over all other recorded liens, and shall remain in full force and effect for the amount due on principal and interest, plus costs of court, if any, for collection, until final payment has been made. Such special assessment lien may be foreclosed in the manner provided for by general law.

Any owner aggrieved by the findings and order of the Code Official shall have the right to appeal said decision prior to the expiration of the time within which to pay the bill for closing the structure due the City. Any appeal taken must be requested, in writing, and timely received by the City Clerk at 201 West Central Avenue, Lake Wales, Florida. In the event the time for owner to pay expires on a weekend, evening or a holiday, the owner shall have until 5:00 p.m. the next business day to file the request for appeal. Such written notice or request may be in any form which clearly notifies the City of the owner's request. The Code Official shall place the appeal on the agenda of the next scheduled Code Enforcement Board Hearing or may request a special meeting to hear the appeal. Any appeal shall stay all proceedings in furtherance with the action appealed from until after the hearing is held. It shall be the responsibility of the owner of