

ORDINANCE NO. 388

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA, AMENDING CHAPTER 38, TRAFFIC AND VEHICLES, BY AMENDING SECTION 38-18 ENTITLED "DANGEROUS INTERSECTION SAFETY ACT" BY REVISING DEFINITIONS TO MODIFY THE REQUIREMENTS FOR THE TRAFFIC INFRACTION OFFICER, ALLOWING THE TOWN COUNCIL TO ELECT NOT TO ISSUE NOTICES OF INFRACTIONS FOR CERTAIN VEHICULAR MOVEMENTS OR SPECIFIC LOCATIONS, ADDING A WARNING PERIOD, SPECIFYING ADDITIONAL LANGUAGE FOR THE NOTICE OF INFRACTION, OUTLINING THE PROCEDURES FOR MAILING A NOTICE OF INFRACTION AND SETTING TIME PERIODS FOR RESPONSE AND APPEAL, IDENTIFYING THE FACTORS TO REBUT THE PRESUMPTION OF LIABILITY, PROVIDING THE TRAFFIC INFRACTION OFFICER WITH AUTHORITY TO DISMISS A CASE, DESCRIBING THE CONTENTS OF THE AFFIDAVIT FOR CERTAIN DEFENSES, AND INCREASING THE FINE TO \$155; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AUTHORITY TO CODIFY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Town Council adopted its Dangerous Intersection Safety Act in Ordinance 380 on February 26, 2009 ("Act"); and

WHEREAS, the Legislature of the State of Florida has adopted legislation addressing the issues raised in the Act and therefore the Act needs to be amended to conform to state law; and

WHEREAS, the Town Council of the Town of Haverhill finds that amending the Act will promote, protect and improve the health, safety and welfare of its citizens, consistent with the authority of and limitations on the Town pursuant to the *Constitution of the State of Florida* and the *Florida Statutes*.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA:

SECTION 1. Recitals. The foregoing recitals (whereas clauses) are hereby adopted as the legislative findings of the Town Council of the Town of Haverhill.

SECTION 2. Amendment to Code. Chapter 38, Traffic and Vehicles, of the Code of Ordinances of the Town of Haverhill is hereby amended as follows:

Sec. 38-18 Dangerous Intersection Safety Act

(a) **Purpose and Intent.** The purpose of this Ordinance is to authorize the use of an unmanned cameras/monitoring system to promote compliance with red light signal directives as set forth in this Ordinance, and to adopt a civil enforcement system for red light signal violations. This Ordinance will supplement law enforcement

personnel in the enforcement of red light signal violations and shall not prohibit law enforcement officers from issuing a citation for a red light signal violation in accordance with normal statutory traffic enforcement techniques.

(b) **Use Of Image Capture Technologies.** The Town shall utilize image capture technologies as a supplemental means of monitoring compliance with the State laws related to traffic control signals, while assisting law enforcement personnel in the enforcement of such laws, which are designed to protect and improve public health, safety and welfare. This Section shall not supersede, infringe, curtail or impinge upon State laws related to red light signal violations or conflict with such laws. The Town shall utilize image capture technologies as an ancillary deterrent to traffic control and traffic signal violations and to thereby reduce accidents and injuries associated with such violations. Notices of infractions issued pursuant to this Ordinance shall be addressed using the Town's code enforcement process and not uniform traffic citations or County Courts, provided, however, that this shall not bar the use of uniform traffic citations and the county courts when law enforcement personnel decide not to rely on this Section as the enforcement mechanism for a specific violation.

(c) **Definitions.**

- (1). *Intersection* means the area embraced within the prolongation or connection of the lateral curb line; or, if none, then the lateral boundary lines, of the roadways of two roads which join or intersect one another at, or approximately at, right angles; or the area within which vehicles traveling upon different roads joining at any other angle may come in conflict.
- (2). *Motor vehicle* means the meaning set forth in the definition in Section 316.003 (21), *Florida Statutes*, or its successor provision.
- (3). *Notice of Infraction* means a citation issued for a red zone infraction issued pursuant to this section.
- (4). *Owner* means the person or entity identified by the Florida Department of Highway Safety and Motor Vehicles, or other State vehicle registration office, as the registered owner of a vehicle. Such term shall also mean a lessee of a motor vehicle pursuant to a lease of six (6) months or more.
- (5). *Recorded Images* means images recorded by a traffic control signal monitoring system/device:
 1. On:
Two (2) or more photographs, or
Two (2) or more electronic images; or
Two (2) or more digital images, or
Digital or video movies; or

and

Any other medium that can display a violation Red Zone Infraction;

2. Showing the rear of a motor vehicle and on at least one (1) image, clearly identifying the license plate number of the vehicle.
- (6). *Red Zone Infraction* means a traffic offense whereby a traffic control signal monitoring system established through a photograph or other recorded image showing both the license tag of the offending motor vehicle and the traffic control device being violated that a motor vehicle entered an intersection controlled by a duly erected traffic control device at a time when the traffic control signal for such motor vehicle's direction of travel was emitting a steady red signal.
- (7). *Traffic Control Signal* means a device exhibiting different colored lights or colored lighted arrows, successively, one at a time, or in combination, using only the colors green, yellow, and red which indicate and apply to drivers of motor vehicles as provided in Section 316.075, *Florida Statutes*.
- (8). *Traffic Control Signal Monitoring System/Device* means an electronic system consisting of one or more vehicle sensors, working in conjunction with a traffic control signal, still cameras and video recording device, to capture and produce recorded images of only the rear of motor vehicles entering an intersection against a steady red light signal indication.
- (9). *Hearing Officer* means the person that the Town Council appoints to conduct hearings and appeals who are members of The Florida Bar in good standing. All Town Special Magistrates appointed to hear code enforcement cases in the Town shall act as hearing officers under this Section.
- (10). *Traffic Infraction Review Officer* means the Code Enforcement Officer for the Town of Haverhill, or such other person as designated by the Town Council, provided, that such officer is physically located in Palm Beach County, and who either (a) successfully completes at least 8 hours of instruction in traffic control procedures through a program approved by the Division of Criminal Justice Standards and Training of the Department of Law Enforcement, or through a similar program offered by the local sheriff's department or police department, or (b) fully completes instruction in traffic enforcement procedures and court presentation through the Selective Traffic Enforcement Program as approved by the Division of Criminal Justice Standards and Training of the Department of Law Enforcement, or through a similar program, as set forth in section 316.640(5)(a), Florida Statutes.
- (d) **Adherence To Red Light Traffic Control Signals.** Any motor vehicle

facing a traffic control signal's steady red light indication shall stop before entering the crosswalk on the near side of an intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown on the traffic control signal; provided, however, the driver of a motor vehicle which is stopped at a clearly marked stop line, or if none, at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersection roadway before entering the intersection in obedience of a steady red traffic control signal, may make a right turn (unless such turn is otherwise prohibited by posted sign or other traffic control device), but shall yield right-of-way to pedestrians and other traffic proceeding as directed by the traffic control signal at the intersection.

(e) **Violation.** A violation of this Ordinance (Red Zone Infraction) shall occur when a vehicle does not comply with the requirements of Section (d) except that the Town Council may elect not to issue a notice of infraction for those making a right turn or at specific locations. Violations shall be enforced pursuant to Section (g) herein. Notwithstanding the foregoing, no notices of infraction shall be issued for the period from April 15, 2010 until and through May 31, 2010, but a warning notice shall be issued for any person otherwise violating the provisions of this Section.

(f) **Review Of Recorded Images.**

1) The owner observed by recorded images committing a red zone infraction, shall be issued a notice of infraction. The recorded image shall be sufficient grounds to issue a notice of infraction.

2) The Town shall designate a person or persons, ~~who shall meet the qualifications set forth in Section 316.640(5)(a), Florida Statutes, or any other relevant statute,~~ as a traffic control infraction review officer. The traffic infraction review officer shall review recorded images prior to the issuance of a notice of infraction to ensure accuracy and the integrity of the recorded images. The traffic infraction officer shall also verify that the traffic control monitoring system/devices that captured the recorded images was functioning properly at the time the recorded images were captured. Once the traffic infraction review officer has verified the accuracy of the recorded images and functionality of the traffic control monitoring system/devices, he or she shall complete a report, and a notice of ~~violation/~~infraction shall be sent to the owner at the address on record with the Florida Department of Highway Safety and Motor Vehicles or any other state vehicle registration office.

(g) **Notice Of ~~Violation/~~Infraction.**

(1). The notice of ~~violation/~~infraction shall include at a minimum:

(a). The name and address of the owner;

(b). The license plate number and registration number of the motor

vehicle;

- (c). The make, model, and year of the motor vehicle;
- (d). Notice that the violation charged is pursuant to this Ordinance;
- (e). The location of the intersection where the violation occurred;
- (f). The date and time of the red zone infraction;
- (g). Notice that the recorded images relating to the vehicle and a statement that the recorded images are evidence of a red zone infraction;
- (h). The civil penalty imposed;
- (i). Images depicting violation;
- (j). The procedures for payment of the civil penalty and contesting the notice of infraction;
- (k). A signed statement by the traffic infraction review officer that, based on inspection of recorded images, the vehicle was involved in a red zone infraction;
- (l). Information advising the person alleged to be liable under this Section, the manner and time in which liability as alleged in the notice of infraction may be appealed and warning that failure to pay the civil penalty or to contest liability in a timely manner is an admission of liability, and specifying the remedies available under s. 318.18(15).
- (m). A statement that the owner of the motor vehicle involved in the violation has the right to review the photographic or electronic images, or the streaming video evidence and the time and place where the evidence may be examined or observed.

(2). The Town traffic infraction review officer, shall have authority to promulgate the form described herein.

(3) A notice of violation/infraction shall be mailed by first-class mail to the address of the registered owner of the motor vehicle involved in the violation within seven (7) business days after the date of the violation. If the registered owner does not respond to the notice of violation/infraction within thirty (30) days after the notice was issued, a second notice of violation/infraction shall be sent by first class mail, return

receipt requested, to the address of the registered owner of the motor vehicle involved in the violation. Receipt of the notice of violationinfraction constitutes notification. In the case of joint ownership of a motor vehicle, the notice of violationinfraction shall be mailed to the first name appearing on the registration, unless the first name appearing on the registration is a business organization, in which case the second name appearing on the registration may be used.

(4) Upon receipt of the affidavit, the person designated as having care, custody and control of the motor vehicle at the time of the violation may be issued a notice of violationinfraction and shall be responsible for paying the fine.

(5) The owner of a leased vehicle for which a notice of violationinfraction is issued is not responsible for paying the fine and is not required to submit an affidavit as required if the motor vehicle involved in the violation is registered in the name of the lessee of such motor vehicle.

(h) Owner Responsibilities.

(1). An owner receiving a notice of infraction may, within ~~twenty-one~~thirty (30~~21~~) days of the date of the date of the notice of infraction:

(a). Pay the assessed civil penalty pursuant to instructions on the notice of infraction; or

(b). Request an appeal pursuant to Section (i).

(2). The failure to comply with the provisions of this Section within ~~twenty-one~~thirty (21~~30~~) days from the date of the notice of infraction shall constitute a waiver of the right to contest the notice of infraction and will be considered an admission of liability.

(3) The owner of the motor vehicle involved in t-he violation is responsible and liable for paying the fine assessed in the notice of violationinfraction unless the owner can establish that:

(a) The motor vehicle passed through the intersection in order to yield right-of-way to an emergency vehicle or as part of a funeral procession;

(b) The motor vehicle passed through the intersection at the direction of a law enforcement officer;

(c) The motor vehicle passed through the intersection due to a medical emergency;

(d) The motor vehicle was, at the time of the violation, in the care,

custody or control of another person;

(e) The motor vehicle passed through the intersection because the operator, under the circumstances at the time of the infraction, feared for his or her safety; or

(f) A uniform traffic citation was issued by a law enforcement officer to the driver of the motor vehicle for the alleged violation set forth in the notice of violation/infraction.

(i) Appeal To Hearing Officer.

~~(1). The Town's hearing officer shall consider appeals under this within twenty one (21) days of the date of the notice of infraction. The owner may file an appeal with the Town pursuant to the directions in the notice of infraction and upon the filing of an affidavit. A hearing on the appeal shall be scheduled for all appeals, unless the traffic infraction review officer determines that good cause exists for dismissing the notice of violation/infraction. If, after reviewing the affidavit and any other information or documents provided by the owner, the traffic infraction review officer determines, in his/her sole opinion, that one of the requirements in Subsection (h)(3) above has been demonstrated by a preponderance of the evidence, or that reasonable doubt exists as to whether a violation has in fact occurred, the traffic infraction review officer may dismiss the violation and appeal. Notice of such dismissal shall be given to the owner and the Town.~~

~~(2). Upon receipt of the appeal if the Traffic Infraction Enforcement Officer does not find that the notice of violation/infraction should be dismissed, the Town shall schedule a hearing before the hearing officer to occur not later than sixty (60) days after Town's receipt of the appeal request. A notice of hearing shall be provided to the owner no less than ten (10) days prior to the hearing, and shall be delivered via certified U.S. mail to the same address to which the notice of infraction was sent. The hearing officer shall issue a written order either granting or denying the appeal.~~

~~(3) The following items referenced above in subsection (h)(3) shall be permissible grounds for an appeal:~~

~~(a). At the time of the infraction, the vehicle was not under the care, custody, or control of the owner or an individual with owner's consent, established pursuant to affidavit as provided in Section (j).~~

~~(b). The motor vehicle driver was issued a citation by a law enforcement officer, which was separate and distinct from the citation issued under this Section, for violating the steady red traffic control signal;~~

- ~~(c). The motor vehicle driver was required to violate the steady red traffic control signal in order to comply with other governing laws;~~
- ~~(d). The motor vehicle driver was required to violate the steady red traffic control signal in order to reasonably protect the property or person of another;~~
- ~~(e). The steady red traffic control signal was inoperable or malfunctioning; or~~
- ~~(f). Any other reason the hearing officer deems appropriate.~~

(4). The traffic infraction review officer shall testify at the appeal. The owner, or his or her duly authorized representative, may also present testimony and evidence.

(5). Recorded images indicating a red zone infraction, verified by the traffic control infraction review officer, are admissible in any proceeding before the hearing officer to enforce the provisions of this Ordinance, and shall constitute prima facie evidence of the violation.

(6). Unless an affidavit is provided pursuant to Section (j), it is presumed the person registered as the owner with the Florida Department of Highway Safety and Motor Vehicles or any other State vehicle registration office, or an individual having the owner's consent, was operating the vehicle at the time of a red zone infraction.

(j) **Owner Affidavit Of Non-Responsibility.**

(1). In order for the owner to establish any of the facts or circumstances set forth in subsection (h)(3) above, the owner of the motor vehicle shall, within thirty (30) days after the issuance of the notice of infraction, furnish to the Town an affidavit setting forth detailed information supporting an exemption and defense as provided above.~~that the motor vehicle was, at the time of the red zone infraction, in the care, custody, or control of another person without the consent of the owner, the owner is required to complete an affidavit setting forth the circumstances demonstrating that the motor vehicle was not in the owner's care, custody or control, or that of a person with owner's consent. The affidavit must be executed in the presence of a notary, and include at a minimum:~~

- ~~(a). If known to the owner, the name, address, and the driver license number of the person who leased, rented or otherwise had care, custody, or control of the motor vehicle at the time of the alleged red zone infraction; or~~

~~(b). If the motor vehicle was stolen, the police report indicating the motor vehicle was stolen at the time of the alleged red zone infraction.~~

~~(c). The following language immediately above the signature line:
"Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true."~~

(2). An affidavit supporting an exemption under sub-subsetion (h)(3)(d) above must include the name, address, date of birth, and, if known, the driver's license number of the person who leased, rented, or otherwise had care, custody or control of the motor vehicle at the time of the alleged violation. If the vehicle was stolen at the time of the alleged offense, the affidavit must include a copy of the police report indicating that the vehicle was stolen.

(3) If the traffic citation was issued by a law enforcement officer, the affidavit must include the serial number of the uniform traffic citation.

(4) The owner may present an affidavit pursuant to this Section, as a defense in any proceeding before the hearing officer.

(k) **Penalties.**

(1). A violation of this Ordinance shall be deemed a non-criminal, non-moving violation for which a civil penalty in the amount of \$~~425~~1585.00 shall be assessed.

(2). As the violation relates to this Ordinance and not the *Florida Statutes* and no points as provided in Section 322.27, *Florida Statutes*, shall be recorded on the driving record of the vehicle owner or responsible party.

(l) **Administrative Charges.** In addition to the assessment pursuant to Section (k), administrative charges in the amount of the Town's actual costs shall be assessed in the event of an unsuccessful appeal or the necessity to institute collection procedures, including attorneys' fees and costs.

(m) **Collection Of Fines.** The Town may establish procedures and processes for the collection of any penalty or charge imposed or assessed under the provisions of this Ordinance and may enforce such penalty by civil action in the nature of debt.

(n) **Exceptions.** This Ordinance shall not apply to red zone infractions involving motor vehicle collisions or to any authorized emergency vehicle responding to a bona fide emergency. A notice of infraction may be issued in any case where the operator of the motor vehicle was issued a citation for violating State law regarding the

failure to stop at a red light indication.

(o) **Additional Legislative Findings.** The Town Council of the Town of Haverhill hereby finds that from time-to-time it is beneficial and desirable for various matters, arising from the provisions of the Town's codes and ordinances, to be referred to hearing officers to make findings of facts and conclusions of law; to hear administrative appeals; or to hear other matters of a similar nature.

(p) **Additional Means of Enforcement.** This Section may be enforced by any other lawful means available to the Town.

(q) **Referrals To Hearing Officers.**

(1) The Town Council may determine that matters will be referred to hearing officer for a determination, a decision, a recommendation, or findings of facts and conclusions of law, or any combination thereof, by providing for same in the provisions of an ordinance enacted or a resolution adopted by the Town Council.

(2). The rules of procedure relating to a matter referred to a hearing officer shall be set forth in the ordinance or resolution providing for the involvement of hearing officers; provided, however, that in the absence of such rules of procedure, hearing officers shall conduct proceedings generally in accordance with the *Uniform Rules of Procedure* set forth in the *Florida Administrative Code*.

(r) Signage. The Town shall, to the reasonable extent practicable, at the primary motor vehicle entry points to the Town, cause to be erected and maintained signs which notify owners of red light traffic monitoring. Failure to erect, maintain or create these signs shall not invalidate or impair any enforcement of this Section. Signage shall use generally the following language:

NOTICE OF TRAFFIC MONITORING

~~CERTAIN INTERSECTIONS WITHING THE TOWN ARE SUBJECT TO RED LIGHT ENFORCEMENT BY PHOTOGRAPHIC MEANS. NOTICES OF VIOLATIONS WHICH CARRY A CIVIL PENALTY MAY BE ISSUED TO VEHICLE OWNERS AND/OR OPERATORS FOR THE VIOLATION OF TRAFFIC CONTROL DEVICES.~~ language acceptable to the Town.

SECTION 3. Codification. The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the Town of Haverhill, Florida* and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 3, 4, 5 and 6 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 4. Conflicts. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 6. Effective Date. This Ordinance shall take effect immediately upon its adoption.

PASSED AND APPROVED ON FIRST READING this 8th day of April, 2010.

THE SECOND AND FINAL READING was held this 6th day of May, 2010. Council member _____ offered the foregoing Ordinance, and moved its adoption. The Motion was seconded by Council member _____, and upon being put to a vote, the vote was as follows:

| | |
|---|-------|
| JAMES E. WOODS, Mayor | _____ |
| JAY G. FOY, Vice Mayor | _____ |
| JERRY E. BEAVERS, Council Member | _____ |
| HENRY LYNCH, Council Member | _____ |
| MARK C. UPTGRAPH, Council Member | _____ |

The Mayor thereupon declared this Ordinance approved and duly adopted by the Town Council of the Town of Haverhill, Florida.

ATTEST:

TOWN OF HAVERHILL, FLORIDA

Janice C. Rutan, Town Admin.

James E. Woods, Mayor

ORDINANCE NO. 389

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA, AMENDING CHAPTER 54, SUBDIVISIONS, PLATTING AND REQUIRED IMPROVEMENTS, BY DELETING THE DISTINGUISHING BETWEEN A MINOR AND MAJOR SUBDIVISION, REQUIRING THE TOWN COUNCIL TO APPROVE ALL SUBDIVISIONS, REQUIRING ALL SIGNATURES TO BE OBTAINED PRIOR TO SIGNING BY THE TOWN AND AUTHORIZING THE TOWN TO RECORD THE PLAT, PROHIBITING A PLAT APPLICATION FROM BEING CONSIDERED IF THERE ARE PENDING CODE VIOLATION ISSUES, CLARIFYING THAT A SUBDIVISION WITH 3 OR FEWER LOTS MAY BE ON WELL SYSTEM AND 4 OR FEWER LOTS ON SEPTIC SYSTEM, IF ALLOWED BY APPLICABLE LAW, AND ILLUSTRATING THAT A BOND OR LETTER OF CREDIT MAY SATISFY GUARANTEE REQUIREMENTS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AUTHORITY TO CODIFY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Town Council of the Town of Haverhill, as the governing body of the Town of Haverhill, pursuant to the authority vested in Chapter 166, Florida Statutes, and the Charter of the Town of Haverhill, is authorized and empowered to consider such matters relating to zoning;

WHEREAS, the Town desires to modify its Subdivision Code, Chapter 54 and the notice and hearing requirements as provided for the Town of Haverhill have been met; and

WHEREAS, the Town Council has considered the evidence and testimony presented by the Town Staff and other interested parties; and

WHEREAS, the amendment to the Subdivision Code is consistent with the requirements of the Comprehensive Plan; and

WHEREAS, the Town Council of the Town of Haverhill finds that amending the Subdivision Code will promote, protect and improve the health, safety and welfare of its citizens:

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA:

SECTION 1. Recitals. The foregoing recitals (whereas clauses) are hereby adopted as the legislative findings of the Town Council of the Town of Haverhill.

SECTION 2. Amendment to Code. Chapter 54, Subdivisions, Platting and Required Improvements, of the Code of Ordinances of the Town of Haverhill is hereby amended as follows:

See Exhibit "A" attached hereto and made a part hereof

SECTION 3. Codification. The Mayor and Town Administrator are hereby authorized and directed to do all things necessary to effectuate this amendment; and authority is hereby granted to codify and incorporate this ordinance into the existing Code of Ordinances of the Town of Haverhill. The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the Town of Haverhill, Florida* and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 3, 4, 5 and 6 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 4. Conflicts. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 6. Effective Date. This Ordinance shall take effect immediately upon its adoption.

PASSED AND APPROVED ON FIRST READING this 8th day of April, 2010.

THE SECOND AND FINAL READING was held this 6th day of May, 2010. Council member _____ offered the foregoing Ordinance, and moved its adoption. The Motion was seconded by Council member _____, and upon being put to a vote, the vote was as follows:

JAMES E. WOODS, Mayor

JAY G. FOY, Vice Mayor

JERRY E. BEAVERS, Council Member

HENRY LYNCH, Council Member

MARK C. UPTGRAPH, Council Member

The Mayor thereupon declared this Ordinance approved and duly adopted by the Town Council of the Town of Haverhill, Florida.

ATTEST:

TOWN OF HAVERHILL, FLORIDA

Janice C. Rutan, Town Admin.

James E. Woods, Mayor

TOWN OF HAVERHILL

Exhibit "A" to Ordinance 389

Chapter 54 SUBDIVISIONS, PLATTING AND REQUIRED IMPROVEMENTS

Sec. ~~54-1~~. Definitions.

For the purpose of this chapter, terms and words are herewith defined in chapter 58, Zoning Code, except the following:

~~Major subdivision. The division of a parcel of land into more than four lots.~~

~~Minor subdivision. The division of a parcel of land into less than five lots.~~

(Ord. No. 320, § 1, 8-9-01)

Sec. 54-2.1 Conference with mayor and ~~elrk~~ administrator.

Each subdivider of land shall confer with the mayor and town ~~elrk~~ administrator before preparing and submitting a preliminary subdivision plan, in order to become thoroughly familiar with the subdivision requirements and with the ordinances of the town plan affecting the area in which the proposed subdivision lies.

(Ord. No. 320, § 1, 8-9-01)

Sec. 54-3.2. ~~Jurisdiction and procedure for approval~~ Minor subdivisions General procedures.

(a) Twelve copies of the plat, which shall be a scale drawing shall be submitted to the town ~~elrk~~.

(b) A current survey meeting the minimum requirements of F.S. ch. 472 of the entire property to be subdivided, showing the existing buildings, structures and other improvements on the land shall be submitted to the town ~~elrk~~.

~~(c) The town ~~elrk~~ shall forward a copy of the plat to the town engineer.~~

~~(d) The mayor, and other town staff shall check the plat in relation to this chapter, the town zoning ordinance and all other applicable ordinances, regulations and codes of the town, and when found in conformance with the same, the plat shall be granted approval in writing by the mayor, after consultation with town staff. Any person aggrieved by the decision of the mayor may appeal to the town council for further action in accordance with Section 58-6.~~

(ec) Upon approval of a plat of a minor subdivision, the applicant shall submit a plat signed by all parties required for such plat to the town administrator for signature within ten (10) days of town council approval. Once signed by the town, such plat shall be recorded by the applicant town in the public records of Palm Beach County and shall be forwarded to the town ~~elrk~~ and

Palm Beach County Property Appraiser. The cost of recording, making copies and forwarding shall be borne by the applicant.

(fd) At the time of filing an application for a ~~minor~~-subdivision plat, the applicant shall pay a fee for each ~~minor~~-subdivision plat requested to cover any charge and expense of the town therefor, which fee shall be set by the town council by resolution for each subdivision application.

(Ord. No. 320, § 1, 8-9-01)

(e) Notwithstanding anything contained herein to the contrary, an application for subdivision will not be considered or processed if there are outstanding town fines, liens, or code violations against any of the property to be considered for subdivision or against the owner of said property.

Sec. 54-43. Jurisdiction and procedure for approval—~~Major subdivision.~~

(a) It shall be unlawful for any owner, agent or person having control of any land within the town to subdivide or lay out such land into ~~more than four~~two or more lots, unless by a plat, in accordance with the regulations contained in this chapter. Twelve copies of the preliminary plan and preliminary plat shall first be submitted to the town ~~elect~~administrator for review by the town staff. After the town staff report and recommendation is made and filed, such final plan shall be submitted to the town council for its approval or disapproval. No plat shall be recorded unless and until approved as provided in this section.

(b) The design and layout of all ~~major~~-subdivisions shall conform with the requirements of section 54-76. The subdivider shall submit a preliminary subdivision plan in accordance with the specifications of section 54-54. Following approval of the preliminary plan, the subdivider shall guaranty the minimum required improvements in accordance with the requirements of section 54-65. Upon approval of improvement installations or arrangements therefor, the final plat shall be submitted in accordance with the provisions of section 54-54(c).

~~(c) At the time of filing an application for a major subdivision plat within the town, the applicant shall pay a fee to cover any charge and expense of the town, which fee shall be set by the town council by resolution for each subdivision application.~~

(dc) A preliminary subdivision plan meeting the requirements of section 54-54(a) may be filed with the town simultaneously with an application for the rezoning of such property. The preliminary plan shall be reviewed by the mayor and town staff for compliance with applicable law and with local regulations, and when found to substantially comply, scheduled for review by the town council coincidentally with the rezoning public hearing. Thereafter, a final plat of the property may be submitted jointly with the planned development district rezoning application to the town council for its consideration at a public hearing held for such purpose.

(Ord. No. 320, § 1, 8-9-01)

Sec. 54-54. Data required on preliminary and final plans and plats.

(a) *Preliminary plan.* Whenever any person desires to subdivide land into building lots or to dedicate streets, alleys or land for public use, he shall submit 12 copies of the preliminary subdivision plan conforming to the requirements of section 54-6-5 and preliminary plat to the town clerk before submission of the final plan. The preliminary plan, at a minimum, shall show:

(1) The location of present property and section lines, boundaries of incorporated areas, streets buildings, lakes and watercourses.

(2) Any existing or proposed sanitary and storm sewers, water mains and culverts within the tract or immediately adjacent thereto. The location and size of the nearest water main and sewer are to be indicated in a general way upon the plan.

(3) The proposed location and width of streets, alleys, lots, building and setback lines and easements, and the proposed width and grade of street paving.

(4) The title under which the proposed subdivision is to be recorded and the name of the subdivider platting the tract.

(5) The names and adjoining boundaries of all adjoining subdivisions and the names of recorded owners of adjoining parcels of unsubdivided land.

(6) North point, scale and date.

(7) Elevation data or topographic survey.

(8) The proposed subdivision layout and improvements.

(9) A detailed site plan and landscape plan, and such other plans (e.g. lighting) as the town may deem relevant.

(b) *Final plan.* The final subdivision plan shall incorporate all of the above and any comments and recommendations from town council in the case of a major subdivision and town staff for a minor subdivision.

(c) *Requirements for the preliminary and final plat.*

(1) Preliminary plat. The preliminary plat shall meet the requirements of the final plat, except that it shall be submitted without the required signatures and seals. It may also be submitted without maintenance and use covenants, condominium documents, deeds, or other legal documents not related to the survey or engineering design of the project.

(2) Final plat. The plat shall be prepared in accordance with the provisions of F.S. ch. 177, as amended, and shall conform to the requirements of this section.

a. Material. The plat shall be drawn or printed on 24 inch by 36 inch material acceptable to the town.

b. Preparation. The plat shall be prepared by a land surveyor currently registered in the State of Florida and is to be clearly and legibly drawn with black permanent drawing ink or veritype process to a scale of not smaller than one inch equals 100 feet or as otherwise determined by the town.

c. Name of subdivision. The plat shall have a name acceptable to the town. When the plat is a new subdivision, the name of the subdivision shall not duplicate or be phonetically similar to the name of any existing subdivision within the county. When the plat is an addition to or replat of a recorded subdivision, it shall carry the same name as the existing subdivision followed by a suitable phase designation or similar modifier, when applicable.

d. Title. The plat shall have a title printed on each sheet in bold legible letters containing:

1. The name of the subdivision, printed above and in letters larger than the balance of the title;
2. The name of the county and state;
3. The section, township, and range as applicable, or if a land grant, so stated;
4. The words "section", "unit", "replat", "amendment", etc. when the plat is a replat, amendment, or addition to an existing plat of record; and
5. When the plat encompasses land in a planned development district it shall contain the appropriate abbreviation for such designation within the title (e.g. PRD).

e. Description. There shall be lettered or printed upon the plat a full and detailed description of the land embraced in the plat. The description shall show the section, township and range in which the lands are situated or if a land grant, so stated, and must be so complete that from it without reference to the map the starting point can be determined and the boundaries run.

f. Index. If more than one sheet is required for the map, the plat shall contain an index map on the first page, showing the entire subdivision and indexing the area shown on each succeeding map sheet. Each map sheet shall contain an index delineating that portion of the subdivision shown on the sheet in relation to the entire subdivision. When more than one sheet must be used to accurately portray the lands subdivided, each sheet must show the particular number of that sheet and the total number of sheets included, as well as clearly labeled match lines between map segments.

g. Survey data. The plat shall show the length of all arcs together with central angles, radii, and points of curvature. Sufficient survey data shall be shown to positively describe the boundary of each lot, block, right-of-way, street, easement, and all other areas shown on the plat and all areas shall be within the boundary of the plat as shown on the description. The plat shall also include the following items in the manner described below.

1. The scale, both stated and graphically illustrated, shall be shown on each sheet.

2. A prominent north arrow shall be drawn on every sheet included showing any portion of the lands subdivided. The bearing or azimuth reference shall be clearly stated on the face of the plat in the notes or legend.
3. The point of beginning shall be boldly shown together with the letters "P.O.B." in bold letters.
4. All intersecting street lines shall be joined to form required safe sight corners pursuant to applicable state and county standards, and all dimensions shall be shown.
5. All adjoining property shall be identified by a subdivision name, plat book and page, or, if unplatted, the land shall be so designated.
6. Permanent reference monuments shall be shown in the manner prescribed by F.S. ch. 177, as amended. All information pertaining to the location of "P.R.M.'s" shall be indicated in note form on the plat. Permanent control points and permanent reference monuments shall be designed and set as prescribed by F.S. ch. 177, as amended, and the subdivision design and survey requirements as more fully set forth hereinbelow.
7. There shall be reserved on each sheet of the plat a three inch by five inch space in the upper righthand corner to be used by the clerk of the circuit court for recording information and each sheet shall reserve three inches on the left margin and a half (1/2) inch margin on all remaining sides.
8. The map shall mathematically close within 0.01 feet and shall be accurately tied to all county township, range and section lines occurring within the subdivision by distance and bearing.
9. The initial point in the description shall be accurately tied to the nearest quarter section corner or section corner or government corner. Each government corner being used shall be identified. If the subdivision being platted is a re-subdivision of a previously recorded subdivision, then a tie to a permanent reference monument from the parent plat is sufficient. If the subdivision is a re-subdivision of a part of a previously recorded subdivision, sufficient ties to controlling lines appearing on the parent plat must be provided to permit an overlay. The position and orientation of the plat shall conform to the Florida State Plan Coordinate System in the manner established by the town.
10. The cover sheet or first page of the plat shall show a vicinity sketch, showing the subdivision's location in reference to other areas of the town.
11. A complete legend of the abbreviations shall be shown.
12. All lettering on the plat shall be at a minimum 0.10 of an inch in height.
13. The plat boundary and all parcels shown on subdivision plats intended to be conveyed in fee title shall be delineated by solid lines.

14. Lines intersecting curves shall be noted as radial or non-radial as the case may be.
15. A note addressing any abandoned underlying lands or easements, including record information, shall be shown.
16. Tabulation of survey data:
 - i. The use of tangent tables is not permitted.
 - ii. Curve data may be tabulated subject to the following: (a) external boundary or centerline curve data may not be tabulated; (b) where data is tabulated, a minimum of the arc length and the curve designation number or letter will be shown on site; and (c) curve tables reflecting the tabulated data will appear on the map sheet on which the curves appear.
- h. Lot and block identification. Each lot and block shall be numbered or lettered. All lots shall be numbered or lettered by progressive numbers or letters individually throughout the subdivision or progressively numbered or lettered in each block. Blocks in each incremental plat shall be numbered or lettered consecutively throughout a subdivision.
- i. Street names. The plat shall show the name of each street as shown on the final subdivision plan.
- j. Not included parcels. Not included or excepted parcels must be marked "not a part of this plat" or such similar phrase. Where a not included parcel is completely surrounded by areas included within the plat, sufficient easements or rights of way to provide necessary access, utilities, and drainage to the not included parcel shall be provided. No parcel of land shall be reserved by the owner unless the same is sufficient in size and area to be of some particular use or service. The intended use of all reserved areas shall be shown on the plat in note form on the cover sheet.
- k. Streets, and easements. All street, right-of-way, and easement widths and dimensions shall be shown on the plat. Easements are to be tied at both ends at intersecting boundary, lot, or right-of-way lines. The plat shall show the name, location and width of all existing or recorded streets intersecting or contiguous to the boundary of the plat, accurately tied to the boundary of the plat by bearings and distances.
- l. Maintenance and use documents. Maintenance and use covenants, as may be required by the town, shall be submitted with the final plat and approved by the town attorney prior to recordation of the final plat. All areas of the plat that are not to be sold as individual lots and all easements shall be dedicated or reserved in accordance with the terms of the maintenance and use covenants, and their purposes shall be clearly stated on the plat.
- m. Streets. All streets and their related facilities which are designed to serve more than one lot or dwelling unit shall be dedicated to the town for public use, unless otherwise required or permitted by this paragraph or by the town. Any street which is to be reserved as a private street

shall be identified on the plat as a tract for private street purposes. Private streets may only be permitted when such streets are subject to a recorded declaration of covenants subjecting the streets to the jurisdiction and control of all lot owners deriving access from such streets their successors and assigns. When parking areas are required to be constructed, they shall be reserved to and shall be the perpetual maintenance responsibility of a property owners' association, which association shall have jurisdiction over the parking area and the clustered lots. Such parking areas shall be clearly identified and reserved as tracts for parking and access purposes.

n. Restriction of obstruction of easements. The plat shall contain a statement that no buildings or any kind of construction or trees or shrubs shall be placed on any easement without prior written approval of all easement beneficiaries and the town.

o. Certification and approvals. The plat shall contain on the face or first page the following certifications and approvals, acknowledged as required by law, all being in the form set forth below:

1. Dedication and reservation. All areas dedicated for public use shall be dedicated by the owner of the land at the time the plat is recorded. Such public areas include, but are not limited to: civic sites, parks, rights-of-way for streets or alleys, however the same may be designated. All areas reserved for use by the residents of the subdivision shall be reserved by the owner of the land at the time the plat is recorded. All dedications and reservations shall be perpetual and shall contain:

i. The name of the recipient or beneficiary of the dedication or reservation (including successors and assigns);

ii. The purpose of the dedicated or reserved area; and

iii. The name of the entity responsible for the perpetual maintenance of the dedicated or reserved area (including successors and assigns). In the event the town is not the recipient or beneficiary of the dedication or reservation, the statement of maintenance responsibility shall include the phrase "without recourse to the Town of Haverhill." If required by the town, certain dedications or reservations shall grant the town the right but not the obligation to maintain said area. The dedications and reservations shall be executed by all owners having a record interest in the property being platted. The acceptance on the plat of the dedications or reservations shall be required of any entity to whom a dedication or reservation is made, except the town. Dedications to the town shall be accepted in the manner provided in the Code or by law. All dedications, reservations, and acceptances shall be executed in the same manner in which deeds are required to be executed according to Florida Statutes. Although the term "dedication" is meant to imply a public use while the term "reservation" is meant to imply a private use, the terms may inadvertently be used interchangeably. In such an event, the misuse shall not invalidate any town requirement or plat dedication or reservation.

2. Mortgagee's consent and approval. Where the property being platted is encumbered by a mortgage, the mortgagee's consent and approval of the dedication shall be required on the plat.

The signature of the mortgagee on the plat must be witnessed and execution must be acknowledged in the same manner as mortgages are required to be witnessed and acknowledged.

3. Certification of surveyor. The final plat shall contain the signature, registration number and official seal of the surveyor, certifying that the plat is a true and correct representation of the land surveyed under his/her responsible direction and supervision and that the survey data compiled and shown on the plat complies with all of the requirements of Chapter 177, Fla. Stat., as amended, and this Chapter. The certification shall also state that permanent reference monuments ("P.R.M.'s") have been set in compliance with F.S. ch. 177, as amended, and this chapter. When the permanent control points ("P.C.P.'s") are to be installed after recordation of the plat, the certifications shall also state that the PCP's will be set under the direction and supervision of the surveyor under the guarantees posted by the developer for required improvements within the plat. When required improvements have been completed prior to the recording of the plat, the certifications shall state that PCP's have been set in compliance with the laws of the State of Florida and ordinances of the Town of Haverhill.

4. Town approval. The plat shall contain the signature block of the mayor and the acknowledgement and signature block of the clerk of the circuit court. Upon adoption of the resolution approving the plat by the town council, and after applicant has obtained all other signatures on the plat, the mayor shall execute the plat and the plat shall be presented by the town to the clerk of the circuit court for recording.

5. Certification of title. The title sheet of the plat shall contain a title certification. The title certification must be an opinion of an attorney-at-law licensed in Florida, or the certification of a title insurance company licensed in Florida, and shall state that:

i. The lands as described and shown on the plat are in the name, and apparent record title is held by the person, persons or organizations executing the dedication;

ii. All taxes and assessments have been paid on said lands as required by state law.

iii. All mortgages on the land are shown and indicated by their official record book and page number; and

iv. There are no encumbrances of record on said lands that would prohibit the creation of the proposed subdivision.

6. Preparing surveyor. The name and address of the natural person who prepared the plat shall be shown on the plat as required by F.S. § 695.24, as amended.
(Ord. No. 320, § 1, 8-9-01)

Sec. 54-65. Minimum required improvements.

Except when waived pursuant to other provisions of the Code or as may determined by the town because of the minor nature of the subdivision, the following improvements shall be the minimum required improvements for all subdivisions in order to provide the physical

improvements necessary to implement certain performance standards, objectives and policies of the capital improvement element and other elements of the comprehensive plan. These required improvements shall be installed prior to recordation of the corresponding plat unless the developer furnishes a guaranty assuring their installation in accordance with the provisions of this article. Except as provided in this section, the cost of all required improvements shall be guaranteed:

(1) *Access and circulation systems.* All streets and required sidewalks, and, when required under section 54-76, parking areas shall be constructed by the developer in accordance with the design and construction requirements of the town, which are 50 feet of right-of-way with curb and gutter, and 60 feet of right-of-way with swales. However, the town council may vary the right-of-way requirement to no less than 40 feet curb and gutter provided an acceptable amount of easement area is dedicated for utilities.

a. The cost of installing all street improvements shall be guaranteed.

b. The cost of installing parking areas need not be guaranteed since the plat establishes legal access and such areas are required to be installed prior to issuance of the certificate of occupancy.

c. The cost of installing all sidewalks and paths pursuant to the approved pedestrian circulation system shall be guaranteed, except that the required guaranty may be waived by the town engineer for portions of local streets abutting residential lots when the paving, grading and drainage plans contain a note, acceptable to the town engineer, stating that such sidewalks or paths will be constructed concurrent with construction of the dwelling unit for such abutting lot. Installation of sidewalks and paths in streets abutting open space, common areas, recreation areas, water management tracts, and other areas which will not have a dwelling unit constructed thereon shall be guaranteed.

(2) Land preparation. The developer shall grade and fill the land pursuant to section 54-87.

(3) Stormwater management system. The developer shall comply with the provisions of section 54-98, ordinance No. 228, and all other applicable laws, rules and ordinances, regarding the construction and installation of a stormwater management system. On lots intended for building construction, the final grading of each lot, or the applicable approved grading plan, shall be done in conjunction with and pursuant to the building permit for said stormwater management system. All water management tracts required hereunder shall not be considered as part of a platted lot and shall be specifically excluded from lot calculations.

(4) Wastewater system. The developer shall install the required wastewater collection and/or disposal system for the development in accordance with section 54-109 and ordinance No. 230.

(5) Potable water system. The developer shall install the required potable water distribution system for the development in accordance with section 54-1110 and ordinance No. 230 including required hydrants.

(6) Utilities. The developer shall satisfy the requirements for underground installation of utility services and for utility site location, when applicable, of section 54-1211.

(7) Subdivision design and survey requirements. The developer shall install all required permanent control points in accordance with section 54-1211. When the permanent control points are to be installed after plat recordation, the cost of installing permanent control points shall be guaranteed.

(8) General design requirements. The design of the required improvements shall be in accordance with acceptable engineering principles.

(9) Parks and recreation. The developer shall satisfy all applicable requirements for provision of parks, recreation areas, and recreational facilities to serve residents of a proposed subdivision in accordance with the requirements of the town as part of the condition of approval. The means of complying with said requirements shall be fully addressed on the final subdivision plan. (Ord. No. 320, § 1, 8-9-01; Ord. No. 346, § 3, 2-23-06)

Sec. 54-76. Access and circulation systems.

(a) *Vehicular circulation systems.*

(1) Required improvement to be constructed by developer. All streets, alleys, and related facilities required to serve the proposed development shall be constructed by the developer. Construction shall consist of, but not be limited to, grading, base preparation, surface course, and drainage. All streets, whether intended for dedication to the town or reservation for private use and maintenance, shall be constructed to the minimum standards established by this chapter and the town standards. Notwithstanding the foregoing, or anything contained herein to the contrary, all streets serving subdivisions to be constructed by developer shall have a minimum right-of-way of 50 feet with curb and gutter and 60 feet with swale. However, the town council may vary the right-of-way requirement to no less than 40 feet curb and gutter provided an acceptable amount of easement area is dedicated for utilities. Additionally, the developer shall construct any parking tracts which provide access to any clustered lots that do not have direct, primary access from a local street or residential access street. Construction of such parking tracts shall be completed prior to issuance of any certificate of occupancy for any dwelling unit located on a clustered lot served by such parking tract. Construction of the parking tract may be done in conjunction with building construction on the lot the tract is to serve provided, however, that such construction shall be noted on the approved paving, grading and drainage plans in a form acceptable to the town. When the parking tract is to be completed in conjunction with building construction, the developer shall execute a certificate of compliance on a form approved by the town prior to issuance of the certificate of occupancy for any dwelling unit or building served by such parking tract.

(2) Minimum legal access requirement. There is hereby established a hierarchy of legal access as shown on chart 54-A. Except as provided below, each lot shall have a street of suitable classification to provide said lot with legal access consistent with the standards set forth in the town codes.

a. When legal access to a lot is permitted by this Code to be by a common parking area which serves more than one lot, it shall be dimensioned and depicted on the construction plans and reserved on the plat as a "parking tract". Said tract shall be reserved for parking and access purposes to the property owners association having jurisdiction over the parking area and the abutting lots.

b. A common driveway may, with prior approval by the town, be utilized for legal access to a group of not more than two abutting lots situated on a residential access street where said lots would otherwise have no reasonable means of obtaining direct access to or required frontage on the adjacent residential access street. Said driveway shall be delineated and reserved on the applicable plat for purposes of perpetual access to the lots served.

c. A common parking lot may be utilized for legal access to individual commercial lots created by subdivision of a shopping center where all lots within the boundary of such subdivision are served by said access and are subject to recorded shared access, maintenance, and use covenants approved by the town. Where such access is utilized, direct lot access on any street adjacent to the boundary of the subdivision shall be prohibited except at common access points approved for the subdivision as a whole.

(3) General design considerations. The proposed street layout shall be integrated with the town's traffic circulation network, and shall be coordinated with the street system of the surrounding area. Streets shall be classified and designed in accordance with the traffic circulation element of the comprehensive plan, chart 54-A, and the town standards. Consideration shall be given to:

- a. The need for continuity of existing and planned streets;
- b. Barriers imposed by topographical conditions and their effect on public convenience or safety;
- c. The proposed use of the land to be served by such streets;
- d. The need for continuation of existing local streets in adjoining areas not subdivided;
- e. The proper projection of non-plan collector and plan collector streets;
- f. The feasibility of extending the proposed street system to the boundary of the proposed subdivision to promote reasonable development of adjacent lands and to provide continuity of street systems; and
- g. Discouraging through traffic in the design of local and residential access streets.

(4) Double frontage lots. Where a lot has two frontage lines, legal access to the lot shall be restricted as follows.

a. Residential lots. Where a lot abuts both a street of non-plan collector or higher classification and a local street, access to said lot shall be by the local street. The lot line(s) abutting any street of higher classification than a local street shall be buffered in accordance with the provisions of section 54-14(b).

b. Non-residential lots. Where a lot abuts streets of local or higher classification, access to the lot shall be by the street of lower classification, unless otherwise permitted by this Code; provided, however, that access shall not be permitted on a local residential or residential access street as prescribed town codes and standards.

(5) Construction in muck or clay areas. Construction in muck or clay areas shall be done in accordance with the town standards.

(6) Street intersections and street jogs. The centerline intersections of local or residential access streets with non-plan or plan collector streets shall be spaced a minimum distance of 200 feet, as measured along the centerline of the collector street. Intersections which warrant traffic signalization shall be spaced a minimum distance of 1,320 feet, centerline to centerline. Connection of local streets to arterial streets may be permitted by the town only where other access is unavailable. Local street jogs with centerline offsets of less than 125 feet are prohibited.

(7) Through and local traffic. Through traffic shall be directed along non-plan collector streets within the subdivision. Local streets shall be laid out to accommodate local or neighborhood traffic and to discourage their use by through traffic.

(8) Alleys. Alleys may be allowed in subdivisions when they are necessary, in the opinion of the town, for the safe and convenient movement of traffic and pedestrians. Alley intersections and sharp changes in alignment shall be avoided and alleys shall be constructed in accordance with the following.

a. Residential areas. Alleys shall be paved 12 feet wide in a minimum 15 feet right-of-way, with appropriate radii for the intended use.

b. Commercial areas. Alleys shall be paved 18 feet wide in a minimum 20 foot right-of-way, with appropriate radii for the intended use.

(9) Bridges and culverts. Bridges or culverts shall be provided as necessary to facilitate the proposed vehicle and pedestrian system. The bridge or culvert requirement is subject to approval by the agency having jurisdiction over the facility being crossed. Bridges shall be designed in general accord with the current department of transportation practices and shall include planning for utility installation. They shall be reinforced concrete, unless other low maintenance materials are approved by the town. Bridges shall have a clear roadway width between curbs two feet in excess of the pavement width in each direction, and shall have sidewalks four feet wide on each side. All bridge structures shall be designed for H-20-S16-44 loading, incorporating adequate corrosion protection for all metal work and erosion protection for associated shorelines and embankments.

(10) Street markers. Street markers shall be provided at each intersection in the type, size and location required by the current town standards. Street name signs shall carry the street name shown on the plat of record and shall be in compliance with the current town standards.

(11) Traffic control devices. The developer shall install traffic control devices and, where warranted, traffic signals on roads within the interfacing with the subdivision. A traffic impact analysis meeting the approval of the town shall be used to assist in establishing the need for such signals; provided, however, the traffic impact analysis shall not be determinative or conclusive in deciding whether a signal is warranted.

a. Pavement markings and/or lane delineators. Pavement markings and/or lane delineators meeting the requirements of the town shall be installed on all arterial and collector streets. Pavement markings and/or delineators may be required on other streets such as project entrances, as determined by the town.

b. Design. The design of traffic control devices shall be in accordance with the manual for uniform traffic control devices and applicable town standards.

(12) Pavement widths. Pavement widths for streets shall be in accordance with town codes and standards.

(13) Dead-end streets. Dead-end streets shall be designed and constructed with an appropriate terminal turnaround in accordance with the town standards. Dead-end streets shall not exceed 1,320 feet in length except where natural geographic barriers exist necessitating a greater length.

(14) Materials and construction. Pavement construction shall consist of, at a minimum, a subgrade, base and wearing surface. All materials and construction shall be in accordance with the current town standards.

(15) Shoulders. All unpaved shoulders shall be constructed and grassed in accordance with the town standards. Grassing, with seed and mulch or with solid sod, as required, shall be completed prior to acknowledgement of completion of the required improvements by the town. No time extensions to any contract for the construction of required improvement will be granted on the basis of incomplete shoulder treatment.

(16) Street grades. The longitudinal grade of street pavement shall be parallel to the design invert slope of the adjacent roadside drainage swale or gutter. Minimum longitudinal and transverse grades shall be in accordance with town standards. Street grades shall be shown on the construction plans by indicating the direction and percent of slope. The horizontal distance along the centerline between, and pavement elevation at all points of vertical intersection shall also be shown.

(17) Non-conforming streets. Streets which do not meet the design and constructions standards of this article and the town shall not be permitted except where satisfactory assurance for dedication of the remaining part of the street or reconstruction of the street in accordance with current standards is provided. Whenever a tract to be subdivided abuts an existing partial street,

the other part of the street may be required to be dedicated and constructed within such tract. A proposed subdivision that includes an existing street which does not conform to the minimum street width requirements of these regulations shall provide for the dedication of additional land for such street along either one or both sides of said street so that the minimum cross-section dimension requirements of these regulations can be met. The town shall not accept non-conforming streets for ownership or maintenance through the procedures established by this article.

(18) Limited access easements. Limited access easements shall be required along all nonplan collector streets and all major streets in order to control access to such streets from abutting property. Easements for controlling access to local and residential access streets may be required by the town in order to ensure continued control of access to such streets from abutting property. All limited access easements shall be conveyed or dedicated to the town.

(19) Street names. Proposed streets which are in alignment with existing named streets should bear the name of the existing street. All street names shall have a suffix and in no case, except as indicated in the preceding sentence, should the name of the proposed street duplicate or be phonetically similar to existing street names. All proposed street names shall be submitted to the mayor for approval prior to submittal of the final subdivision plan application. Consideration shall be given to the ease in which emergency services can find the street when determining the street name.

(20) Alignment, tangent, deflection, radii. Streets shall be laid out to intersect as nearly as possible at right angles. Multiple intersections involving the junction of more than two streets shall be prohibited. The point of curvature of any local street or residential access street shall not be closer than 100 feet to any intersection, measured along the centerline from the extension of the intersecting street lines. Reverse curves may be allowed by the town. All intersections shall be designed to provide atleast the minimum stopping and turning sight distances, in accordance with criteria prescribed in the most recent edition of the Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways. When the centerline of a local street deflects by more than ten degrees, it shall be curved with a radius adequate to assure safe sight distance and driver comfort. Street pavement return radii shall be a minimum of 30 feet.

(21) Street lighting. If street lighting is installed it shall be maintained by a property owners' association. Unless street lighting installation conforms to the standards of the requisite utility company, street lights shall be placed outside of rights of way, road tracts, or any other areas designated for road purposes. Streets lighting shall be wired for underground service.

(22) Median strips. Median strips which are part of a public street may not be utilized for any purpose other than by the town or public utility. However a developer or property owner may install landscaping in a median strip or within shoulders in accordance with permitting requirements as established by the town.

(23) Subdivision entrance ways. Subdivision entranceways consisting of walls, fences, gates, rock piles or other entrance features are not permitted within the median strip or other areas in a

public street. Decorative entrance ways must be constructed upon plots of land adjacent to a public street in compliance with applicable town codes and placed so as not to constitute a traffic hazard.

(24) Guardhouses. A guardhouse, located so as not to create a traffic hazard, may be constructed in the median of an entrance to a subdivision having only private streets. The minimum setback to a guardhouse shall be 150 feet, measured from the extension of the intersection street lines. Two lanes shall be required on each side of the median in the area of the guardhouse.

(b) *Pedestrian circulation system.*

(1) Requirement for sidewalks. Except as provided in this section, sidewalks shall be constructed on both sides of all streets. Required sidewalks shall be constructed by the developer.

(2) Master pedestrian circulation plan; waiver of requirement. The town council may approve a master pedestrian circulation plan and, upon such approval, may waive, in whole or in part, the requirement for sidewalks within the street of a subdivision, or portion thereof, where it finds that the alternative pedestrian circulation system provides accessibility, convenience, continuity and safety equivalent to or greater than that which would be provided by the required sidewalks. The master pedestrian circulation plan shall be submitted by the developer for approval concurrently with, and shall be considered part of the approved final subdivision plan.

a. Requirements for master pedestrian circulation plan. An application, the required fee, and the required number of copies of a master pedestrian circulation plan shall be submitted for placement on the agenda of the town council. The master pedestrian circulation plan shall be a full-sized reproducible copy of the approved final subdivision plan, and shall be modified, when necessary, to show:

1. The location of all lots and the number and type of dwelling units on each lot;
2. The classification and width of each street;
3. The location, width and type of each pedestrian path, including those sidewalks and bicycle paths to be constructed within the streets; and
4. Locations of all connections to pedestrian systems outside the development.

b. Distribution of approved plan. Upon approval of a master pedestrian circulation plan, a copy of the approved plan shall be forwarded to the mayor and other town staff.

c. Maintenance responsibility of sidewalks and paths. The control, jurisdiction and maintenance obligation of paths not located wholly within a street and of sidewalks within private streets shall be placed with a property owners association or an improvement district. Where such control and maintenance obligation is to be placed with an improvement district, the district shall expressly accept said obligation upon the plat or by a separate instrument filed in the public records.

(c) *Reduction of street width.* When pedestrian circulation is to be accomplished solely by paths constructed outside the streets the town council may approve a concurrent request by the developer to reduce local street widths from those required hereunder by no more than eight feet if such reduction would neither reduce the vehicular carrying capacity and safety of the streets nor compromise the safety of pedestrians.

(d) *Crosswalks.* When the block length exceeds 900 feet, crosswalks between streets may be required where deemed essential by the town to provide convenient pedestrian circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.
(Ord. No. 320, § 1, 8-9-01; Ord. No. 361, § 1, 4-12-07)

| Sec. 54-87. Clearing, earthwork, and grading.

(a) *Minimum required improvement.* The developer shall be required to clear all rights-of-way and to make all grades for streets, parking tracts, lots and other areas proposed to be developed, compatible with on-site drainage patterns established by the approved drainage design.

(b) *Unsuitable materials.* The developer shall remove and replace unsuitable materials. Replacement of unsuitable materials within streets and proposed public areas shall be satisfactory to and meet with the approval of the town, who shall require such soil tests of the back fill and the underlying strata at the cost of the developer as may be deemed necessary to ascertain the extent of required removal, suitability of replacement material, and acceptability of the proposed method of placement.

| (Ord. No. 320, § 1, 8-9-01)

| Sec. 54-98. Stormwater management.

Management of stormwater shall be consistent with the town's comprehensive plan, its stormwater management ordinance (No. 228) and the requirements of all other governmental agencies. All water management tracts required hereunder shall not be considered as part of a platted lot and shall be specifically excluded from lot calculations.

| (Ord. No. 320, § 1, 8-9-01)

| Sec. 54-109. Wastewater systems.

(a) *General requirement.* Except in ~~minor~~ subdivisions of four or fewer lots, a sewage collection/transmission system with appropriate service connection to each lot shall be provided for connection to a central sewer system. Such system shall be designed and installed in accordance with the department of environmental protection (DEP) requirements, applicable permits or approvals obtained from the utility responsible for the central sewer system, and the appropriate permits secured from the PBCPHU.

(b) *Package treatment plant (on site).* In the absence of a central sewer system, use of a package treatment plant will be allowed only under the following circumstances:

1. The subdivision is located within the service area of a central sewer system and extension of service to the subdivision is in the utility's master plan;
2. The package treatment plant will be operated by the utility and abandoned upon extension of the central sewer system;
3. Zoning approval is secured as required in chapter 58 of this Code; and
4. Infrastructure will be designed and built consistent with future connections to a central sewer system.

The package treatment plant must be designed and constructed in accordance with the requirements of DEP and other governmental agencies.

| (c) *Individual system.* In ~~minor~~ subdivisions of four or fewer lots, a septic tank system is an acceptable method of sewage disposal for each lot, when permitted by the PBCPHU.

| (~~Ord. No. 320, § 1, 8-9-01~~)

| Sec. 54-1110. Potable water systems.

| (a) *General requirement.* Except in ~~minor~~ subdivisions of three or fewer lots, a potable water distribution system with appropriate service connection to each lot shall be provided for connection to a central water system. Such system shall be designed and installed in accordance with the department of environmental protection (DEP) requirements, applicable permits or approvals obtained from the utility responsible for the central water system, and the appropriate permits secured from the PBCPHU.

(b) Package treatment plant (on-site). In the absence of a central water system, use of a package treatment plant will be allowed only under the following circumstances:

- (1) The subdivision is located within the service area of a central water system and extension of service to the subdivision is in the utility's master plan;
- (2) The package treatment plant will be operated by the utility and abandoned upon extension of the central water system; and
- (3) Zoning approval is secured as required in this Code;
- (4) Infrastructure will be designed and built consistent with future connections to a central sewer system.

The package treatment plant must be designed and constructed in accordance with the requirements of DEP and other applicable governmental agencies.

(c) *Individual system.* In ~~minor~~ subdivisions of three or fewer lots, or where otherwise allowed, an individual well system is an acceptable method of providing potable water for each lot, when permitted by the PBCPHU.
(Ord. No. 320, § 1, 8-9-01)

Sec. 54-1211. Utilities.

(a) *Required improvement.* All utilities, including power and light, telephone and telegraph, cable television, wiring to street lights, and gas shall be installed underground. Utilities shall be constructed in easements as prescribed by this section. The developer shall make arrangements for utilities installation with each person furnishing utility service involved.

(b) *Easements.* Utility easements shall be provided where necessary to accommodate all required utilities across lots and shall have convenient access for maintenance. Unless otherwise agreed to by the Town, the easement should be no less than 15 feet wide. Where possible easements shall be centered on lot lines. Where possible, utility easements should be provided for underground utilities across the portion(s) of the lot abutting a street or parking area. When a utility easement is to abut a street, the width may be reduced to ten feet. Additional utility easements may be required by the town when, in the opinion of the town engineer, such easements are necessary for continuity of utility service between subdivisions or other development and where necessary for maintenance and service. Utility easements and drainage easements shall not be combined. Where crossing occur, drainage easements shall take precedent. Easements shall be coordinated with requisite utility authorities and shall be provided as prescribed by this article for the installation of underground utilities or relocating existing facilities in conformance with the respective utilities authority's rules and regulations.

(c) *Exceptions to underground installation.*

(1) *Applicability.* This section shall apply to all cables, conduits, or wires forming parts of an electrical distribution or communications system, including service lines to individual properties and main distribution feeder electrical lines delivering power to local distribution systems. This section shall not apply to wires, conduits or associated and supporting structures whose exclusive function is to transmit or distribute electricity between subdivisions, generating stations, substations and transmission lines of other utility systems, or perimeter lines located adjacent to a subdivision.

(2) *Standard exception for appurtenant, on the ground facilities.* Appurtenances such as transformer boxes, pedestal mounted terminal boxes, meter cabinets, service terminals, telephone splice closures, pedestal type telephone terminals or other similar "on the ground" facilities normally used with and as a part of the underground distribution system may be placed above ground, but shall be located so as not to constitute a traffic hazard.

(d) *Installation in streets.* Before the base for any street has been started, and before any material is applied, all underground work for the water mains sanitary sewers, storm sewers, gas mains, telephone, electrical power conduits and appurtenances and any other utility shall be installed completely through the width of the street to the sidewalk area or provisions made so

that the street will not be disturbed for utility installation. All underground improvements installed for the purpose of future service connections shall be properly capped and backfilled.
(Ord. No. 320, § 1, 8-9-01)

Sec. 54-1312. Fire hydrants.

(a) *Required improvement.* Fire hydrants shall be provided where central water systems are provided. Fire hydrants shall be provided in the manner prescribed in this section.

(b) *Single family developments of less than five units per acre.* Fire hydrants shall be spaced no greater than 600 feet apart and not more than 300 feet to the center of any lot in the subdivision and shall be connected to mains no less than six inches in diameter. The system shall provide capability for fire flow of a least 700 hundred gallons per minute in addition to a maximum day requirement at pressures of not less than 20 pounds per square inch. The system shall have the capability of sufficient storage or emergency pumping facilities to such an extent that the minimum fire flow will be maintained for at least four hours or the current recommendations of the insurance services office, whichever is greater.

(c) *Multiple family developments of over five dwelling unites per acre, commercial, institutional, industrial or other high daytime or nighttime population density developments.* In these areas fire hydrants shall be spaced no greater than 500 feet apart and the remotest part of any structure shall not be more than 300 feet from the hydrant and shall be connected to mains no less than six inches in diameter. Fire flow shall be provided at flows not less than 1,200 gallons per minute in addition to a maximum day requirement at pressures of not less than 30 pounds per square inch.

(d) *Charges for use.* Charges made for the use of the fire hydrant or water consumed therefrom when a fire protection authority uses the fire hydrant in the performance of its official duty shall be as regulated by the public service commission.

(Ord. No. 320, § 1, 8-9-01)

Sec. 54-1413. Subdivision design and survey requirements.

(a) *Required improvement.* The developer shall install the required buffering and, when recording a plat, shall comply with this Code for setting of "P.R.M.s" and "P.C.P.s".

(b) *Buffering.* Residential developments shall be buffered and protected from adjacent expressways, arterials and railroad rights-of-way with a five foot limited access easement, which shall be shown and dedicated on the plat, except where access is provided by means of a marginal access road or where such expressway, arterial or railroad right-of-way abuts a golf course.

(c) *Blocks.*

(1) *General considerations.* The length, width and shape of blocks shall be determined with due regard to:

- a. Provision of adequate building sites suitable to the special needs of the type of use contemplated;
- b. Zoning requirements as to lot size and dimensions;
- c. Need for convenient access, circulation, control and safety of vehicular and pedestrian traffic; and
- d. Limitations and opportunities of topography.

(2) Maximum length. Block lengths shall not exceed 1,320 feet between intersecting streets. Provided, however, that greater lengths may be approved by the town engineer on an individual basis after considering such factors as but not limited to, lot size, ADT, number of through streets, street layout and other engineering considerations, in accordance with acceptable engineering practices.

(d) *Lots.* All lots shall have the area, frontage, width, and depth required by this Code or applicable zoning approval for the prevailing or approved use zone wherein said lots are located.

(1) Existing structures. When a subdivision is proposed upon land with existing structures that are proposed to be retained, lots are to be designed so as not to cause said existing structures to become nonconforming.

(2) Lots abutting major streets. When lots are platted abutting a major street or non-plan collector street, access shall be provided by and limited to local streets or residential access streets, no access from individual lots shall be permitted directly to a major street.

(3) Through lots. Double frontage lots or through lots shall be avoided except where essential to provide separation of residential development from major streets or to overcome specific disadvantages of topography or orientation. Where double frontage lots are developed they shall be buffered as required by this Code.

(e) *Minimum safe sight distance at intersections.* Corner lot lines at intersecting street lines shall be the long chord of a 25 foot radius, except that at the intersection of two thoroughfare plan streets the radius shall be 40 feet. Corner lots shall be designed to facilitate a safe intersection with respect to minimum stopping and turning sight distances in accordance with criteria prescribed in the most recent edition of the Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways. A restriction shall be placed on the plat prohibiting structures or landscaping over 30 inches high within any additional safe sight area required to be established over an individual lot in order to accommodate unusual conditions in the design of the lot or alignment of adjacent streets, said height being measured from the street crown elevation at the intersection.

(f) *Survey requirements.*

(1) Permanent reference monuments ("P.R.M.s"). Where monuments occur within street pavement areas, they shall be installed in a typical water valve cover as prescribed in the current county standards.

(2) Permanent control points ("P.C.P.s"). Permanent control points shall be installed as follows.

a. Installation prior to plat recordation. Where required improvements are constructed prior to recordation, the permanent control points shall be set prior to submission of the final plat and certified by the surveyor in accordance with section 8.20.B.15.c.

b. Installation after plat recordation. Where required improvements are constructed after recordation, the permanent control points shall be set under the guarantees as required by section 8.21.A.8. In such case, the surveyor's certificate shall comply with section 8.20.B.15. The signing surveyor shall provide the town engineer with a copy of the recorded certification required by F.S. § 177.091, as to his placement of the permanent control points.

(Ord. No. 320, § 1, 8-9-01)

Sec. 54-1514. Character of development.

The subdivider shall confer with the mayor, and other members of the town staff regarding the type and character of development that will be permitted in the subdivision and the town may place certain minimum restrictions upon the property to prevent the construction of substandard buildings, control the type of structures or the use of the lots which, unless so controlled, would clearly depreciate the character and value of the proposed subdivision and of adjoining property. Deed restrictions or covenants running with the land may be required and included to provide for the creation of a property owner's association or board of trustees for the proper protection and maintenance of the development in the future; provided that, such deed restrictions or covenants shall not contain reversionary clauses wherein any lot shall return to the subdivider because of a violation thereof of the terms of the restrictions or covenants. Where the subdivision contains sewers, lift stations, water supply systems, park area, street trees or other physical facilities necessary or desirable for the welfare of the area and which are of common use or benefit and which the town or county does not desire to maintain, provision shall be made by trust agreement and a part of the deed restrictions, acceptable to the town or county for the proper and continuous maintenance and supervision of such facilities by the lot owners in the subdivision.

(Ord. No. 320, § 1, 8-9-01)

Sec. 54-16-15 Building and Architectural Design Standards.

The Town of Haverhill's building and site design standards expect new construction to respect, reinforce and enhance the neighborhood context created by existing development throughout the Town. All new construction should blend with the established development pattern and not challenge it. For these reasons, many of the design standards imposed on a developer under this Chapter shall seek to ensure that proposed buildings are properly located on the site and provide visual appeal and not the cluttered look that sometimes occurs with higher density; provide consistent connectivity for pedestrians and vehicles; and provide features and amenities, both

within the unit and overall community, that is appropriate to the existing context and which is intended to enhance the overall living experience of residents.

Accordingly, the Town desires to allow the developer and the design professional to choose the architectural styles and types of building that is appropriate for the project and in keeping with the intent of this Section. For these reasons, the design standards do not prescribe the use of certain architectural styles or specific architectural detail. However, any building type, style and design, and site and landscape plans and improvements thereon, are subject to approval of the Town Council as part of the subdivision approval process. And, it is expected that once it is selected, it will be utilized correctly with the proper choice of materials, detailing, and proportioning.

In order to assist the community with the transition from development to redevelopment, this Section establishes minimum building and design standards and concepts to assist the developer and design professional in choosing materials, proportions, location, and other organizational arrangements. The design standards are not intended to restrict imagination, innovation or variety, but rather to assist in focusing design principles. The design standards will permit creative solutions that strengthen the overall contextual setting with a highly diverse architectural legacy of good design and the unique urban context existing in the Town.

- A. **Building Style.** New construction shall utilize an identifiable architectural style which is recognized by design professionals as having a sound and viable basis in architectural design philosophies. Renovations, additions and accessory structures shall utilize the architectural style of the existing structure, or the entire existing structure shall be modified to utilize an identifiable architectural style which is recognized by design professionals as having a sound and viable basis in academic architectural design philosophies.
- B. **Wall Composition.** Wall composition standards ensure that residential buildings offer attractive features to the pedestrian. Wall composition also mitigates blank walls and ensures that all sides of a building have visual interest. Structures which are situated on corner lots, through lots, or by the nature of the site layout have a façade which is clearly visible from rights-of-way shall be designed with full architectural treatment on all sides visible from rights-of-way. Full architectural treatment shall include roof design, wall materials, architectural trim, and door and window openings. While it is recognized that buildings have primary and secondary facades, the construction materials and detailing should be similar throughout.
- C. **Transparency.** The provision of transparency enhances visual connections between activities inside and outside buildings thereby improving pedestrian safety. Windows on the street side facades shall be evenly distributed in a consistent pattern. Windows shall not be flush mounted. Windows recessed less than three (3) inches shall feature architectural trim including a header, sill and side trim or decorative shutters. Windows recessed three (3) inches or more shall feature a window sill.

- D. **Roofs.** Rooflines add visual interest to the streetscape and establish a sense of continuity between adjacent buildings. When used properly, rooflines can help distinguish between residential and commercial land uses, reduce the mass of large structures, emphasize entrances, and provide shade and shelter for pedestrians. Buildings shall provide a pitched roof or a flat roof with a decorative parapet wall compatible with the architectural style of the building.
- E. **Building Materials.** Building material standards protect neighboring properties by holding the building's value longer thereby creating a greater resale value and stabilizing the value of neighboring properties. Building materials shall be appropriate to the selected architectural style and shall be consistent throughout the project.
- F. **Noise Attenuation.** Every dwelling structure in the area bounded on the north by Belvedere Road, on the west by Haverhill Road, and on the east by Military Trail, shall utilize building materials and techniques to reduce sound levels generated by aircraft noise.

| Sec. 54-16. Variations and exceptions.

Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in this chapter or in Chapter 58 would result in real difficulties or substantial hardship or injustice, the town council, after report by the mayor, may vary or modify such requirements so that the subdivider may develop his property in a reasonable manner, but so that, at the same time, the public welfare and interests of the surrounding area within the town are protected and the general intent and spirit of these regulations is preserved. Special consideration shall be given to any requests for variations in applications under this chapter which dedicate some or all of the units as workforce housing units. This does not imply that a variance to the strict application of these and other building regulations shall be granted by right, but that the town will consider such requests more favorably. However, no variation shall violate the Town of Haverhill Comprehensive Plan. Workforce Housing Unit (WHU) means a dwelling unit to be sold to an individual or family that is classified as Moderate Income Households according to the Palm Beach County standards and the town may impose other restrictions and covenants on WHU's such as deed restrictions in granting relief from the strict application of this Code.

| (Ord. No. 320, § 1, 8-9-01)

| Sec. 54-17. Miscellaneous.

(a) *Limitations as to town maintenance.* Nothing in these regulations shall be construed as meaning that the town shall take over the maintenance of any road, street, alley, public parking or other public area, or drainage facility related thereto, except those designed and built in accordance with the town's requirements and taken over for maintenance by specific town council action. The assumption of maintenance by the town under these regulations shall not be construed to mean that the town shall assume operating or other costs of street lighting. Nothing in these regulations shall be construed as obligating the town to drain any land, except that which lies in the public rights of way and drainage easements.

(b) *Administration of this chapter.* The administration of this chapter shall be under the direction of the mayor or such other official of the town designated by the mayor.

(Ord. No. 320, § 1, 8-9-01)

(c) *Minimum Requirements.* In their interpretation and application, the requirements of this chapter shall be deemed to be minimum requirements necessary for the promotion of public health, safety and welfare. The Town Council, ~~for major subdivisions, or the Mayor, for minor subdivisions,~~ may add other requirements.

(d) *Relationship to other agency requirements.* The requirements of this chapter are intended to complement and expand upon rules, regulations and permit requirements of other state, regional and local agencies applicable to the design, construction and/or operation of facilities for access and circulation of vehicles and pedestrians, construction of streets and related facilities, power and communication services, wastewater and water services, and stormwater management and flood protection. Compliance with the requirements of this chapter shall not relieve the developer, his successors and/or assigns from the necessity to comply with all requirements and obtain all permits required by the regulations of such other agencies.

(e) *Required improvements installation requirement.* No Final Plat shall be recorded until all required improvements set forth in Sec. 54-65, or may otherwise be required as part of the subdivision approval process, are either completed to the satisfaction of the town or are guaranteed to be completed by the developer, including the posting of a bond or letter or credit or such other security in such form and amount as may be required by the town.

(f) *Time of completion of required improvements.* The time of completion of all required improvements shall not exceed twelve (12) months from the date of issuance of the building permit or fifteen (15) months from the approval of the subdivision, whichever first occurs, unless an extension is granted pursuant to this sub-section. A time extension of up to one (1) year may be granted by the town council after review of a written application for extension filed by the developer. The written application should include, but not be limited to, a statement of justification and proof that an acceptable guarantee will remain in place for the duration of the extension, or if no guarantee is provided, that one will be provided in form and amount satisfactory to town. This provision is in addition to any requirements set forth in Section 58-103.

CHART 54-A CHART OF ACCESS HIERARCHY

MAJOR STREETS: Streets which constitute the traffic circulation network as contemplated under the Comprehensive Plan. Listed from highest to lowest category.

EXPRESSWAY

ARTERIAL

PLAN COLLECTOR

MINOR STREETS: Streets which constitute the internal circulation network of a development and which are not classified as a MAJOR STREET. Listed from highest to lowest category.

NON-PLAN COLLECTOR

MARGINAL ACCESS

LOCAL

RESIDENTIAL ACCESS (private streets only):

40 FOOT

32 FOOT

ALLEY (secondary access only)

ORDINANCE NO. 390

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA, AMENDING CHAPTER 58, ZONING, BY DELETING ARTICLE II, PLANNING AND ZONING COMMISSION; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AUTHORITY TO CODIFY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Town Council of the Town of Haverhill, as the governing body of the Town of Haverhill, pursuant to the authority vested in Chapter 166, Florida Statutes, and the Charter of the Town of Haverhill, is authorized and empowered to consider such matters relating to zoning;

WHEREAS, the Town desires to modify its Zoning Code, Chapter 58 by deleting the sections dealing with the Planning and Zoning Commission since it rarely meets; and

WHEREAS, the notice and hearing requirements as provided for by the Town of Haverhill have been met; and

WHEREAS, the Town Council has considered the evidence and testimony presented by the Town Staff and other interested parties; and

WHEREAS, the amendment to the Zoning Code is consistent with the requirements of the Comprehensive Plan; and

WHEREAS, the Town Council of the Town of Haverhill finds that amending the Zoning Code by eliminating the Planning and Zoning Commission will promote, protect and improve the health, safety and welfare of its citizens:

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA:

SECTION 1. Recitals. The foregoing recitals (whereas clauses) are hereby adopted as the legislative findings of the Town Council of the Town of Haverhill.

SECTION 2. Amendment to Code. Chapter 58, Zoning, of the Code of Ordinances of the Town of Haverhill is hereby amended by deleting all of Article II, Planning and Zoning Commission, including Sections 58-31, 58-32 and 58-33, and any powers and duties that are required by Florida Statutes to be fulfilled by a Planning and Zoning Commission, as said statutes may be amended from time to time, shall be fulfilled by the Town Council.

SECTION 3. Codification. The Mayor and Town Administrator are hereby authorized and directed to do all things necessary to effectuate this amendment; and authority is hereby granted to codify and incorporate this ordinance into the existing Code of Ordinances of the Town of Haverhill. The provisions of this Ordinance, including its

recitals, shall become and be made a part of the *Code of Ordinances of the Town of Haverhill, Florida* and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 3, 4, 5 and 6 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 4. Conflicts. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 6. Effective Date. This Ordinance shall take effect immediately upon its adoption.

PASSED AND APPROVED ON FIRST READING this 8th day of April, 2010.

THE SECOND AND FINAL READING was held this 6th day of May, 2010. Council member _____ offered the foregoing Ordinance, and moved its adoption. The Motion was seconded by Council member _____, and upon being put to a vote, the vote was as follows:

| | |
|---|-------|
| JAMES E. WOODS, Mayor | _____ |
| JAY G. FOY, Vice Mayor | _____ |
| JERRY E. BEAVERS, Council Member | _____ |
| HENRY LYNCH, Council Member | _____ |
| MARK C. UPTGRAPH, Council Member | _____ |

The Mayor thereupon declared this Ordinance approved and duly adopted by the Town Council of the Town of Haverhill, Florida.

ATTEST:

TOWN OF HAVERHILL, FLORIDA

Janice C. Rutan, Town Admin.

James E. Woods, Mayor

ORDINANCE NO. 391

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA, AMENDING SUBSECTION (A) OF SECTION 58-330, GARAGE AND YARD SALES, OF CHAPTER 58, ZONING, BY CLARIFYING THAT A PERMIT FOR A GARAGE SALE WILL NOT BE ISSUED FOR THE WEEKEND OF THE TOWN SPONSORED GARAGE SALE; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AUTHORITY TO CODIFY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Town Council of the Town of Haverhill, as the governing body of the Town of Haverhill, pursuant to the authority vested in Chapter 166, Florida Statutes, and the Charter of the Town of Haverhill, is authorized and empowered to consider such matters relating to zoning;

WHEREAS, the Town desires to modify its Zoning Code, Chapter 58 by clarifying that a garage sale permit will not be issued for the weekends that Town is hosting its Community Garage Sale event; and

WHEREAS, the notice and hearing requirements as provided for by the Town of Haverhill have been met; and

WHEREAS, the Town Council has considered the evidence and testimony presented by the Town Staff and other interested parties; and

WHEREAS, the amendment to the Zoning Code is consistent with the requirements of the Comprehensive Plan; and

WHEREAS, the Town Council of the Town of Haverhill finds that amending the Zoning Code will promote, protect and improve the health, safety and welfare of its citizens:

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA:

SECTION 1. Recitals. The foregoing recitals (whereas clauses) are hereby adopted as the legislative findings of the Town Council of the Town of Haverhill.

SECTION 2. Amendment to Code. Subsection (a) of Section 58-330, Garage and Yard Sales, of Chapter 58, Zoning, of the Code of Ordinances of the Town of Haverhill is hereby amended as follows:

- (a) *Permit required; limitations.* No garage sale, carport sale, yard sale, sidewalk sale, outdoor sale, or other similar activities shall be permitted in the Town without the issuance of a permit from the Town ~~Clerk~~Administrator. There

shall be no fee charged by the Town for the issuance of the permit. However, not more than three (3) permits shall be issued to any one street address, property legal description, property owner, or organization, during any single calendar year. When two (2) or more families or households join together to conduct such a sale, each shall obtain a permit and such permit shall be counted as one (1) of the three (3) above-permitted sales for each family, property or household. Such permit shall be limited in time to no more than two (2) consecutive days. If the sale commences without a permit, the owner will be required to cease operation, remove displayed goods and obtain a permit. The permit must be displayed at the location of the sale during all sale hours. No permit shall be issued for the weekend on which the Town has scheduled its community wide garage sale, except that this prohibition shall not apply any more than three (3) times per year.

SECTION 3. Codification. The Mayor and Town Administrator are hereby authorized and directed to do all things necessary to effectuate this amendment; and authority is hereby granted to codify and incorporate this ordinance into the existing Code of Ordinances of the Town of Haverhill. The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the Town of Haverhill, Florida* and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 3, 4, 5 and 6 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 4. Conflicts. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 6. Effective Date. This Ordinance shall take effect immediately upon its adoption.

PASSED AND APPROVED ON FIRST READING this 8th day of April, 2010.

THE SECOND AND FINAL READING was held this 6th day of May, 2010. Council member _____ offered the foregoing Ordinance, and moved its adoption. The Motion was seconded by Council member _____, and upon being put to a vote, the vote was as follows:

JAMES E. WOODS, Mayor
JAY G. FOY, Vice Mayor
JERRY E. BEAVERS, Council Member
HENRY LYNCH, Council Member
MARK C. UPTGRAPH, Council Member

The Mayor thereupon declared this Ordinance approved and duly adopted by the Town Council of the Town of Haverhill, Florida.

ATTEST:

TOWN OF HAVERHILL, FLORIDA

Janice C. Rutan, Town Admin.

James E. Woods, Mayor

ORDINANCE NO. 392

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA, AMENDING ARTICLE V, CODE ENFORCEMENT, OF CHAPTER 2, ADMINISTRATION, BY DELETING ANY AND ALL REFERENCES TO CODE ENFORCEMENT BOARD AND PROVIDING THAT THE TOWN MAY CONDITION THE PROCESSING OF ANY APPLICATION OR PETITION UPON SATISFACTION OF ANY OUTSTANDING CODE VIOLATIONS OR FINES; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AUTHORITY TO CODIFY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Town Council of the Town of Haverhill, as the governing body of the Town of Haverhill, pursuant to the authority vested in Chapter 166, Florida Statutes, and the Charter of the Town of Haverhill, is authorized and empowered to consider such matters relating to code enforcement;

WHEREAS, the Town desires to modify its Administration Code, Chapter 2, by deleting any reference to the Code Enforcement Board since all proceedings are handled by a special magistrate appointed by the Town Council and by requiring any property owner seeking approval of any petition, application or permit to first remedy any code violations and/or pay any fines; and

WHEREAS, the notice and hearing requirements as provided for by the Town of Haverhill have been met; and

WHEREAS, the Town Council has considered the evidence and testimony presented by the Town Staff and other interested parties; and

WHEREAS, the amendment to the Administration Code is consistent with the requirements of the Comprehensive Plan; and

WHEREAS, the Town Council of the Town of Haverhill finds that amending the Administration Code will promote, protect and improve the health, safety and welfare of its citizens:

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA:

SECTION 1. Recitals. The foregoing recitals (whereas clauses) are hereby adopted as the legislative findings of the Town Council of the Town of Haverhill.

SECTION 2. Amendment to Code. Article V, Code Enforcement, or Chapter 2, Administration, of the Code of Ordinances of the Town of Haverhill is hereby amended as follows:

See Exhibit "A" attached hereto and made a part hereof

SECTION 3. Codification. The Mayor and Town Administrator are hereby authorized and directed to do all things necessary to effectuate this amendment; and authority is hereby granted to codify and incorporate this ordinance into the existing Code of Ordinances of the Town of Haverhill. The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the Town of Haverhill, Florida* and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 3, 4, 5 and 6 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 4. Conflicts. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 6. Effective Date. This Ordinance shall take effect immediately upon its adoption.

PASSED AND APPROVED ON FIRST READING this 8th day of April, 2010.

THE SECOND AND FINAL READING was held this 6th day of May, 2010. Council member _____ offered the foregoing Ordinance, and moved its adoption. The Motion was seconded by Council member _____, and upon being put to a vote, the vote was as follows:

| | |
|--|-------|
| JAMES E. WOODS, Mayor | _____ |
| JAY G. FOY, Vice Mayor | _____ |
| JERRY E. BEAVERS, Council Member | _____ |
| HENRY LYNCH, Council Member | _____ |
| MARK C. UPTOGRAPH, Council Member | _____ |

The Mayor thereupon declared this Ordinance approved and duly adopted by the Town Council of the Town of Haverhill, Florida.

ATTEST:

TOWN OF HAVERHILL, FLORIDA

Janice C. Rutan, Town Admin.

James E. Woods, Mayor

TOWN OF HAVERHILL, FLORIDA

Exhibit "A" to Ordinance No. 392

ARTICLE V. CODE ENFORCEMENT*

DIVISION 1. GENERALLY

Sec. 2-131. Declaration of legislative intent of article.

It is the intent of this article to promote, protect and improve the health, safety and welfare of the citizens of the town by providing an equitable, expeditious, effective and inexpensive method of enforcing the codes and ordinances of the town.

Sec. 2-132. Applicability of article.

The ~~code enforcement board, or the designated special master,~~ shall enforce and have jurisdiction of the codes and ordinances of the town where a pending or repeated violation continues to exist, as provided in F.S. § 162.02.

Sec. 2-133. Definitions.

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

Code inspector means those authorized agents or employees of the town of whose duty it is to ensure code compliance including, without limitation, the building official or building inspector.

~~*Enforcement board* means the code enforcement board.~~

Repeat violation means 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 years prior to the violation.

Special master, an individual designated by the town council with the power and authority to hold hearings and assess fines against violators of the town codes. ~~In such instances, the special master shall act in lieu of the code enforcement board.~~

Town attorney means the legal counsel for the town.

DIVISION 2. ENFORCEMENT BOARD PROCEDURE

~~Sec. 2-146. Membership; terms and qualifications.~~

~~The town council shall appoint a five member code enforcement board along with two alternate members to serve on the board in the absence of board members. The members and alternate members shall have the following qualifications and terms of office:~~

~~(1) Members and alternate members of the enforcement board shall be residents and registered voters of the town. Appointments shall be made in accordance with applicable law~~

and ordinances on the basis of experience or interest in the subject matter jurisdiction of the code enforcement board, in the sole discretion of the town council. The membership of each enforcement board shall, whenever possible, include an architect, a businessman, an engineer, a general contractor, a subcontractor, and a realtor.

(2) All appointments shall be made for a term of three years. Any member or alternate member may be reappointed from term to term upon approval of the town council. Any appointments to fill any vacancy on the enforcement board shall be for the remainder of the unexpired term of office of the member or alternate member whose absence created the vacancy. Any member who fails to attend any two of three successive meetings without cause and without prior approval of the chair shall automatically forfeit his appointment, and the town council shall promptly fill such vacancy. The members or alternate members of the code enforcement board may be removed for cause, as provided in this Code for removal of members of appointed boards.

Sec. 2-147. Chair; quorum; compensation; expenses.

The members of the enforcement board shall elect a chair from among its members, who shall be a voting member. The presence of three or more members or alternate members shall constitute a quorum of the enforcement board. Members and alternate members shall serve without compensation, but may be reimbursed for such travel expenses, mileage expenses, and per diem expenses and other expenses as may be authorized by the town council.

Sec. 2-148. Counsel.

The town attorney shall be counsel to the code enforcement board.

Sec. 2-149. Meetings.

The members of the code enforcement board shall hold quarterly meetings the second Tuesday of each quarter.

Reserved. Sections 2-146 – 2-149, inclusive.

Sec. 2-150. Enforcement procedure.

(a) It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes; however, no member of a board, nor the special master, shall have the power to initiate such enforcement proceedings.

(b) Except as provided in subsections (c) and (d) of this section, if a violation of the code is found, the code inspector shall notify the violator, and give the violator a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code inspector shall notify the enforcement board or the special master and request a hearing pursuant to section 2-151. The code enforcement board, or the special master, whichever the case shall be, through its clerical staff, shall schedule a hearing, and written notice of such hearing shall be given to the violator as provided in section 2-156 and at the discretion of the board, or the special master, delivered as designated by the board, or the special master. At the option of the code enforcement board, or the special master, notice may additionally be served by publication or posting as provided in section 2-156. If the violation is corrected and then

recurs or if the violation is not corrected by the time specified by the code inspector, the case may be presented to the ~~code enforcement board, or the special master,~~ even if the violation has been corrected prior to the ~~board, or the special master,~~ hearing, and the notice shall so state.

(c) If a repeat violation is found, the code inspector shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation shall notify ~~and enforcement board or the special master,~~ and request a hearing. The ~~code enforcement board, or the special master,~~ through its clerical staff, shall schedule a hearing and shall provide notice pursuant to section 2-156. The case may be presented to the ~~enforcement board, or the special master,~~ even if the repeat violation has been corrected prior to the ~~board hearing,~~ and the notice shall so state.

(d) If the code inspector has reason to believe a violation or the condition causing the violation presents a serious threat the public health, safety, and welfare or if the violation is irreparable or irreversible in nature, the code inspector shall make a reasonable effort to notify the violator and may immediately notify the ~~enforcement board, or the special master,~~ and request a hearing.

Sec. 2-151. Conduct of hearing.

(a) Upon request of the code inspector, or at such other times as may be necessary, the ~~chairman of an enforcement board, or the special master,~~ may call a hearing. A ~~hearing also may be called by written notice signed by at least two members of the code enforcement board.~~ Minutes shall be kept of all hearings by the ~~code enforcement board, or~~ of the special master, and all hearing and proceedings shall be open to the public. The town council shall provide clerical and administrative personnel as may be reasonably required by the ~~code enforcement board, or the special master,~~ for the proper performance of its duties.

(b) Each case before an ~~enforcement board, or the special master,~~ shall be presented by a member of the administrative staff of the town, including the code inspector. If the town prevails in prosecuting a case, before the ~~enforcement board, or the special master,~~ it shall be entitled to recover all costs incurred in prosecuting the case before the ~~board or the special master.~~

(c) An ~~enforcement board, or~~ the special master, shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The ~~enforcement board, or the special master,~~ shall take testimony from the code inspector 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 ~~enforcement board, or the special master,~~ shall issue findings of fact and conclusions of law and shall issue an order affording the proper relief consistent with powers granted in this division. ~~The findings and orders shall be by motion approved by a majority of those members present and voting, except that at least three members of the enforcement board must vote on the action for such action to be official, if the hearing is before the code enforcement board rather than the special master.~~

(e) 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 2-153(a), the cost of repairs may be included along with the fine if the order is not complied with by such date. A certified copy of such order may be recorded in the public records of the county and shall constitute

notice to any subsequent purchasers, successors in interests, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors and interests, or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the enforcement board, or the special master, shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

Sec. 2-152. Powers.

The enforcement board, or the special master, 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 as designated by the sheriff's deputy including the deputy assigned to town duties by the county sheriff.)
- (3) Subpoena records, surveys, plats and other material.
- (4) Take testimony under oath.
- (5) Issue orders having the force of law commanding whatever steps are necessary to bring a violation into compliance.
- (6) Levy fines.

Sec. 2-153. Administrative fines; costs of repair; liens.

(a) The code enforcement board, or the special master, upon notification by the code inspector that an order of the code enforcement board or the special master has not been complied with by the set time, or, upon finding that a repeat violation has been committed, may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by the enforcement board, or the special master, for compliance or, in the case of a repeat violation, for each day the repeat violation, beginning with the date the repeat violation is found to have occurred by the code inspector. In addition, if the violation is a violation described in section 2-150(d), the enforcement board or the special master shall notify the town council, which may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. If a finding of a violation or a repeat violation has been made as provided in this part, a hearing shall not be necessary for issuance of the order imposing the fine.

(b) A fine imposed pursuant to this section shall not exceed \$250.00 per day for a first violation and shall not exceed \$500.00 per day for a repeat violation, and, in addition, may include all costs of repairs pursuant to subsection (a) of this section.

(c) In determining the amount of the fine, if any, the code enforcement board, or the special master, shall consider the following factors:

- (1) The gravity of the violation;
- (2) Any actions taken by the violator to correct the violation; and
- (3) Any previous violations committed by the violator.

(d) ~~An enforcement board, or the~~The special master, may reduce a fine imposed pursuant to this section.

(e) A certified copy of an order imposing a fine may be recorded in the public records 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. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this article 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 this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the town council, and the town council may execute a satisfaction or release of lien entered pursuant to this section. After three months from the filing of any such lien which remains unpaid, ~~the enforcement board, or the special master,~~ may authorize the town attorney to foreclose on the lien. No lien created pursuant to the provisions of this article may be foreclosed on real property which is a homestead under section 4, article X of the state constitution.

(f) The Town may condition the processing of any application for building or other permit, petition for rezoning, special exception, variance or comprehensive plan change, or any other like application on the satisfaction of any code violations and payment of any and all fines.

Sec. 2-154. Duration of lien.

No lien provided under this article shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an action to foreclose on a lien, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the foreclosure. The town council shall be entitled to collect all costs incurred in recording and satisfying a valid lien. 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.

Sec. 2-155. Appeal.

An aggrieved party, including the town council, may appeal a final administrative order of ~~the enforcement board, or the special master,~~ to the circuit court of ~~the county~~Palm Beach County. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the ~~code enforcement board, or the special master.~~ An appeal shall be filed within 30 days of the execution of the order to be appealed.

Sec. 2-156. Notices.

(a) All notices required by this article shall be provided to the alleged violator by certified mail, return receipt requested; by hand delivery by the sheriff or other law enforcement officer, code inspector, or other person designated by the town council; or by leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice.

(b) In addition to providing notices set forth in subsection (a) of this section, at the option of the ~~code enforcement board, or the special master~~, notice may also be served by publication or posting, as follows:

(1) Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the ~~code enforcement board, or the special master~~, is located. The newspaper shall meet such requirements as are prescribed under F.S. Ch. 50 for legal and official advertisements.

(2) Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.

(c) In lieu of publication as described in subsection (b)(1) of this section, such notice may be posted for at least ten days in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be, ~~in the case of municipalities, at the primary municipal government office, the Town Hall, and in the case of counties, at the front door of the courthouse in the county.~~ the Town Hall. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

(d) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (a) of this section. Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (a) of this section, together with proof of publication or posting as provided in subsection (b) of this section, shall be sufficient to show that the notice requirements of this part have been met, without regard to whether or not the alleged violator actually received such notice.

ORDINANCE NO. 393

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA, AMENDING SECTION 58-151, ESTABLISHING ZONING DISTRICTS, OF ARTICLE VI, DISTRICT REGULATIONS, OF CHAPTER 58, ZONING, BY ADDING PLANNED BUSINESS CAMPUS DEVELOPMENT (PBCD) AS A SPECIFIC ZONING DISTRICT; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AUTHORITY TO CODIFY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Town Council of the Town of Haverhill, as the governing body of the Town of Haverhill, pursuant to the authority vested in Chapter 166, Florida Statutes, and the Charter of the Town of Haverhill, is authorized and empowered to consider such matters relating to zoning;

WHEREAS, the Town desires to modify its Zoning Code, Chapter 58, by adding Planned Business Campus Development to the list of zoning districts as found in Section 58-151 since it was inadvertently not included in the list when the PBCD district was created; and

WHEREAS, the notice and hearing requirements as provided for by the Town of Haverhill have been met; and

WHEREAS, the Town Council has considered the evidence and testimony presented by the Town Staff and other interested parties; and

WHEREAS, the amendment to the Zoning Code is consistent with the requirements of the Comprehensive Plan; and

WHEREAS, the Town Council of the Town of Haverhill finds that amending the Zoning Code will promote, protect and improve the health, safety and welfare of its citizens:

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA:

SECTION 1. Recitals. The foregoing recitals (whereas clauses) are hereby adopted as the legislative findings of the Town Council of the Town of Haverhill.

SECTION 2. Amendment to Code. Section 58-151, Establishing Zoning Districts, of Division 1, of Article VI, District Regulations, or Chapter 58, Zoning, of the Code of Ordinances of the Town of Haverhill is hereby amended as follows:

Section 58-151. Establishing zoning districts.

The town is hereby divided into zoning districts as follows and as delineated on

the official zoning map which, together with all explanatory matter thereon, is hereby declared a part of the chapter:

- R-1 *Single-family residential district;*
- R-2 *Two-family residential district;*
- R-3 *Medium density residential district;*
- C-1 *Limited commercial district;*
- P *Public ownership district; and*
- PBCD *Planned Business Campus Development*

SECTION 3. Codification. The Mayor and Town Administrator are hereby authorized and directed to do all things necessary to effectuate this amendment; and authority is hereby granted to codify and incorporate this ordinance into the existing Code of Ordinances of the Town of Haverhill. The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the Town of Haverhill, Florida* and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 3, 4, 5 and 6 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 4. Conflicts. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 6. Effective Date. This Ordinance shall take effect immediately upon its adoption.

PASSED AND APPROVED ON FIRST READING this 8th day of April, 2010.

THE SECOND AND FINAL READING was held this 6th day of May, 2010. Council member _____ offered the foregoing Ordinance, and moved its adoption. The Motion was seconded by Council member _____, and upon being put to a vote, the vote was as follows:

| | |
|---|-------|
| JAMES E. WOODS, Mayor | _____ |
| JAY G. FOY, Vice Mayor | _____ |
| JERRY E. BEAVERS, Council Member | _____ |
| HENRY LYNCH, Council Member | _____ |
| MARK C. UPTGRAPH, Council Member | _____ |

The Mayor thereupon declared this Ordinance approved and duly adopted by the Town Council of the Town of Haverhill, Florida.

ATTEST:

TOWN OF HAVERHILL, FLORIDA

Janice C. Rutan, Town Admin.

James E. Woods, Mayor

ORDINANCE NO. 394

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA, AMENDING SECTION 14-7(c), SECTION 58-6, SECTION 58-9, SECTION 58-60, SECTION 58-61 AND SECTION 58-62 BY DELETING THE POWER AND RESPONSIBILITY OF THE ZONING BOARD OF APPEALS TO HEAR APPEALS AND BY VESTING SUCH RIGHT AND AUTHORITY IN THE TOWN COUNCIL; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AUTHORITY TO CODIFY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Town Council of the Town of Haverhill, as the governing body of the Town of Haverhill, pursuant to the authority vested in Chapter 166, Florida Statutes, and the Charter of the Town of Haverhill, is authorized and empowered to consider such matters relating to zoning and building regulations;

WHEREAS, the Town desires to modify its Zoning Code, Chapter 58, and Building Regulations, Chapter 14, by requiring that any appeal of an administrative interpretation or decision, shall be handled by the Town Council instead of the Zoning Board of Appeals; and

WHEREAS, the notice and hearing requirements as provided for by the Town of Haverhill have been met; and

WHEREAS, the Town Council has considered the evidence and testimony presented by the Town Staff and other interested parties; and

WHEREAS, the amendment to the Zoning Code is consistent with the requirements of the Comprehensive Plan; and

WHEREAS, the Town Council of the Town of Haverhill finds that amending the Zoning Code and Building Regulations will promote, protect and improve the health, safety and welfare of its citizens:

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA:

SECTION 1. Recitals. The foregoing recitals (whereas clauses) are hereby adopted as the legislative findings of the Town Council of the Town of Haverhill.

SECTION 2. Amendment to Code. Section 14-7(c), and Sections 58-6, 58-9, 58-60, 58-61 and 58-62, of the Code of Ordinances of the Town of Haverhill is hereby amended as follows:

See Exhibit "A" attached hereto and made a part hereof

SECTION 3. Codification. The Mayor and Town Administrator are hereby authorized and directed to do all things necessary to effectuate this amendment; and authority is hereby granted to codify and incorporate this ordinance into the existing Code of Ordinances of the Town of Haverhill. The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the Town of Haverhill, Florida* and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 3, 4, 5 and 6 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 4. Conflicts. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 6. Effective Date. This Ordinance shall take effect immediately upon its adoption.

PASSED AND APPROVED ON FIRST READING this 8th day of April, 2010.

THE SECOND AND FINAL READING was held this 6th day of May, 2010. Council member _____ offered the foregoing Ordinance, and moved its adoption. The Motion was seconded by Council member _____, and upon being put to a vote, the vote was as follows:

JAMES E. WOODS, Mayor _____
JAY G. FOY, Vice Mayor _____
JERRY E. BEAVERS, Council Member _____
HENRY LYNCH, Council Member _____
MARK C. UPTGRAPH, Council Member _____

The Mayor thereupon declared this Ordinance approved and duly adopted by the Town Council of the Town of Haverhill, Florida.

ATTEST:

TOWN OF HAVERHILL, FLORIDA

Janice C. Rutan, Town Admin.

James E. Woods, Mayor

TOWN OF HAVERHILL, FLORIDA

Exhibit "A" to Ordinance No. 394

Sec. 14-7. Unsafe buildings and structures.

(a) *Generally.*

(1) *Buildings and structures.* All buildings or structures which are unsafe, unsanitary or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing uses constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment are unsafe structures. All such unsafe structures are hereby declared illegal and shall be abated as prescribed in this article.

(2) *Uncompleted structures.* All structures not completed in substantial conformity with the plans and specifications upon which the building permit authorizing construction was issued, or for which the building permit has expired, was cancelled or revoked prior to completion of the work authorized by the building permit and issuance of a certificate of occupancy or completion, are unsafe structures. All such unsafe structures are hereby declared illegal and shall be abated as prescribed in this article.

(3) *Buildings or structures erected without building permit.* Any structure or portion thereof constructed or erected or on which work was commenced prior to issuance of a building permit for the construction or erection thereof is an unsafe structure. All such unsafe structures or portions thereof are hereby declared illegal and shall be abated as prescribed in this article.

(b) *Abatement.* The procedures for the abatement of illegal structures are hereby established as follows:

(1) Whenever the building official finds any structure or portion thereof to be unsafe, he shall give the owner, agent or person in control of such structure written notice stating the defects thereof. This notice shall require the owner within a stated period of time to obtain the necessary permits, complete specified repairs or improvements or to demolish and remove the structure or portion thereof. Legal notice shall be deemed accomplished upon mailing of a certified letter, return receipt requested, setting forth the provisions of this section to the last address of the holder of the fee simple title to real property upon which the structure is located at such address as is on record with the county property appraiser's office.

(2) Such notice may also require the structure to be vacated forthwith and not reoccupied until the specified repairs and improvements are completed, inspected and approved by the building official. The building official shall cause to be posted at each entrance to an occupied or in-use building a notice: "THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE BUILDING OFFICIAL." Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person or his agents or other servants to remove such notice without written permission of the building official or for any person to enter the building except for the purpose of making the required repairs or of demolishing same.

(c) *Appeals.* The owner, agent or person in control shall have the right to appeal from the decision of the building official under this article by filing a written appeal within ten (10) calendar days of issuance of the prescribed notice setting forth all facts, code provisions and law the aggrieved party is relying upon to demonstrate what the decision of the building official is in error. An aggrieved party also has the right ~~and to~~ appear personally, or by attorney or agent, before the ~~zoning board of appeals~~ Town Council to show cause why he or she should not comply with the notice and decision issued pursuant to this section. Said hearing will be set within forty (40) days of receipt of the appeal by the Town. Upon exhaustion of this administrative remedy, the owner may pursue any judicial remedy available to him.

(d) *Failure to comply upon notice.* Should the owner, agent or person in control of the property fail to comply with the original notice issued pursuant to this section or to file an appeal of the decision of the building official within the specified time limit, the building official shall take immediate steps to make the structure safe or to remove it and charge the cost to the owner.

(e) *Emergency action.* The decision of the building official under this section shall be final if in his opinion imminent danger to human life or health is involved. He shall promptly cause such structure to be made safe or removed. For this purpose, he may at once enter such structure or land on which it stands, or abutting land or structures, with such assistance and at such cost as he may deem necessary. He may vacate adjacent structures and protect the public by appropriate fence or such other means as may be necessary and for this purpose may close a public or private way.

(f) *Recovery of abatement costs.* Costs incurred in abating an unsafe structure shall be charged to the owner of the premises involved and shall become a first lien on the property, which lien shall be foreclosed as provided by law.

Sec. 58-6. Interpretations.

(a) *Authority.* Interpretations to this Code shall be made by the town staff.

(b) *Initiation.* An interpretation may be requested by any landowner or person having a contractual interest in land in the Town of Haverhill, or any person that has submitted an application for development, building or other permit or license pursuant to the procedures of this Code.

(c) *Procedures.*

(1) *Submission of request for interpretation.* Before an interpretation shall be provided by the town staff, a request for interpretation shall be submitted to the town clerk ~~administrator~~ and accompanied by a fee established by the town council from time to time for the filing and processing of the request for interpretation. The fee shall be non-refundable.

(2) *Determination of sufficiency.* Within ten (10) working days after a request for interpretation has been submitted, the town staff shall determine whether it is sufficient.

a. If the town staff determines that the request is not sufficient, a written notice shall be served on the applicant specifying the deficiencies. No further action shall be taken on the request for interpretation until the deficiencies are remedied. If the applicant fails to correct the deficiencies within ten working days, the request for interpretation shall be considered withdrawn.

b. When the request for interpretation is determined sufficient, the town staff shall review and render an interpretation pursuant to the procedures and standards of this section.

(3) *Rendering of interpretation.* Within 15 (15) working days after the request for interpretation has been determined sufficient, the town staff shall review and evaluate the request in light of the comprehensive plan, this code, and the official zoning map, whichever is applicable, consult with any other official as deemed necessary, and then render an interpretation.

(d) *Form.* The interpretation shall be in writing and shall be sent to the applicant by mail within five (5) working days after the interpretation is made.

(e) *Appeal.*

(1) *Initiation.* Twenty (20) working days after issuance of a written interpretation, or after any decision of a town official, staff person or professional consultant, the person aggrieved by such interpretation or decision under any provision of this chapter or the building code, the applicant aggrieved party may appeal the decision to the town council.

(2) *Public hearing.* The town council shall hold a hearing on the appeal within forty (40) working days of the appeal. The hearing date may be postponed or continued by the town council at its discretion.

(3) *Staying of work on premises.* An appeal to the town council stays all work on the premises and all proceedings in furtherance of the action appealed from, unless the official from whom the appeal was taken shall certify to the town council that, by reason of facts stated in the certificate, a stay would cause imminent peril to life and property. In such case, proceedings or work shall not be stayed except by a restraining order which may be granted by the town council or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown

(34) *Standard of review.* At the appeal hearing, the town council shall consider the interpretation or decision of the town staff, official or consultant, and public testimony in light of the comprehensive plan, this Code, the building code, and the official zoning map, whichever is applicable. The council shall not modify or reject the town staff's interpretation if it is supported by substantial competent evidence, unless the interpretation or decision is found to be contrary to the comprehensive plan, this Code, the building code or the official zoning map, whichever is applicable.

(f) *Official record.* The town ~~clerk~~-administrator shall maintain a record of the interpretation. This record shall be available for public inspection, upon reasonable request, during normal business hours.

(g) *Judicial Remedy.* An aggrieved party may appeal a final decision of the town council to the circuit court of Palm Beach County. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the town council. An appeal shall be filed within thirty (30) days of the execution of the decision of the town council to be appealed.

ARTICLE III. ZONING BOARD OF APPEALS

Sec. 58-56. Creation; membership.

(a) *Composition; appointment; removal.* An administrative board is hereby created, such board to be known as the zoning board of appeals, consisting of five members and alternate members to be appointed by the town council for a term of three years. Any regular or alternate member of the board may be removed from office without cause by a vote of four-fifths of the town council.

(b) *Vacancies; compensation; residence.* Vacancies shall be filled by the town council for the unexpired term of any member whose seat becomes vacant. All members shall serve without compensation and shall reside within the town.

(c) *Succession.* The existing zoning board of appeals is confirmed. The zoning board of appeals and the incumbent members shall continue as such for the terms for which they were respectively appointed and until their successors are appointed and qualified. Thereafter, all succeeding members of the board shall be appointed for terms of three years.

Sec. 58-57. Procedures.

The board shall adopt rules in accordance with the provisions of this article and shall elect a chairman and vice-chairman from the membership. Meetings of the board shall be held at the call of the chairman and at such times as the board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the town clerk and shall be a public record.

Sec. 58-58. Administrative powers.

Within the powers set forth in this article, the board may reverse or affirm wholly or in part, or modify the order, requirement, decision or determination as in its opinion ought to be done under the circumstances, and to that end shall have all the powers of the officer from whom the appeal is taken and it may issue or direct issuance of a permit.

Sec. 58-59. Powers and duties.

The zoning board of appeals shall have the following duties and powers:

~~(1) Appeals. Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter.~~

(21) *Variances.* Authorize upon appeal such variances from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. In order to

authorize any variance from the terms of this chapter, the zoning board of appeals must and shall find that:

- a. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.
- b. The special conditions and circumstances do not result from the actions of the applicant or owner or prior owner.
- c. Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings or structures in this same zoning district.
- d. Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.
- e. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
- f. The grant of the variance will be in harmony with the general intent and purpose of this chapter, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

In granting any variance, the zoning board of appeals may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter. The zoning board of appeals may prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed, or both. Under no circumstances, except as permitted in this subsection, shall the zoning board of appeals grant a variance to permit a use not generally or by special exception permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of this chapter in the zoning district. No nonconforming use of neighboring lands, structures or building in the same zoning district and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

~~Sec. 58-60. Exercise of powers.~~

~~In exercising its powers, the zoning board of appeals may, upon appeal, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination made by an administrative official in the enforcement of town ordinances, and may make any necessary order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the zoning board of appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which the board is required to pass under this chapter. The zoning board of appeals will make a decision or determination at the first meeting unless the matter is continued to another hearing not later than 30 days from the date of the first hearing.~~
(Ord. No. 225, § 2(10-175), 2-8-90)

~~Sec. 58-61. Appeals.~~

~~(a) Appeals to the zoning board of appeals. Appeals to the zoning board of appeals may be taken by any person aggrieved or by any officer, board or bureau of the town by any decision of~~

~~an administrative official under any provision of this chapter, or by any person requesting a variance to the provisions of this chapter.~~

~~(b) *Staying of work on premises.* An appeal to the zoning board of appeals stays all work on the premises and all proceedings in furtherance of the action appealed from, unless the official from whom the appeal was taken shall certify to the zoning board of appeals that, by reason of facts stated in the certificate, a stay would cause imminent peril to life and property. In such case, proceedings or work shall not be stayed except by a restraining order which may be granted by the zoning board of appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.~~

~~(c) *Hearing procedure.* Any person appealing any decision of an administrative official shall make such appeal within 30 days after rendition of the order, requirement, decision or determination appealed from in writing to the zoning board of appeals and file the appeal, and ten copies thereof, with supporting facts and data with the town clerk. This does not, however, restrict the filing of a request for a special exception or variance by any person at any time except as provided for elsewhere in this chapter. Upon receipt of the appeal or request, the following procedures shall be undertaken:~~

~~(1) The building official shall forthwith examine such appeal or request application and endorse his recommendation thereon together with all documents, plans, papers or other materials constituting the record upon which the action appealed from was taken or in the case of a request for a variance.~~

~~(2) Thereupon, a copy of such application for appeal or request shall be mailed to either the owners of the property or, in the case of a condominium, cooperative or corporate development, the board of directors thereof, of the property immediately adjacent and within 300 feet thereto and across the street therefrom at the address shown on the county tax records, together with the notice from the chairman of the zoning board of appeals advising the time of the hearing on such application before the zoning board of appeals.~~

~~(3) The zoning board of appeals shall, within 30 days, also cause to be published in a newspaper of general circulation in the town a brief summary of such application and the date of the hearing, directed to all to whom it may concern. Such notice shall be published not less than 14 days before the meeting of the zoning board of appeals to consider such application. Hearings will be held not later than 60 days from the date of application. The cost of publication shall be borne by the applicant.~~

~~(4) No application shall be heard less than 14 days after the publication of notice and the mailing to property owners directly affected as provided in this section, and all applications will be heard at an advertised public meeting of the zoning board in accordance with the provisions in this section and rules established under this section.~~

~~(5) Any decision of the board shall be in writing and filed with the town clerk forthwith. The decision of the board shall be deemed rendered when filed with the town clerk.~~

~~Sec. 58-62. Judicial remedy by circuit court.~~

~~Any applicant aggrieved by any decision of the zoning board of appeals, within 30 days from the rendition of such decision, may apply to the Circuit Court of the 15th Judicial Court of Florida for a review of such decision of the zoning board of appeals.~~

ORDINANCE NO. 395

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA, AMENDING SECTIONS 30-44, 30-88 AND 30-119 OF CHAPTER 30, SOLID WASTE, BY REQUIRING THE PROPERTY OWNER TO PLACE THEIR GARBAGE RECEPTACLES CURBSIDE NO EARLIER THAN 4:00 P.M. THE DAY PRIOR TO THE SCHEDULED PICKUP AND VEGETATIVE WASTE NO EARLIER THAN 72 HOURS PRIOR TO THE SCHEDULED PICKUP; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AUTHORITY TO CODIFY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Town Council of the Town of Haverhill, as the governing body of the Town of Haverhill, pursuant to the authority vested in Chapter 166, Florida Statutes, and the Charter of the Town of Haverhill, is authorized and empowered to consider such matters relating to solid waste;

WHEREAS, the Town desires to modify its provisions dealing with solid waste, Chapter 30, by requiring that garbage receptacles not be placed out for collection any sooner than 4:00 p.m. prior to the scheduled collection and that vegetative waste not be put out any sooner than 72 hours prior to scheduled pickup; and

WHEREAS, the notice and hearing requirements as provided for by the Town of Haverhill have been met; and

WHEREAS, the Town Council has considered the evidence and testimony presented by the Town Staff and other interested parties; and

WHEREAS, the amendment to the Solid Waste chapter is consistent with the requirements of the Comprehensive Plan; and

WHEREAS, the Town Council of the Town of Haverhill finds that amending the Solid Waste Code will promote, protect and improve the health, safety and welfare of its citizens:

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA:

SECTION 1. Recitals. The foregoing recitals (whereas clauses) are hereby adopted as the legislative findings of the Town Council of the Town of Haverhill.

SECTION 2. Amendment to Code. Sections 30-44, 30-88 and 30-119, of Chapter 30, Solid Waste, of the Code of Ordinances of the Town of Haverhill is hereby amended as follows:

Sec. 30-44. Point of pickup.

Collections of residential refuse shall be at curbside or other such locations as will provide ready accessibility to the collector's collection crew and vehicle, provided, however, that garbage receptacles shall not be placed in the right-of-way or otherwise impede traffic. If an appropriate location cannot be agreed upon, the Town Administrator shall designate the location. The collector shall collect at curbside all white goods and household furniture on regular pick-up days. For residential collection service, no additional charge for the collection of white goods shall be made. Nothing in this section shall require the collector to remove waste resulting from construction activity (except do-it-yourself projects) or the clearance of vacant lots, except as further required in section 30-47. Garbage receptacles shall not be placed at the curb earlier than 4:00 p.m. on the day prior to scheduled pick up and removed from the curb no later than 11:00 p.m. on the day of pick up.

Sec. 30-88. Point of pickup.

Collection of recyclable materials shall be at curbside or other such locations as will provide ready accessibility to the collector's collection crew and vehicle, provided, however, that recycling containers shall not be placed in the right-of-way or otherwise impede traffic. If an appropriate location cannot be agreed upon, the Town Administrator shall designate the location. Recycling containers shall not be placed at the curb earlier than 4:00 p.m. on the day prior to scheduled pick up and removed from the curb no later than 11:00 p.m. on the day of pick up.

Sec. 30-119. Point of pickup.

Collection of garden and yard trash and bulk yard trash shall be at curbside or other such locations as will provide ready accessibility to the collector's collection crew and vehicle, provided, however, that garden and yard trash and bulk yard trash, including vegetative waste, shall not be placed in the right-of-way or otherwise impede traffic. If an appropriate location cannot be agreed upon, the Town Administrator or his designee shall designate the location. Garden, yard and bulk trash, and vegetative waste, shall not be placed at the curb earlier than 72 hours prior to scheduled pick up.

SECTION 3. Codification. The Mayor and Town Administrator are hereby authorized and directed to do all things necessary to effectuate this amendment; and authority is hereby granted to codify and incorporate this ordinance into the existing Code of Ordinances of the Town of Haverhill. The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the Town of Haverhill, Florida* and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 3, 4, 5 and 6 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 4. Conflicts. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 6. Effective Date. This Ordinance shall take effect immediately upon its adoption.

PASSED AND APPROVED ON FIRST READING this 8th day of April, 2010.

THE SECOND AND FINAL READING was held this 6th day of May, 2010. Council member _____ offered the foregoing Ordinance, and moved its adoption. The Motion was seconded by Council member _____, and upon being put to a vote, the vote was as follows:

| | |
|--|-------|
| JAMES E. WOODS, Mayor | _____ |
| JAY G. FOY, Vice Mayor | _____ |
| JERRY E. BEAVERS, Council Member | _____ |
| HENRY LYNCH, Council Member | _____ |
| MARK C. UPTOGRAPH, Council Member | _____ |

The Mayor thereupon declared this Ordinance approved and duly adopted by the Town Council of the Town of Haverhill, Florida.

ATTEST:

TOWN OF HAVERHILL, FLORIDA

Janice C. Rutan, Town Admin.

James E. Woods, Mayor