



MICANOPY, SEMINOLE CHIEF

# TOWN OF MICANOPY

## CODE OF ORDINANCES

December 2016

(Current through Ordinance 2016-11)

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# TOWN OF MICANOPIY

## CODE OF ORDINANCES

(Current through Ordinance 2016-11)

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## CHAPTER 1. GENERAL PROVISIONS

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### **Sec. 1-1. How Code designated and cited**

The ordinances embraced in the following chapters and sections as adopted herein shall constitute the Code of Ordinances, Town of Micanopy, Florida, and may be cited as the "Micanopy Code".

### **Sec. 1-2. Rules of construction**

In the construction of this Code, and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Town Commission:

- (a) In computing any period of time prescribed or allowed by ordinance, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, or legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.
- (b) A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships, and corporations as well as to males.
- (c) A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.
- (d) Words used in the past or present tense include the future as well as the past and present.
- (e) Words and phrases shall be construed according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
- (f) Whenever reference is made to an officer, department, employee, board, committee, commission, etc., it shall be deemed to refer to an officer, department, employee, board, committee, commission, etc., of the Town of Micanopy, Florida; and in reference to such office or officer, it may include any person delegated or authorized to perform the duties of such office or officer.
- (g) The titles of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the titles, are amended or reenacted.
- (h) All references to chapter, Article, divisions, or sections are to the chapters, Article, divisions, or sections of this Code unless otherwise specified.
- (i) The history notes appearing in brackets after sections of this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section. Where the language in this Code differs from the language in the ordinance as originally adopted, the language in this Code shall be the law of Micanopy.
- (j) References and editor's notes following certain sections are inserted as an aid and guide to the reader and are not controlling or meant to have any legal effect.
- (k) The provisions appearing in this and the following chapter and sections, so far as they are the same as those of ordinances or resolutions existing at the time of the adoption of this Code, shall be considered as a continuation and not as new enactments.
- (l) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

### **Sec. 1-3. Definitions**

- (a) "Charter" means the Charter of the Town of Micanopy, Florida, printed in Part I of this volume.
- (b) "Code" means and refers to the Code of Ordinances, Town of Micanopy, Florida.
- (c) "Month" means a calendar month.
- (d) "Oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."
- (e) "Owner," when applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of such building or land.
- (f) "Person" shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals.

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- (g) "Personal property" includes every species of property except real property, as herein defined.
- (h) "Property". The term "property" includes real and personal property.
- (i) "Public place" means any park, cemetery, school yard, or open space adjacent thereto, all beaches, canals, or other waterways.
- (j) "Real property" includes lands, tenements, and hereditaments.
- (k) "Sidewalk" means any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians, excluding parkways.
- (l) "State" shall be construed to mean the State of Florida.
- (m) "Street" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts, and all other public highways in the Town.
- (n) "Tenant" and "occupant," applied to a building or land, includes any person holding a written or oral lease of or who occupies, the whole or part of such buildings or land, either alone or with others.
- (o) "Town" means the Town of Micanopy, Florida. The term "Town" shall also be construed to mean and include the various offices and employees of the Town charged with the duty of enforcing the laws and regulations of the Town, whether in this Code, the officers and employees are referred to by position, or not.
- (p) "Town Commission" means the elected governing body of the Town designated as the official legislative body of the Town of Micanopy, Florida.
- (q) "Written" and "in writing" mean any representation of words, letters or figures, whether by printing or otherwise.

### **Sec. 1-4. Amendments to Code; effect of new ordinances; amendatory language**

- (a) All ordinances passed subsequent to this Code of Ordinances which amend, repeal, or in any way affect this Code of Ordinances may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, section, subsection, or any portion thereof, such repealed portions may be excluded from this Code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code of Ordinances and subsequent ordinances numbered or omitted are re-adapted as a new Code of Ordinances by the Town Commission.
- (b) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section of the Code of Ordinances of Micanopy, Florida, is hereby amended to read as follows:" The new provisions shall then be set out in full as desired.
- (c) In the event a new section not heretofore existing in the Code is to be added, substantially the following language shall be used: "That the Code of Ordinances of Micanopy, Florida is hereby amended by adding a section to be numbered, which section reads as follows:" The new section shall then be set out in full as desired.
- (d) All sections, Articles, chapters, or provisions desired to be repealed must be specifically repealed by section, Article or chapter number, as the case may be.

### **Sec. 1-5. Supplementation of Code**

- (a) By contract or by Town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the Town Commission. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the Town Commission or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinances included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person, agency, or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
  - (1) Organize the ordinance material into appropriate subdivisions;

## CHAPTER 1. GENERAL PROVISIONS

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(2) Provide appropriate headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such headings, and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this Article," "this Division," etc., as the case may be; and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

### **Sec. 1-6. Altering Code**

It shall be unlawful for any person, firm, or corporation in the Town to change or amend by additions or deletions any part or portion of this Code or to insert or delete pages or portions thereof or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Town to be misrepresented thereby.

### **Sec. 1-7. Severability of parts of Code**

It is hereby declared to be the intention of the Town Commission that the sections, paragraphs, sentences, clauses, and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph, or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

### **Sec. 1-8. General penalty; continuing violations**

(a) Whenever in this Code any act is prohibited or is made or declared to be unlawful or an offense, or whenever in this Code the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code shall be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a term not exceeding sixty (60) days, or by both such fine and imprisonment in the discretion of the court. Each day any violation of any provision of this Code shall continue shall constitute a separate offense.

(b) In addition to the penalties herein above provided, any condition caused or permitted to exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be abated by the Town as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

### **Sec. 1-9. Ordinances not affected by Code**

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance:

(a) Promising or guaranteeing the payment of money for the Town, or authorizing the issuance of any bonds of the Town, or any evidence of the Town's indebtedness, or any contract or obligations assumed by the Town.

(b) Establishing positions, classifying employees and setting salaries, or regarding personnel policies or pensions or retirement benefits, not inconsistent with this Code.

(c) Granting any right of franchise to any person.

(d) Except as specifically provided in this code, dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the Town.

(e) Adopting the budget or making any appropriations.

(f) Levying or imposing taxes.

(g) Adopting or amending a land development regulation, adopting or amending the zoning map, adopting or amending the comprehensive plan, or adopting or amending the future land use map or other land use map of any kind.

(h) Adopting or amending the Charter for the Town of Micanopy.

(i) Providing for local improvements and assessing taxes for such improvements.

(j) Dedicating or accepting any plat or subdivision in the Town.

(k) Extending or contracting or otherwise relating to the boundaries of the Town.

(l) Adopted for purposes which have been consummated.

(m) Which is temporary, although general in effect.

## CHAPTER 1. GENERAL PROVISIONS

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(n) Which is special, although permanent in effect.

All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

## CHAPTER 2. ADMINISTRATION

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**ARTICLE I. GENERAL**

**Sec. 2-1. Clerk to keep minutes**

It shall be the duty of the Town Clerk to attend all meetings of the Town Commission and to take and keep correct minutes of proceedings of the Town Commission. The proceedings shall be recorded as soon as practicable in a book to be known as the Minutes Book.

*(Ord.83-5, Sec. 1-1)*

**Sec. 2-2. Clerk to keep ordinance book**

The Town Clerk shall keep and maintain a book containing the original signed copies of all ordinances passed by the Town Commission.

*(Ord.83-5, Sec. 1-2; Ord. 2016-02, Sec. 1)*

**Sec. 2-3. Clerk to keep seal and records; copies**

The Town Clerk is hereby made the custodian of the Town seal and of all books, papers, and records belonging to or appertaining to the Town government. The Town Clerk shall, at any reasonable time, make or allow to be made copies of any of the records for any person desiring the same, for which there shall be charged the fees allowed by Florida law.

*(Ord.83-5, Sec. 1-3; Ord. 2016-02, Sec. 1)*

**Sec. 2-4. Books and papers public records**

All books and papers in the possession of the Town Clerk are hereby declared to be public property and shall be open for inspection at any reasonable time by any person

*(Ord. 83-5, Sec. 1-4)*

**Sec. 2-5. Meetings of Town Commission**

(a) The Town Commission shall hold regular meetings on the second Tuesday of each month at the Town Hall in the Town of Micanopy.

(b) In the conduct of its meetings, the Town Commission shall operate with an agenda approved by a majority of a quorum of the Town Commission.

(c) The Mayor, or in the absence of the Mayor, the Mayor Pro Tem, shall be the presiding officer of the meeting. The presiding officer shall permit discussion amongst Commissioners and public comment regarding each agenda item, however, may impose reasonable time limits on public comments.

(d) The presiding officer shall terminate discussion of non-agenda issues by gaveling the meeting to order and advising the speaker that the material being presented is outside of the agenda issue under discussion. The speaker may then continue to speak for any remaining time allotted provided the material addresses the agenda issue under discussion.

(e) Any person who speaks out without recognition from the presiding officer or engages in any conduct for the purpose of interrupting or terminating the Town Commission meeting may be subject to removal from the meeting.

*(Ord.83-5, Sec. 1-5; Ord. 83-9, Sec. 1 – Sec. 6; Ord. 2016-02, Sec. 1)*

**Sec. 2-6. Certain employment prohibited to Commission members**

A member of the Town Commission shall not, during his term of office, hold any office in any organization funded in whole or in part by the Town Commission, or serve as a paid employee or consultant to the Town.

*(Ord.83-5, Sec. 1-6)*

**Sec. 2-7. Prohibited employment a violation**

Any Commission member who exercises the privileges of an office in violation of Sec. 2-6, after having received actual notice of the provisions of this Article, and any Commission member who accepts remuneration from the Town in violation of Sec. 2-6, shall be guilty of an offense against the Town, and shall be punished in accordance with law

*(Ord. 83-5, Sec. 1-7)*

**Sec. 2-8. Expenditure of funds**

No funds of the Town of Micanopy or any of its departments, committees, boards, or any public or semi-public body of any type deriving its funds from the Town of Micanopy shall be used to hire, employ or retain any attorneys, accountants, engineers, or professionals of any type without the express official consent of the Town Commission of the Town of Micanopy; which consent must be given by a majority vote of the Town

## CHAPTER 2. ADMINISTRATION

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Commission wherein a quorum is present

*(Ord. 83-5, Sec. 1-8)*

### **Sec. 2-9. Elections**

Except as provided in this Code, elections shall be held as set forth in the Town of Micanopy Charter.

*(Ord.2009-01, Sec. 1)*

### **Sec. 2-10. Use of paper ballots**

Paper ballots may be used in any municipal election when the Town Commission finds it in the best interest of the Town. The Town Commission shall authorize the use of paper ballots by resolution.

*(Ord.2009-01, Sec. 2)*

### **Sec. 2-11. Training of poll workers**

Poll Workers for Micanopy municipal elections shall attend a training session conducted by the Alachua County Supervisor of Elections before each municipal election, however, once trained shall not need new training for a run-off election held in the same election cycle.

*(Ord.2009-01, Sec. 3)*

**Sec. 2-12 through 2-14 reserved.**

## **ARTICLE II. BUDGET EXPENDITURES**

### **Sec. 2-15. Commission approval required for budget expenditures**

No funds appropriated under this Article shall be expended without the prior approval of the Town Commission except as hereinafter provided.

*(Ord.83-5, Sec. 2-1)*

### **Sec. 2-16. Town Clerk to pay ordinary and recurring expenses**

The Town Clerk is hereby authorized to make payment for those ordinary and recurring expenses (including but not limited to electric bills, garbage bills, equipment lease payments, gasoline and ordinary maintenance expenses for Town equipment, employees' salaries, related salary taxes and expenses, telephone bills, general and continuing utility bills, and any regular payments on loans for equipment purchased with the authorization of the Town Commission.) The Town Clerk shall make a record of each expenditure made pursuant to this section on a calendar monthly basis, and provide a copy of that record to the Town Commission at or before its regular meeting during the month following the month of expenditures.

*(Ord.83-5, Sec. 2-2)*

### **Sec. 2-17. Purchasing policies**

The Town Commission shall, by resolution, adopt purchasing policies which shall include authorization for the Town Clerk to make purchases within specified limits without competitive bids, directions for the use of various types of processes for competitive selection of vendors, use of local preferences and minority business requirements, purchases through other governmental agencies, and the waiver of competitive bidding.

*(Ord.83-5, Sec. 2-3; Ord. 2016-02, Sec. 1)*

### **Sec. 2-18. Changing fees for Town services**

Fees established by resolution of the Town Commission may be changed at any regularly scheduled meeting of the Town Commission, provided that, except for rates governed by Sec. 35-35 of this Code, notice of the proposed change has first been posted at City Hall for at least fourteen (14) days prior to the meeting at which such change is to be considered.

*(Ord.2008-07, Sec. 2; Ord. 2016-02, Sec. 1)*

## **ARTICLE III. CODE ENFORCEMENT BOARD**

### **Sec. 2-30. Intent and authority**

(a) It is the intent of these code enforcement provisions to promote, protect, and improve the health, safety, and welfare of the citizens of the Town of Micanopy by creating an administrative board with authority to impose administrative fines and other noncriminal penalties to provide an equitable, expeditious, effective, and inexpensive method of enforcing the codes and ordinances in force in the Town of Micanopy.

(b) This Article is enacted in accordance with Chapter 162, Florida Statutes.

(Ord.98-2, Sec. 2)

**Sec. 2-31. Definitions**

For the purpose of this Article, the following definitions apply.

- (a) "Town Commission" means the governing body of the Town of Micanopy.
- (b) "Town" means the Town of Micanopy.
- (c) "Code Inspector" or "Code Officer" means any authorized and designated agent or employee of the Town of Micanopy whose duty it is to assure code compliance.
- (d) "Board" means the Town of Micanopy's Code Enforcement Board.
- (e) "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.

(Ord.98-2, Sec. 3)

**Sec. 2-32. Creation of board, membership, and organization**

- (a) There is hereby created within the Town of Micanopy a Code Enforcement Board that shall be composed of five members, all of whom shall be residents of the Town. In addition, up to two alternate members may be appointed. The alternates must also be residents of the Town, and they will serve on the Board in the absence of regular Board members.
- (b) Appointment to the Code Enforcement Board shall be made by the Town Commission in accordance with applicable law and ordinances on the basis of experience or interest in the subject matter under jurisdiction of the Board. The membership of the Board shall, whenever possible, include an architect, a businessperson, an engineer, a general contractor, a subcontractor, and a realtor.
- (c) The initial appointments of members to the Code Enforcement Board shall be as follows:
  - (1) One (1) member shall be appointed for a term of one (1) year.
  - (2) Two (2) members shall be appointed for a term of two (2) years each.
  - (3) Two (2) members shall be appointed for a term of three (3) years each.
  - (4) Alternate members, if any, shall be appointed for a term of one (1) year each.
- (d) After the initial terms, any appointment of a member or alternate member shall be made for a term of three (3) years.
- (e) A Board member may be reappointed to the Board upon approval by the Town Commission.
- (f) An appointment to fill any vacancy on the Code Enforcement Board shall be for the remainder of the unexpired term of service.
- (g) If any member of the Code Enforcement Board fails to attend two (2) out of three (3) successive meetings without cause and without prior approval of the chairperson, then the Board shall immediately declare the member's office vacant, and the Town Commission shall promptly fill such vacancy.
- (h) A Board member may also be removed for cause by a majority vote of the Town Commission after reasonable notice and an opportunity to be heard has been provided.
- (i) Members of the Code Enforcement Board shall elect a chairperson, who shall be a voting member, from among the members of the Board. The person so elected shall function as chairperson for a one-year term.
- (j) Three (3) or more members of the Code Enforcement Board present at any meeting shall constitute a quorum in order for the Board to conduct its business.
- (k) Members of the Code Enforcement Board shall serve without compensation.
- (l) The Town's Attorney will serve as counsel for the Board.

(Ord.98-2, Sec. 4)

**Sec. 2-33. Enforcement procedure**

- (a) It shall be the duty of the Code Inspector to initiate enforcement proceedings with respect to each code violation. No Board member shall have the power to initiate such proceedings.
- (b) Except as provided in subsections (c) and (d) of this section, if the Code Inspector finds or is made aware of a code violation, then the Code Inspector shall notify the violator and give him or her a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, then the Code Inspector shall notify the Code Enforcement Board and request a hearing. The Code Enforcement

Board, through its clerical staff or designated support, shall schedule a hearing and provide written notice of such hearing to the alleged violator in the manner set forth in Sec. 2-38. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the Code Inspector, the case may be presented to the Code Enforcement Board even if the violation has been corrected prior to the Board hearing, and the notice provided to the alleged violator must so state.

(c) If the Code Inspector finds or is made aware of a repeat violation, then the Code Inspector shall notify the violator but is not required to give the violator any reasonable time to correct the violation. The Code Inspector, upon notifying the violator of a repeat violation, shall notify the Code Enforcement Board and request a hearing. The Board, through its clerical staff or designated support, shall schedule a hearing and provide written notice of such hearing to the alleged violator in the manner set forth in Sec. 2-38. The case may be presented to the Code Enforcement Board even if the repeat violation has been corrected prior to the Board hearing, and the notice provided to the alleged violator must so state. If the repeat violation has been corrected, the Code Enforcement Board retains the right to schedule a hearing to determine costs and impose the payment of reasonable enforcement fees upon the repeat violator. The repeat violator may choose to waive his or her rights to this hearing and pay said costs as determined by the Board.

(d) If the Code Inspector has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety, and welfare, or if the violation is irreparable or irreversible in nature, the Code Inspector shall make a reasonable effort to notify the violator and may immediately notify the Code Enforcement Board and request a hearing. The Code Enforcement Board, through its clerical staff or designated support, shall schedule a hearing and provide written notice of such hearing to the alleged violator in the manner set forth in Sec. 2-38.

*(Ord.98-2, Sec. 5)*

### **Sec. 2-34. Hearing procedure**

(a) Upon request of the Code Inspector, or at such other times as may be necessary, the chairperson of the Code Enforcement Board may call a hearing of the Board. A hearing may also be called by a written notice signed by at least two (2) members of the Board.

(b) Minutes shall be kept of all hearings held by the Code Enforcement Board, and all hearings and proceedings shall be open to the public.

(c) Each case before the Board shall be presented by a member of the administrative staff of the Town.

(d) No Code Enforcement Board member shall participate in a hearing in which that member has a conflict of interest.

(e) If the Town prevails in prosecuting a case before the Code Enforcement Board, it shall be entitled to recover all costs incurred in prosecution and such costs may be included in the lien authorized by this Article.

(f) The alleged violator has the right to be represented by an attorney at a Board hearing.

(g) The Code Enforcement Board shall hear all cases on the agenda for a given day. All testimony shall be under oath and shall be recorded. The Board shall take testimony from and receive any relevant evidence presented by the Code Inspector, the alleged violator, and any other person who requests to be heard and is familiar with the case or has knowledge about the case. Each party to the hearing shall have the right to call and examine witnesses, introduce exhibits, cross-examine opposing witnesses, impeach witnesses, and rebut evidence. The chairperson may exclude irrelevant and unduly repetitious evidence. The Code Enforcement Board shall not be bound by any formal rules of evidence; however, it shall act to ensure that fundamental due process is observed and that it governs the proceedings.

(h) The burden of proof shall be with the Town to show by the greater weight of the evidence that a code violation existed or exists and that the alleged violator committed or was responsible for the violation or for maintaining the violation. At the conclusion of a hearing, the Code Enforcement Board shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted by this ordinance. The findings shall be by motion approved by a majority of those members present and voting. In order for the findings to be official, at least three (3) members of the Board must vote. 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 certain conditions, the cost of repairs may be included along with the fine if the order is not complied with by said 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, 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 in interest, 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 Code Enforcement Board shall issue an order acknowledging compliance that shall be recorded in

the public records. A hearing is not required to issue an order acknowledging compliance.

*(Ord.98-2, Sec. 6)*

**Sec. 2-35. Powers of Board**

The Code Enforcement Board shall have the power to:

- (a) Adopt rules for the conduct of its hearings.
- (b) Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the sheriff of the County.
- (c) Subpoena evidence to its hearings.
- (d) Take testimony under oath.
- (e) Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

*(Ord.98-2, Sec. 7)*

**Sec. 2-36. Fine, lien and foreclosure**

(a) Upon notification by the Code Inspector that an order issued by the Board has not been complied with by the set time or, upon finding that a repeat violation has been committed, the Code Enforcement Board may order the violator to pay a fine in an amount specified by this section for each day the violation continues past the date set by the Board for compliance or, in the case of a repeat violation, for each day the repeat violation continues, 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 Sec. 2-33(d), the Board shall notify the local governing body, 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 the issuance of the order imposing the fine. If, after due notice and hearing, the Code Enforcement Board finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in subsection (b).

(b) A fine imposed pursuant to this section shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and shall not exceed five hundred dollars (\$500.00) per day for a repeat violation, and, in addition, may include all costs of repairs pursuant to subsection (a). However, if the Code Enforcement Board finds the violation to be irreparable or irreversible in nature, it may impose a fine not to exceed five thousand dollars (\$5,000.00) per violation.

(c) In determining the amount of the fine, if any, the Code Enforcement Board 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) The Code Enforcement Board 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 of Alachua County, Florida, 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 the state, including levy against personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this section shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first.

(f) A lien arising from a fine imposed pursuant to this section runs in favor of the Town of Micanopy, and the Town may execute a satisfaction or release of lien entered pursuant to this section.

(g) After three (3) months from the filing of any such lien that remains unpaid, the Code Enforcement Board may authorize the Town's Attorney to foreclose on the lien.

(h) No lien provided under this Article shall continue for a period longer than twenty (20) years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose 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 fees, which it incurs in the foreclosure. The Town shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien affected 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.

(i) No lien created pursuant to the provisions of this part may be foreclosed on real property that is a homestead under Section 4, Art. X of the state constitution.

*(Ord.98-2, Sec. 8)*

**Sec. 2-37. Appeals**

An aggrieved party, including the Town, may appeal a final administrative order of the Code Enforcement Board to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the Board. An appeal shall be filed within 30 days of the execution of the order to be appealed.

*(Ord.98-2, Sec. 9)*

**Sec. 2-38. Notices**

All notices required to be provided by these code enforcement provisions shall be provided to the alleged violator by certified mail, return receipt requested; by hand delivery of the Sheriff or other law enforcement officer, Code Inspector, or other person designated by the Town; or by leaving the notice at the violator's usual place of residence with any person residing therein who is above fifteen (15) years of age and informing such person of the contents of the notice.

*(Ord.98-2, Sec. 10)*

## CHAPTER 4. ASSESSMENTS

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## CHAPTER 4. ASSESSMENTS

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### **DIVISION 1. GENERALLY**

#### **Sec. 4-1. Definitions**

(a) When used in this Article, the following terms shall have the following meanings, unless the context clearly requires otherwise:

*Annual assessment resolution* means the resolution described in Sec. 4-11 hereof, approving an assessment roll for a specific fiscal year.

*Assessment* means a special assessment imposed by the Town pursuant to this Article to fund the project cost of local improvements.

*Assessment coordinator* means the person designated by the Board to be responsible for coordinating assessments, or such person's designee.

*Assessment roll* means the special assessment roll relating to local improvements, approved by a final assessment resolution pursuant to Sec. 4-10 or an annual assessment resolution pursuant to Sec. 4-11.

*Assessment unit* means the unit or criteria utilized to determine the assessment for each parcel of property, as set forth in the initial assessment resolution. "Assessment units" may include, by way of example only and not limitation, one or a combination of the following: Front footage, platted lots or parcels of record, land area, improvement area, equivalent residential connections, permitted land use, trip generation rates, rights to future trip generation capacity under applicable concurrency management regulations, property value or any other physical characteristic or reasonably expected use of the property that is related to the local improvement to be funded from proceeds of the assessment.

*Board* means the Town of Micanopy Board of Commissioners.

*Capital cost* means all or any portion of the expenses that are properly attributable to the acquisition, design, construction, installation, reconstruction, renewal or replacement (including demolition, environmental mitigation and relocation) of local improvements and imposition of the related assessments under generally accepted accounting principles; and including reimbursement to the Town for any funds advanced for capital cost and interest on any interfund or intrafund loan for such purposes.

*Clerk* shall mean the clerk of the circuit court for the County, ex-officio Clerk of the Board, or such other person as may be duly authorized to act on such person's behalf.

*Final assessment resolution* means the resolution described in Sec. 4-10, which shall confirm, modify or repeal the initial assessment resolution and which shall be the final proceeding for the imposition of an assessment.

*Fiscal year* means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the Town.

*Government property* means property owned by the United States of America, the State of Florida, a county, a special district, a municipal corporation, or any of their respective agencies or political subdivisions.

*Improvement area* means any unit created by resolution of the Board pursuant to Sec. 4-3 hereof, that specially benefits from a local improvement.

*Initial assessment resolution* means the resolution described in Sec. 4-6 hereof, which shall be the initial proceeding for the imposition of an assessment.

*Local improvement* means a capital improvement constructed or installed by the Town for the special benefit of a neighborhood or other local area.

*Obligations* means bonds or other evidence of indebtedness including but not limited to, notes, commercial paper, capital leases or any other obligation issued or incurred to finance any portion of the project cost of local improvements and secured, in whole or in part, by proceeds of the assessments.

*Pledged revenue* means, as to any series of obligations:

- (1) The proceeds of such obligations, including investment earnings;
- (2) Proceeds of the assessments pledged to secure the payment of such obligations; and



## CHAPTER 4. ASSESSMENTS

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(3) Any other legally available non-ad valorem revenue pledged, at the Board's sole option, to secure the payment of such obligations, as specified by the ordinance and resolution authorizing such obligations.

*Project cost* means:

- (1) The capital cost of a local improvement;
- (2) The transaction cost associated with the obligations which financed the local improvement;
- (3) Interest accruing on such obligations for such period of time as the Town deems appropriate;
- (4) The debt service reserve fund or account, if any, established for the obligations which financed the local improvement; and
- (5) Any other costs or expenses related thereto.

*Property appraiser* means the Alachua County Property Appraiser.

*Resolution of intent* means the resolution expressing the Board's intent to collect assessments on the ad valorem tax bill required by the Uniform Assessment Collection Act.

*Tax collector* means the Alachua County Tax Collector.

*Tax roll* means the real property ad valorem tax assessment roll maintained by the property appraiser for the purpose of the levy and collection of ad valorem taxes.

*Transaction cost* means the costs, fees and expenses incurred by the Town in connection with the issuance and sale of any series of obligations, including but not limited to:

- (1) Rating agency and other financing fees;
- (2) The fees and disbursements of bond counsel;
- (3) The underwriters' discount;
- (4) The fees and disbursements of the Town's financial advisor;
- (5) The costs of preparing and printing the obligations, the preliminary official statement, the final official statement, and all other documentation supporting issuance of the obligations;
- (6) The fees payable in respect of any municipal bond insurance policy;
- (7) Administrative, development, credit review, and all other fees associated with any pooled commercial paper or similar interim financing program; and
- (8) Any other costs of a similar nature incurred in connection with issuance of such obligations.

*Uniform Assessment Collection Act* means Sec. 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

(b) Interpretation. Unless the context indicates otherwise, words importing the singular number include the plural number and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Article; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Article. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise.

(Ord. 2008-05, Sec. 1)

### **Sec. 4-2. Findings**

It is hereby ascertained, determined and declared that:

- (1) The provisions of this ordinance are authorized by Article VIII, Sec. 2 of the Florida Constitution, Sec. 166.021 of the Florida Statutes and other provisions of law regarding municipal home rule and the powers of local self-government.
- (2) The assessments imposed pursuant to this Article will be imposed by the Board, not the property appraiser or tax collector. Any activity of the property appraiser or tax collector under the provisions of this

## CHAPTER 4. ASSESSMENTS

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Article shall be construed solely as ministerial.

*(Ord.2008-05, Sec. 1)*

### **DIVISION 2. IMPROVEMENT AREAS**

#### **Sec. 4-3. Creation of improvement areas**

The Board is hereby authorized to create "improvement areas," in accordance with the procedures set forth herein to include property located within the Town. Each improvement area shall encompass only that property specially benefitted by the local improvements proposed for funding from the proceeds of assessments to be imposed therein. Either the initial assessment resolution proposing each improvement area or the final assessment resolution creating each improvement area shall include brief descriptions of the proposed local improvements, a description of the property to be included within the improvement area, and specific legislative findings that recognize the special benefit to be provided by each proposed local improvement to property within the improvement area.

*(Ord.2008-05, Sec. 1)*

#### **Sec. 4-4. Landowner petition process**

At its option, the Board may establish, by resolution, a process pursuant to which the owners of property may petition for creation of an improvement area to fund local improvements. Notwithstanding any petition process established pursuant to this section, the Board shall retain the authority to create improvement areas without a landowner petition.

*(Ord. 2008-05, Sec. 1)*

### **DIVISION 3. ASSESSMENTS**

#### **Sec. 4-5. Authority**

The Board is hereby authorized to impose assessments against property located within an improvement area to fund the project cost of local improvements. The assessment shall be computed in a manner that fairly and reasonably apportions the project cost among the parcels of property within the improvement area, based upon objectively determinable assessment units.

*(Ord. 2008-05, Sec. 1)*

#### **Sec. 4-6. Initial assessment resolution**

The initial proceeding for creation of an improvement area and imposition of an assessment shall be the Board's adoption of an initial assessment resolution. The initial assessment resolution shall:

- (1) Describe the property to be located within the proposed improvement area;
- (2) Describe the local improvement proposed for funding from proceeds of the assessments;
- (3) Estimate the capital cost or project cost;
- (4) Describe with particularity the proposed method of apportioning the capital cost or project cost among the parcels of property located within the proposed improvement area, such that the owner of any parcel of property can objectively determine the number of assessment units and the amount of the assessment;
- (5) Describe the provisions, if any, for acceleration and prepayment of the assessment;
- (6) Describe the provisions, if any, for reallocating the assessment upon future subdivision; and
- (7) Include specific legislative findings that recognize the fairness provided by the apportionment methodology.

*(Ord. 2008-05, Sec. 1)*

#### **Sec. 4-7. Assessment roll**

(a) The assessment coordinator shall prepare a preliminary assessment roll that contains the following information:

(1) A summary description of each parcel of property (conforming to the description contained on the tax roll), which may be the parcel number assigned to the parcel by the property appraiser, subject to the assessment;

(2) The name of the owner of record of each parcel, as shown on the tax roll;

(3) The number of assessment units attributable to each parcel;

(4) The estimated maximum annual assessment to become due in any fiscal year for each assessment unit; and

(5) The estimated maximum annual assessment to become due in any fiscal year for each parcel.

(b) Copies of the initial assessment resolution and the preliminary assessment roll shall be on file in the office of the assessment coordinator and open to public inspection. The foregoing shall not be construed to require that the assessment roll be in printed form if the amount of the assessment for each parcel of property can be determined by use of a computer terminal available to the public.

*(Ord.2008-05, Sec. 1)*

**Sec. 4-8. Notice by publication**

After filing the assessment roll in the office of the assessment coordinator, as required by Sec. 4-7(b), the assessment coordinator shall publish once in a newspaper of general circulation within the County a notice stating that at a public hearing of the Board will be held on a certain day and hour, not earlier than ten (10) calendar days from such publication, at which hearing the Board will receive written comments and hear testimony from all interested persons regarding creation of the improvement area and adoption of the final assessment resolution. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act.

*(Ord. 2008-05, Sec. 1)*

**Sec. 4-9. Notice by mail**

In addition to the published notice required by Sec. 4-8, the assessment coordinator shall provide notice of the proposed assessment by first class mail to the owner of each parcel of property subject to the assessment. The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Notice shall be mailed at least ten (10) calendar days prior to the hearing to each property owner at such address as is shown on the tax roll on the tenth calendar day prior to the date of mailing. Notice shall be deemed mailed upon delivery thereof to the possession of the U.S. Postal Service. The assessment coordinator may provide proof of such notice by affidavit. Failure of the owner to receive such notice due to mistake or inadvertence shall not affect the validity of the assessment roll nor release or discharge any obligation for the payment of an assessment imposed by the Board pursuant to this Article.

*(Ord. 2008-05, Sec. 1)*

**Sec. 4-10. Adoption of final assessment resolution**

At the time named in such notice, or such time to which an adjournment or continuance may be taken, the Board shall receive written objections and hear testimony of interested persons and may then, or at any subsequent meeting of the Board, adopt the final assessment resolution which shall:

(1) Create the improvement area;

(2) Confirm, modify or repeal the initial assessment resolution with such amendments, if any, as may be deemed appropriate by the Board;

(3) Establish the maximum amount of the assessment for each assessment unit;

(4) Approve the assessment roll, with such amendments as it deems just and right; and

(5) Determine the method of collection.

Following adoption of the final assessment resolution but prior to the date on which the assessment roll is certified for collection pursuant to Article IV hereof, the Board shall obtain a written legal opinion that the assessments have been validly imposed from an attorney-at-law or firm of attorneys of recognized standing in matters pertaining to local government law; provided however, that the failure to obtain such opinion shall not invalidate the assessments or affect the factual findings made by the Board in connection therewith.

*(Ord. 2008-05, Sec. 1)*

### **Sec. 4-11. Annual assessment resolution**

During its budget adoption process, the Board shall adopt an annual assessment resolution for each fiscal year in which assessments will be imposed to approve the assessment roll for such fiscal year. The final assessment resolution shall constitute the annual assessment resolution for the initial fiscal year. The assessment roll shall be prepared in accordance with the initial assessment resolution, as confirmed or amended by the final assessment resolution. If the proposed assessment for any parcel of property exceeds the maximum amount established in the notice provided pursuant Sec. 4-9 or if an assessment is imposed against property not previously subject thereto, the Board shall provide notice to the owner of such property in accordance with Sec. 4-9 hereof and conduct a public hearing prior to adoption of the annual assessment resolution. Failure to adopt an annual assessment resolution during the budget adoption process for a fiscal year may be cured at any time.

*(Ord. 2008-05, Sec. 1)*

### **Sec. 4-12. Effect of assessment resolutions**

The adoption of the final assessment resolution shall be the final adjudication of the issues presented (including, but not limited to, the apportionment methodology, the rate of assessment, the adoption of the assessment roll and the levy and lien of the assessments), unless proper steps are initiated in a court of competent jurisdiction to secure relief within twenty (20) days from the date of Board adoption of the final assessment resolution. The assessments for each fiscal year shall be established upon adoption of the annual assessment resolution. The assessment roll, as approved by the annual assessment resolution, shall be certified to the tax collector, or such other official as the Board by resolution deems appropriate.

*(Ord. 2008-05, Sec. 1)*

### **Sec. 4-13. Lien of assessments**

(a) Upon adoption of the annual assessment resolution for each fiscal year, assessments to be collected under the Uniform Assessment Collection Act shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid. The lien shall be deemed perfected upon adoption by the Board of the annual assessment resolution and shall attach to the property included on the assessment roll as of the prior January 1, the lien date for ad valorem taxes.

(b) Upon adoption of the final assessment resolution, assessments to be collected under any alternative method of collection provided in Sec. 4-18 shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid. The lien shall be deemed perfected on the date notice thereof is recorded in the official records of Alachua County, Florida.

*(Ord. 2008-05, Sec. 1)*

### **Sec. 4-14. Revisions to assessments**

If any assessment made under the provisions of this Article is either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the Board is satisfied that any such assessment is so irregular or defective that the same cannot be enforced or collected, or if the Board has failed to include any property on the assessment roll which property should have been so included, the Board may take all necessary steps to impose a new assessment against any property benefited by the local improvement, following as nearly as may be practicable, the provisions of this Article and in case such second assessment is annulled, the Board may obtain and impose other assessments until a valid assessment is imposed.

*(Ord. 2008-05, Sec. 1)*

### **Sec. 4-15. Procedural irregularities**

Any irregularity in the proceedings in connection with the levy of any assessment under the provisions of this Article shall not affect the validity of the same after the approval thereof, and any assessment as finally approved shall be competent and sufficient evidence that such assessment was duly levied, that the assessment was duly made and adopted, and that all other proceedings adequate to such assessment were duly had, taken and performed as required by this Article; and no variance from the directions hereunder shall

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be held material unless it be clearly shown that the party objecting was materially injured thereby. Notwithstanding the provisions of this section, any party objecting to an assessment imposed pursuant to this Article must file an objection with a court of competent jurisdiction within the time periods prescribed herein.

*(Ord. 2008-05, Sec. 1)*

### **Sec. 4-16. Correction of errors and omissions**

(a) No act of error or omission on the part of the Board, assessment coordinator, property appraiser, tax collector, clerk, or their respective deputies or employees, shall operate to release or discharge any obligation for payment of any assessment imposed by the Board under the provisions of this Article.

(b) The number of assessment units attributed to a parcel of property may be corrected at any time by the assessment coordinator. Any such correction which reduces an assessment shall be considered valid from the date on which the assessment was imposed and shall in no way affect the enforcement of the assessment imposed under the provisions of this Article. Any such correction which increases an assessment or imposes an assessment on omitted property shall first require notice to the affected owner in the manner described in Sec. 4-9, providing the date, time and place that the Board will consider confirming the correction and offering the owner an opportunity to be heard.

(c) After the assessment roll has been delivered to the tax collector in accordance with the Uniform Assessment Collection Act, any changes, modifications or corrections thereto shall be made in accordance with the procedures applicable to errors and insolvencies for ad valorem taxes.

*(Ord.2008-05, Sec. 1)*

## **DIVISION 4. COLLECTION OF ASSESSMENTS**

### **Sec. 4-17. Method of collection**

Unless directed otherwise by the Board, assessments (other than assessments imposed against government property) shall be collected pursuant to the Uniform Assessment Collection Act, and the County shall comply with all applicable provisions thereof, including but not limited to:

(1) Entering into a written agreement with the property appraiser and the tax collector for reimbursement of necessary expenses; and

(2) Adopting a resolution of intent. The resolution of intent may be adopted either prior to or following the initial assessment resolution; provided however, that the resolution of intent must be adopted prior to January 1 (or March 1 with consent of the property appraiser and tax collector) of the year in which the assessments are first collected on the ad valorem tax bill. Any hearing or notice required by this Article may be combined with any other hearing or notice required by the Uniform Assessment Collection Act.

*(Ord. 2008-05, Sec. 1)*

### **Sec. 4-18. Alternative method of collection**

In lieu of using the Uniform Assessment Collection Act, the Town may elect to collect the assessment by any other method which is authorized by law or provided by this section as follows:

(1) The Town shall provide assessment bills by first class mail to the owner of each affected parcel of property, other than government property. The bill or accompanying explanatory material shall include:

a. A brief explanation of the assessment;

b. A description of the assessment units used to determine the amount of the assessment;

c. The number of assessment units attributable to the parcel;

d. The total amount of the parcel's assessment for the appropriate period;

e. The location at which payment will be accepted;

f. The date on which the assessment is due; and

g. A statement that the assessment constitutes a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments.

(2) A general notice of the lien resulting from imposition of the assessments shall be recorded in the

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official records of Alachua County, Florida. Nothing herein shall be construed to require that individual liens or releases be filed in the official records.

(3) The Town shall have the right to appoint or retain an agent to foreclose and collect all delinquent assessments in the manner provided by law. An assessment shall become delinquent if it is not paid within thirty (30) days from the due date. The Town or its agent shall notify any property owner who is delinquent in payment of an assessment within sixty (60) days from the date such assessment was due. Such notice shall state in effect that the Town or its agent will initiate a foreclosure action and cause the foreclosure of such property subject to a delinquent assessment in a method now or hereafter provided by law for foreclosure of mortgages on real estate, or otherwise as provided by law.

(4) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the Town may be the purchaser to the same extent as an individual person or corporation. The Town may join in one foreclosure action the collection of assessments against any or all property assessed in accordance with the provisions hereof. All delinquent property owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the Town and its agents, including reasonable attorney fees, in collection of such delinquent assessments and any other costs incurred by the Town as a result of such delinquent assessments including, but not limited to, costs paid for draws on a credit facility and the same shall be collectible as a part of or in addition to, the costs of the action.

(5) In lieu of foreclosure, any delinquent assessment and the costs, fees and expenses attributable thereto, may be collected pursuant to the Uniform Assessment Collection Act; provided however, that:

a. Notice is provided to the owner in the manner required by law and this Article; and

b. Any existing lien of record on the affected parcel for the delinquent assessment is supplanted by the lien resulting from certification of the assessment roll to the tax collector.

*(Ord. 2008-05, Sec. 1)*

### **Sec. 4-19. Responsibility for enforcement**

The Town and its agent, if any, shall maintain the duty to enforce the prompt collection of assessments by the means provided herein. The duties related to collection of assessments may be enforced at the suit of any holder of obligations in a court of competent jurisdiction by mandamus or other appropriate proceedings or actions.

*(Ord. 2008-05, Sec. 1)*

### **Sec. 4-20. Government property**

(a) If assessments are imposed against government property, the Town shall provide assessment bills by first class mail to the owner of each affected parcel of government property. The bill or accompanying explanatory material shall include:

- (1) A brief explanation of the assessment;
- (2) A description of the assessment units used to determine the amount of the assessment;
- (3) The number of assessment units attributable to the parcel;
- (4) The total amount of the parcel's assessment for the appropriate period;
- (5) The location at which payment will be accepted; and
- (6) The date on which the assessment is due.

(b) Assessments imposed against governmental property shall be due on the same date as assessments against other property within the improvement area and, if applicable, shall be subject to the same discounts for early payment.

(c) An assessment shall become delinquent if it is not paid within thirty (30) days from the due date. The Town shall notify the owner of any government property that is delinquent in payment of its assessment within sixty (60) days from the date such assessment was due. Such notice shall state in effect that the Town will initiate a mandamus or other appropriate judicial action to compel payment.

(d) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any mandamus or other action as described herein shall be included in any judgment or decree rendered therein. All delinquent owners of government property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the Town, including reasonable attorney fees, in collection of such delinquent assessments and any other costs incurred by the Town as a result of such delinquent assessments including, but not limited to, costs paid for draws on a credit facility and the same shall be collectible as a part of or in addition to, the costs of the action.

(e) As an alternative to the foregoing, an assessment imposed against government property may be collected on the bill for any utility service provided to such governmental property. The Board may contract for such billing services with any utility provider.

*(Ord.2008-05, Sec. 1)*

#### **DIVISION 5. ISSUANCE OF OBLIGATIONS**

##### **Sec. 4-21. General authority**

(a) Upon adoption of the final assessment resolution imposing assessments to fund a local improvement or at any time thereafter, the Board shall have the power and is hereby authorized to provide by resolution, at one time or from time to time in series, for the issuance of obligations to fund the project cost thereof.

(b) The principal of and interest on each series of obligations shall be payable from pledged revenue. At the option of the Board, the Town may agree, by resolution, to budget and appropriate funds to make up any deficiency in the reserve account established for the obligations or in the payment of the obligations, from other non-ad valorem revenue sources. The Board may also provide, by resolution, for a pledge of or lien upon proceeds of such non-ad valorem revenue sources for the benefit of the holders of the obligations. Any such resolution shall determine the nature and extent of any pledge of or lien upon proceeds of such non-ad valorem revenue sources.

*(Ord. 2008-05, Sec. 1)*

##### **Sec. 4-22. Terms of the obligations**

The obligations shall be dated, shall bear interest at such rate or rates, shall mature at such times as may be determined by resolution of the Board, and may be made redeemable before maturity, at the option of the Town, at such price or prices and under such terms and conditions, all as may be fixed by the Board. Such obligations shall mature not later than forty (40) years after their issuance. The Board shall determine by resolution the form of the obligations, the manner of executing such obligations, and shall fix the denominations of such obligations, the place or places of payment of the principal and interest, which may be at any bank or trust company within or outside of the State of Florida, and such other terms and provisions of the obligations as it deems appropriate. The obligations may be sold at public or private sale for such price or prices as the Board shall determine by resolution. The obligations may be delivered to any contractor to pay for construction of the local improvements or may be sold in such manner and for such price as the Board may determine by resolution to be for the best interests of the County.

*(Ord. 2008-05, Sec. 1)*

##### **Sec. 4-23. Variable rate obligations**

At the option of the Board, obligations may bear interest at a variable rate.

*(Ord. 2008-05, Sec. 1)*

##### **Sec. 4-24. Temporary obligations**

Prior to the preparation of definitive obligations of any series, the Board may, under like restrictions, issue interim receipts, interim certificates, or temporary obligations, exchangeable for definitive obligations when such obligations have been executed and are available for delivery. The Board may also provide for the replacement of any obligations which shall become mutilated, destroyed or lost. Obligations may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this Article.

*(Ord.2008-05, Sec. 1)*

##### **Sec. 4-25. Anticipation notes**

In anticipation of the sale of obligations, the Board may, by resolution, issue notes and may renew the same from time to time. Such notes may be paid from the proceeds of the obligations, the proceeds of the assessments, the proceeds of the notes and such other legally available moneys as the Board deems appropriate by resolution. Such notes shall mature within five (5) years of their issuance and shall bear interest at a rate not exceeding the maximum rate provided by law. The Board may issue obligations or renewal notes to repay the notes. The notes shall be issued in the same manner as the obligations.

*(Ord.2008-05, Sec. 1)*

### **Sec. 4-26. Taxing power not pledged**

Obligations issued under the provisions of this Article shall not be deemed to constitute a general obligation or pledge of the full faith and credit of the Town within the meaning of the Constitution of the State of Florida, but such obligations shall be payable only from pledged revenue in the manner provided herein and by the resolution authorizing the obligations. The issuance of obligations under the provisions of this Article shall not directly or indirectly obligate the Town to levy or to pledge any form of ad valorem taxation whatever therefore. No holder of any such obligations shall ever have the right to compel any exercise of the ad valorem taxing power on the part of the Town to pay any such obligations or the interest thereon or to enforce payment of such obligations or the interest thereon against any property of the Town, nor shall such obligations constitute a charge, lien or encumbrance, legal or equitable, upon any property of the Town, except the pledged revenue.

*(Ord.2008-05, Sec. 1)*

### **Sec. 4-27. Trust funds**

The pledged revenue received pursuant to the authority of this Article shall be deemed to be trust funds, to be held and applied solely as provided in this Article and in the resolution authorizing issuance of the obligations. Such pledged revenue may be invested by the Town, or its designee, in the manner provided by the resolution authorizing issuance of the obligations. The pledged revenue upon receipt thereof by the Town shall be subject to the lien and pledge of the holders of any obligations or any entity other than the Town providing credit enhancement on the obligations.

*(Ord. 2008-05, Sec. 1)*

### **Sec. 4-28. Remedies of holders**

Any holder of obligations, except to the extent the rights herein given may be restricted by the resolution authorizing issuance of the obligations, may, whether at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the State of Florida or granted hereunder or under such resolution, and may enforce and compel the performance of all duties required by this part, or by such resolution, to be performed by the Town.

*(Ord. 2008-05, Sec. 1)*

### **Sec. 4-29. Refunding obligations**

The Town may, by resolution of the Board, issue obligations to refund any obligations issued pursuant to this Article, or any other obligations of the Town theretofore issued to finance the project cost of a local improvement, and provide for the rights of the holders hereof. Such refunding obligations may be issued in an amount sufficient to provide for the payment of the principal of, redemption premium, if any, and interest on the outstanding obligations to be refunded. If the issuance of such refunding obligations results in an annual assessment that exceeds the estimated maximum annual assessments set forth in the notice provided pursuant to Sec. 4-9 of this Article, the Board shall provide notice to the affected property owners and conduct a public hearing in the manner required by Division 3 of this Article.

*(Ord. 2008-05, Sec. 1)*

## **DIVISION 6. HARDSHIP POLICY**

### **Sec. 4-30. Scope**

This Division outlines the procedure for the receipt, investigation, review and disposition of requests for payment options of special assessments submitted by property owners claiming financial hardship.

*(Ord. 2008-05, Sec. 1)*



**Sec. 4-31. Postponement of payment**

If a property owner is determined to have a financial hardship, then the Board may approve the postponement of the special assessment payments as follows:

- (a) A lien for the maximum assessment amount will be recorded against the property.
- (b) Payments on the assessment amount will be suspended until there is a change of ownership of the property or there is some other change of circumstance of the property owner which would no longer qualify the property owner as having a financial hardship. It is the responsibility of the property owner to notify the Town of any such change in circumstances.
- (c) The hardship postponement is only for the life of the approved property owner, absent an occurrence described in (b) above.
- (d) Interest on the assessment will continue to accrue throughout the postponement as it would otherwise.

*(Ord. 2008-05, Sec. 1)*

**Sec. 4-32. Procedure for request**

(a) Property owners may request that special assessments be postponed until the subject property is sold or otherwise changes ownership or there is some other change in circumstances for the property owner. These requests will be submitted in writing and must, at a minimum, include the following information:

- 1. list of all persons with an ownership interest in the property, including each one's address and telephone number;
- 2. parcel identification number of the property subject to the special assessment;
- 3. number in household and income of each;
- 4. sources of other income (i.e. child support, public assistance, etc.);
- 5. justification for the request; and
- 6. copies of the relevant Federal income tax returns for the previous three years.

(b) The Assessment Coordinator will review all requests for completeness of information. Any missing information will be requested from the property owner. Further processing of the application will not occur until all required information has been submitted to the Town.

*(Ord. 2008-05, Sec. 1)*

**Sec. 4-33. Review and approval**

(a) Criteria to be used in determining whether a bona fide hardship exists will include, but not be limited to, the following:

- 1. Applicable household income limits (80%) level for the State of Florida as promulgated and adjusted from time to time, by the Federal government;
- 2. Credit history;
- 3. Previous arrangements made with the Town, if applicable; and
- 4. Other sources of income available, including but not limited to child support, alimony, and investment income.

(b) Upon Board approval, the Town will prepare a schedule of all approved requests listing name, address, parcel identification, annual charge to be paid by the Town and expiration date of the authorization.

(c) For any postponed special assessments, a lien will be filed against the property in the amount of the maximum assessment amount.

*(Ord. 2008-05, Sec. 1)*

## CHAPTER 4A. FIRE RESCUE ASSESSMENTS

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**DIVISION 1. GENERALLY**

**Sec. 4A-1. Definitions and rules of interpretation**

(a) When used in this Article, the following terms shall have the following meanings, unless the context clearly requires otherwise:

"*Annual Rate Resolution*" means the resolution described in Sec. 4A-10 hereof, establishing the rate at which a Fire Rescue Assessment for a specific Fiscal Year will be computed. The Final Assessment Resolution shall constitute the Annual Rate Resolution for the initial Fiscal Year in which a Fire Rescue Assessment is imposed or reimposed.

"*Assessed Property*" means all parcels of land included on the Assessment Roll that receive a special benefit from the delivery of the fire rescue services, programs or facilities identified in the Initial Assessment Resolution or a subsequent Preliminary Rate Resolution.

"*Assessment Coordinator*" means the person designated by the Board to be responsible for coordinating assessments, or such person's designee.

"*Assessment Roll*" means the special assessment roll relating to a Fire Rescue Assessment approved by a Final Assessment Resolution pursuant to Sec. 4A-8 hereof or an Annual Rate Resolution pursuant to Sec. 4A-10 hereof.

"*Board*" means the Town of Micanopy Board of Commissioners.

"*Building*" means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel, or property of any kind, including mobile, modular and manufactured homes. This term shall include the use of land in which lots or spaces are offered for use, rent or lease for the placement of mobile homes, travel trailers, or the like.

"*Final Assessment Resolution*" means the resolution described in Sec. 4A-8 hereof which shall confirm, modify, or repeal the Initial Assessment Resolution and which shall be the final proceeding for the initial imposition of Fire Rescue Assessments.

"*Fire Rescue Assessment*" means a special assessment lawfully imposed by the Board against Assessed Property to fund all or any portion of the cost of the provision of fire rescue services, facilities, or programs providing a special benefit to property as a consequence of possessing a logical relationship to the value, use, or characteristics of the Assessed Property.

"*Fire Rescue Assessed Cost*" means the amount determined by the Board to be assessed in any Fiscal Year to fund all or any portion of the cost of the provision of fire rescue services, facilities, or programs which provide a special benefit to Assessed Property, and shall include, but not be limited to, the following components:

- (A) the cost of physical construction, reconstruction or completion of any required facility or improvement;
- (B) the costs incurred in any required acquisition or purchase;
- (C) the cost of all labor, materials, machinery, and equipment;
- (D) the cost of fuel, parts, supplies, maintenance, repairs, and utilities;
- (E) the cost of computer services, data processing, and communications;
- (F) the cost of all lands and interest therein, leases, property rights, easements, and franchises of any nature whatsoever;
- (G) the cost of any indemnity or surety bonds and premiums for insurance;
- (H) the cost of salaries, volunteer pay, workers' compensation insurance, or other employment benefits;
- (I) the cost of uniforms, training, travel, and per diem;
- (J) the cost of construction plans and specifications, surveys and estimates of costs;
- (K) the cost of engineering, financial, legal, and other professional services;
- (L) the costs of compliance with any contracts or agreements entered into by the Town to provide fire rescue services;
- (M) all costs associated with the structure, implementation, collection, and enforcement of the Fire Rescue Assessments, including any service charges of the Tax Collector or Property Appraiser and amounts necessary to off-set discounts received for early payment of Fire Rescue Assessments pursuant to the Uniform Assessment Collection Act or for early payment of Fire Rescue Assessments collected pursuant to Sec. 4A-18 herein;

## CHAPTER 4A. FIRE RESCUE ASSESSMENTS

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- (N) all other costs and expenses necessary or incidental to the acquisition, provision, or construction of fire rescue services, facilities, or programs, and such other expenses as may be necessary or incidental to any related financing authorized by the Board by subsequent resolution;
- (O) a reasonable amount for contingency and anticipated delinquencies and uncollectible Fire Rescue Assessments; and
- (P) reimbursement to the Town or any other person for any moneys advanced for any costs incurred by the Town or such person in connection with any of the foregoing components of Fire Rescue Assessed Cost.

"*Ordinance*" means this Fire Rescue Assessment Ordinance, as amended from time-to-time.

"*Owner*" means the person reflected as the owner of Assessed Property on the Tax Roll.

"*Person*" means any individual, partnership, firm, organization, corporation, association, or any other legal entity, whether singular or plural, masculine or feminine, as the context may require.

"*Preliminary Rate Resolution*" means the resolution described in Sec. 4A-10 hereof initiating the annual process for updating the Assessment Roll and directing the reimposition of Fire Rescue Assessments pursuant to an Annual Rate Resolution.

"*Property Appraiser*" means the Alachua County Property Appraiser.

"*Tax Collector*" means the Alachua County Tax Collector.

"*Tax Roll*" means the real property ad valorem tax assessment roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

"*Uniform Assessment Collection Act*" means Sec. 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

(b) Rules of Interpretation. Unless the context indicates otherwise, words importing the singular number include the plural number and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Article; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Article. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise.

(*Ord.2010-02, Sec. 1*)

### **Sec. 4A-2. Findings**

It is hereby ascertained, determined and declared that:

(a) The provisions of this ordinance are authorized by Article VIII, Sec. 2 of the Florida Constitution, Sec. 166.021 of the Florida Statutes and other provisions of law regarding municipal home rule and the powers of local self-government.

(b) The assessments imposed pursuant to this Article will be imposed by the Board, not the Property Appraiser or Tax Collector. Any activity of the Property Appraiser or Tax Collector under the provisions of this Article shall be construed solely as ministerial.

(c) The purpose of this Ordinance is to:

- (1) provide procedures and standards for the imposition of Fire Rescue Assessments;
- (2) authorize a procedure for the funding of fire rescue services, facilities, or programs providing special benefits to property within the Town; and
- (3) legislatively determine the special benefit provided to Assessed Property from the Town's fire rescue services program.

(d) The annual Fire Rescue Assessments shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

(e) The fire rescue services, facilities, and programs provide a special benefit to property because fire rescue services possess a logical relationship to the use and enjoyment of property by:

- (1) protecting the value and integrity of improvements, structures and land;
- (2) protecting the life and safety of intended occupants in the use and enjoyment of property; and
- (3) lowering the cost of fire insurance by the presence of a professional and comprehensive fire rescue services program.

(f) This Ordinance shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other

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laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This Ordinance, being necessary for the welfare of the inhabitants of the Town, shall be liberally construed to effect the purposes hereof.

### **DIVISION 2. ANNUAL FIRE RESCUE ASSESSMENTS**

#### **Sec. 4A-3. General Authority**

(a) The Board is hereby authorized to impose an annual Fire Rescue Assessment to fund all or any portion of the Fire Rescue Assessed Cost upon benefited property at a rate of assessment based on the special benefit accruing to such property from the Town's provision of fire rescue services, facilities, or programs. All Fire Rescue Assessments shall be imposed in conformity with the procedures set forth herein.

(b) The amount of the Fire Rescue Assessment imposed in a Fiscal Year against a parcel of Assessed Property shall be determined pursuant to an apportionment methodology based upon a classification of property designed to provide a fair and reasonable apportionment of the Fire Rescue Assessed Cost among properties on a basis reasonably related to the special benefit provided by fire rescue services, facilities, or programs funded with assessment proceeds.

*(Ord.2010-02, Sec. 1)*

#### **Sec. 4A-4. Initial proceeding**

The initial proceeding for the imposition of a Fire Rescue Assessment shall be the adoption of an Initial Assessment Resolution by the Board,

- (1) containing a brief and general description of the fire rescue services, facilities, or programs to be provided,
- (2) determining the Fire Rescue Assessed Cost to be assessed,
- (3) describing the method of apportioning the Fire Rescue Assessed Cost and the computation of the Fire Rescue Assessment for specific properties,
- (4) establishing an estimated assessment rate for the upcoming Fiscal Year, and
- (5) directing the Assessment Coordinator to:
  - (i) prepare the initial Assessment Roll, as required by Sec. 4A-5 hereof,
  - (ii) publish the notice required by Sec. 4A-6 hereof, and
  - (iii) mail the notice required by Sec.4A-7 hereof using information then available from the Tax Roll.

*(Ord.2010-02, Sec. 1)*

#### **Sec. 4A-5. Initial assessment roll**

(a) The Assessment Coordinator shall prepare the initial Assessment Roll, which shall contain the following:

1. A summary description of all Assessed Property conforming to the description contained on the Tax Roll; and
2. The name of the Owner of the Assessed Property; and
3. The amount of the Fire Rescue Assessment to be imposed against each such parcel of Assessed Property.

(b) The initial Assessment Roll shall be retained by the Assessment Coordinator and shall be open to public inspection. The foregoing shall not be construed to require that the Assessment Roll be in printed form if the amount of the Fire Rescue Assessment for each parcel of property can be determined by use of a computer terminal available to the public.

*(Ord.2010-02, Sec. 1)*

#### **Sec. 4A-6. Notice by publication**

Upon completion of the initial Assessment Roll, the Assessment Coordinator shall publish, or direct the publication of, in a newspaper of general circulation within the County a notice stating that at a meeting of the Board on a certain day and hour, not earlier than 20 calendar days from such publication, which meeting shall be a regular, adjourned, or special meeting, the Board will hear objections of all interested persons to the Final Assessment Resolution which shall establish the rate of assessment and approve the aforementioned Initial Assessment Roll. Such notice shall be published one time and shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include

## CHAPTER 4A. FIRE RESCUE ASSESSMENTS

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- (a) a geographic depiction of the property subject to the Fire Rescue Assessment;
- (b) a brief and general description of the fire rescue services, facilities, or programs to be provided;
- (c) the rate of assessment;
- (d) the procedure for objecting provided in Sec. 4A-8 hereof;
- (e) the method by which the Fire Rescue Assessment will be collected; and
- (f) a statement that the initial Assessment Roll is available for inspection at the office of the Assessment Coordinator and all interested persons may ascertain the amount to be assessed against a parcel of Assessed Property at the office of the Assessment Coordinator.

*(Ord.2010-02, Sec. 1)*

### **Sec. 4A-7. Notice by mail**

In addition to the published notice required by Sec. 4A-6, the Assessment Coordinator shall provide notice of the proposed Fire Rescue Assessment by first class mail to the Owner of each parcel of property subject to the Fire Rescue Assessment. Such notice shall include:

- (a) the purpose of the Fire Rescue Assessment;
- (b) the rate of assessment to be levied against each parcel of property;
- (c) the unit of measurement applied to determine the Fire Rescue Assessment;
- (d) the number of such units contained in each parcel of property;
- (e) the total revenue to be collected by the Town from the Fire Rescue Assessment;
- (f) a statement that failure to pay the Fire Rescue Assessment will cause a tax certificate to be issued against the property or foreclosure proceedings to be instituted, either of which may result in a loss of title to the property;
- (g) a statement that all affected Owners have a right to appear at the hearing and to file written objections with the Board within 20 days of the notice; and
- (h) the date, time, and place of the hearing.

The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Notice shall be mailed at least 20 calendar days prior to the hearing to each Owner at such address as is shown on the Tax Roll. Notice shall be deemed mailed upon delivery thereof to the possession of the United States Postal Service. The Assessment Coordinator may provide proof of such notice by affidavit. Failure of the Owner to receive such notice due to mistake or inadvertence shall not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of a Fire Rescue Assessment imposed by the Board pursuant to this Ordinance.

*(Ord.2010-02, Sec. 1)*

### **Sec. 4A-8. Adoption of final assessment resolution**

At the public hearing as noticed pursuant to Sec. 4A-6 and 4A-7 hereof, or to which an adjournment or continuance may be taken by the Board, the Board shall receive any oral or written objections of interested persons and may then, or at any subsequent meeting of the Board adopt the Final Assessment Resolution which shall:

- (a) confirm, modify, or repeal the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the Board;
- (b) establish the rate of assessment to be imposed in the upcoming Fiscal Year;
- (c) approve the initial Assessment Roll, with such amendments as it deems just and right; and
- (d) determine the method of collection.

The adoption of the Final Assessment Resolution by the Board shall constitute a legislative determination that all parcels assessed derive a special benefit from the fire rescue services, facilities, or programs to be provided or constructed and a legislative determination that the Fire Rescue Assessments are fairly and reasonably apportioned among the properties that receive the special benefit. All written objections to the Final Assessment Resolution shall be filed with the Assessment Coordinator at or before the time or adjourned time of such hearing. The Final Assessment Resolution shall constitute the Annual Rate Resolution for the initial Fiscal Year in which Fire Rescue Assessments are imposed or reimposed hereunder.

*(Ord.2010-02, Sec. 1)*

### **Sec. 4A-9. Effect of final assessment resolution**

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The Fire Rescue Assessments for the initial Fiscal Year shall be established upon adoption of the Final Assessment Resolution. The adoption of the Final Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property; the method of apportionment and assessment; the initial rate of assessment; and the levy and lien of the Fire Rescue Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the Board action on the Final Assessment Resolution. The Initial Assessment Roll, as approved by the Final Assessment Resolution, shall be delivered to the Tax Collector, as required by the Uniform Assessment Collection Act, or if the alternative method described in Sec. 4A-18 hereof is used to collect the Fire Rescue Assessments, such other official as the Board by resolution shall designate.

(Ord.2010-02, Sec. 1)

### **Sec. 4A-10. Annual adoption procedures**

(a) Annually, during the budget adoption process, the Board shall determine whether to reimpose a Fire Rescue Assessment for each Fiscal Year following the initial Fiscal Year. If the Board elects to reimpose a Fire Rescue Assessment, the procedures in this Sec. 4A-10 shall be followed.

(b) The initial proceedings for the reimposition of an annual Fire Rescue Assessment shall be the adoption of a Preliminary Rate Resolution by the Board:

- (1) containing a brief and general description of the services, facilities, or programs to be provided;
- (2) determining the Fire Rescue Assessed Cost to be assessed for the upcoming Fiscal Year;
- (3) establishing the estimated assessment rate for the upcoming Fiscal Year;
- (4) authorizing the date, time, and place of a public hearing to receive and consider comments from the public and consider the adoption of the Annual Rate Resolution for the upcoming Fiscal Year; and
- (5) directing the Assessment Coordinator to
  - (i) update the Assessment Roll,
  - (ii) provide notice by publication and first class mail to affected owners in the event circumstances described in subsection (f) of this Section so require, and
  - (iii) directing and authorizing any supplemental or additional notice deemed proper, necessary or convenient by the Town.

(c) At the public hearing established in the Preliminary Rate Resolution or to which an adjournment or continuance may be taken by the Board, the Board shall receive any oral or written objections of interested persons and may then, or at any subsequent meeting of the Board, adopt the Annual Rate Resolution, which shall:

- (1) establish the rate of assessment to be imposed in the upcoming Fiscal Year and
- (2) approve the Assessment Roll for the upcoming Fiscal Year with such adjustments as the Board deems just and right.

(d) The Assessment Roll shall be prepared in accordance with the method of apportionment set forth in the Initial Assessment Resolution, or any subsequent Preliminary Rate Resolution, together with modifications, if any, that are provided and confirmed in the Final Assessment Resolution or any subsequent Annual Rate Resolution.

(e) Nothing herein shall preclude the Board from providing annual notification to all owners of Assessed Property in the manner provided in Sec. 4A-6 and 4A-7 hereof or any other method as provided by law.

(f) In the event:

- (1) proposed Fire Rescue Assessment for any Fiscal Year exceeds the rates of assessment adopted by the Board that were listed in the notices previously provided to the owners of Assessed Property pursuant to Sec. 4A-6 and 4A-7 hereof;
- (2) the purpose for which the Assessment is imposed or the use of the revenue from the Fire Rescue Assessment is substantially changed from that represented by notice previously provided to the owners of Assessed Property pursuant to Sec. 4A-6 and 4A-7 hereof;
- (3) Assessed Property is reclassified or the method of apportionment is revised or altered resulting in an increased Fire Rescue Assessment from that represented by notice previously provided to the owners of Assessed Property pursuant to Sec. 4A-6 and 4A-7 hereof; or
- (4) an Assessment Roll contains Assessed Property that was not included on the Assessment

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Roll approved for the prior Fiscal Year, notice shall be provided by publication and first class mail to the owners of such Assessed Property as provided by law. Such notice shall substantially conform with the notice requirements set forth in Sec. 4A-6 and 4A-7 hereof and inform the owner of the date, time, and place for the adoption of the Annual Rate Resolution. The failure of the owner to receive such notice due to mistake or inadvertence shall not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of a Fire Rescue Assessment imposed by the Board pursuant to this Ordinance.

(g) As to any Assessed Property not included on an Assessment Roll approved by the adoption of the Final Assessment Resolution or a prior year's Annual Rate Resolution, the adoption of the succeeding Annual Rate Resolution shall be the final adjudication of the issues presented as to such Assessed Property (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property, the method of apportionment and assessment, the rate of assessment, the Assessment Roll, and the levy and lien of the Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the Board action on the Annual Rate Resolution. Nothing contained herein shall be construed or interpreted to affect the finality of any Fire Rescue Assessment not challenged within the required 20-day period for those Fire Rescue Assessments previously imposed against Assessed Property by the inclusion of the Assessed Property on an Assessment Roll approved in the Final Assessment Resolution or any subsequent Annual Rate Resolution.

(h) The Assessment Roll, as approved by the Annual Rate Resolution, shall be delivered to the Tax Collector as required by the Uniform Assessment Collection Act, or if the alternative method described in Sec. 4A-18 hereof is used to collect the Assessments, such other official as the Board by resolution shall designate. If the Assessment against any property shall be sustained, reduced, or abated by the court, an adjustment shall be made on the Assessment Roll.

*(Ord.2010-02, Sec. 1)*

### **Sec. 4A-11. Lien of fire rescue assessments**

Upon the adoption of the Assessment Roll, all Fire Rescue Assessments shall constitute a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, mortgages, titles, and claims, until paid. The lien for a Fire Rescue Assessment shall be deemed perfected upon the Board's adoption of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable. The lien for a Fire Rescue Assessment collected under the Uniform Assessment Collection Act shall attach to the property included on the Assessment Roll as of the prior January 1, the lien date for ad valorem taxes imposed under the Tax Roll. The lien for a Fire Rescue Assessment collected under the alternative method of collection provided in Sec. 4A-18 shall be deemed perfected upon the Board's adoption of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable, and shall attach to the property on such date of adoption.

*(Ord.2010-02, Sec. 1)*

### **Sec. 4A-12. Revisions to fire rescue assessments**

If any Fire Rescue Assessment made under the provisions of this Ordinance is either in whole or in part annulled, vacated, or set aside by the judgment of any court, or if the Board is satisfied that any such Fire Rescue Assessment is so irregular or defective that the same cannot be enforced or collected, or if the Board has failed to include or omitted any property on the Assessment Roll which property should have been so included, the Board may take all necessary steps to impose a new Fire Rescue Assessment against any property benefitted by the Fire Rescue Assessed Costs, following as nearly as may be practicable, the provisions of this Ordinance and in case such second Fire Rescue Assessment is annulled, vacated, or set aside, the Board may obtain and impose other Fire Rescue Assessments until a valid Fire Rescue Assessment is imposed.

*(Ord.2010-02, Sec. 1)*

### **Sec. 4A-13. Procedural irregularities**

Any informality or irregularity in the proceedings in connection with the levy of any Fire Rescue Assessment under the provisions of this Ordinance shall not affect the validity of the same after the approval thereof, and any Fire Rescue Assessment as finally approved shall be competent and sufficient evidence that such Fire Rescue Assessment was duly levied, that the Fire Rescue Assessment was duly made and adopted, and that all other proceedings adequate to such Fire Rescue Assessment were duly had, taken, and performed as required by this Ordinance; and no variance from the directions hereunder shall be held material unless it be



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clearly shown that the party objecting was materially injured thereby.

*(Ord.2010-02, Sec. 1)*

### **Sec. 4A-14. Correction of errors and omissions**

(a) No act of error or omission on the part of the Property Appraiser, Tax Collector, Assessment Coordinator, Board, or their deputies or employees, shall operate to release or discharge any obligation for payment of a Fire Rescue Assessment imposed by the Board under the provisions of this Ordinance.

(b) When it shall appear that any Fire Rescue Assessment should have been imposed under this Ordinance against a parcel of property specially benefitted by the provision of fire rescue services, facilities, or programs, but that such property was omitted from the Assessment Roll; or such property was erroneously assessed; or was not listed on the Tax Roll as an individual parcel of property as of the effective date of the Assessment Roll approved by the Annual Rate Resolution for any upcoming Fiscal Year, the Board may, upon provision of a notice by mail provided to the Owner of the omitted or erroneously assessed parcel in the manner and form provided in Sec. 4A-7, impose the applicable Fire Rescue Assessment for the Fiscal Year in which such error or omission is discovered, in addition to the applicable Fire Rescue Assessment due for the prior two Fiscal Years, if any. Such Fire Rescue Assessment shall constitute a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments, and superior in rank and dignity to all other prior liens, mortgages, titles, and claims in and to or against the real property involved, shall be collected as provided in Division 3 hereof, and shall be deemed perfected on the date of adoption of the resolution imposing the omitted, delinquent, or corrected assessments.

(c) Prior to the delivery of the Assessment Roll to the Tax Collector in accordance with the Uniform Assessment Collection Act, the Assessment Coordinator shall have the authority at any time, upon his or her own initiative or in response to a timely filed petition from the Owner of any property subject to a Fire Rescue Assessment, to reclassify property based upon presentation of competent and substantial evidence, and correct any error in applying the Fire Rescue Assessment apportionment method to any particular parcel of property not otherwise requiring the provision of notice pursuant to the Uniform Assessment Collection Act. Any such correction shall be considered valid ab initio and shall in no way affect the enforcement of the Fire Rescue Assessment imposed under the provisions of this Ordinance. All requests from affected property owners for any such changes, modifications or corrections shall be referred to, and processed by, the Assessment Coordinator and not the Property Appraiser or Tax Collector.

(d) After the Assessment Roll has been delivered to the Tax Collector in accordance with the Uniform Assessment Collection Act, any changes, modifications, or corrections thereto shall be made in accordance with the procedures applicable to correcting errors and insolvencies on the Tax Roll upon timely written request and direction of the Assessment Coordinator.

*(Ord.2010-02, Sec. 1)*

### **Sec. 4A-15. Interim assessments**

(a) An interim Fire Rescue Assessment shall be imposed against any parcel if there is a change of use which places the property in a different assessment classification subsequent to the adoption of the then applicable Annual Rate Resolution. If the change of use is a result of construction of improvements requiring issuance of a building permit, then the interim assessment shall be paid before the Town issues a Zoning Compliance Certificate authorizing the County to issue a building permit; otherwise, the Town shall issue an invoice for the interim assessment upon notice of the change of use. The amount of the interim Fire Rescue Assessment shall be calculated upon a monthly rate, which shall be one-twelfth of the annual rate for such new use computed in accordance with the Annual Rate Resolution for the Fiscal Year for which the interim Fire Rescue Assessment is being imposed. Such monthly rate shall be imposed for each full calendar month remaining in the Fiscal Year. A credit shall be granted against the interim Fire Rescue Assessment for any Fire Rescue Assessment paid for the same property for the same time period. In addition to the monthly rate, the interim Fire Rescue Assessment shall also include an estimate of the subsequent Fiscal Year's Fire Rescue Assessment. Issuance of a building permit by mistake or inadvertence, and without the payment in full of the interim Fire Services Assessments shall not relieve the Owner of such property of the obligation of full payment. Any interim Fire Rescue Assessment not collected prior to the issuance of the building permit may be collected pursuant to the Uniform Assessment Collection Act as provided in Sec. 4A-17 of this Ordinance, under the alternative collection method provided in Sec. 4A-18 or by any other method authorized by law. Any interim Fire Rescue Assessment shall be deemed due and payable on the earlier of:

- (1) the date of issuance of a Zoning Compliance Certificate; or
- (2) the date the building permit was issued; or

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(3) the date of the change of use causing a change in the assessment classification of the property, and shall constitute a lien against such property as of that date. Said lien shall be equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved and shall be deemed perfected upon the date determined as stated above.

(b) In the event a building permit expires prior to completion of the building for which it was issued, and the applicant has paid an interim Fire Rescue Assessment as a result of the improvements, the applicant may, within 90 days of the expiration of the building permit, apply for a refund of the interim Fire Rescue Assessment. Failure to timely apply for a refund of the interim Fire Rescue Assessment shall waive any right to a refund. The application for refund shall be filed with the Assessment Coordinator and contain the following:

- (1) The name and address of the applicant;
- (2) The location of the property and the tax parcel identification number for the property which was the subject of the building permit;
- (3) The date the interim Fire Rescue Assessment was paid;
- (4) A copy of the receipt of payment for the interim Fire Services Assessment; and
- (5) The date the building permit was issued and the date of expiration. After verifying that the building permit has expired and that the building has not been completed, the Assessment Coordinator shall refund the interim Fire Rescue Assessment paid for such building.

(c) A building permit which is subsequently issued for a building on the same property which was the subject of a refund shall pay the interim Fire Rescue Assessment as required by this Sec. 4A-15.

*(Ord.2010-02, Sec. 1)*

### **Sec. 4A-16. Authorization for exemptions and hardship assistance**

(a) The Board, in its sole discretion, shall determine on an annual basis whether to provide exemptions from payment of the Fire Rescue Assessment for Government Property or property whose use is exempt from ad valorem taxation under Florida law.

(b) The Board, in its sole discretion, shall determine on an annual basis whether to provide a program of hardship assistance to Town residents who are living below or close to the poverty level and are at risk of losing title to their homes as a result of the imposition of the Fire Rescue Assessments.

(c) On an annual basis, the Board shall designate the funds available to provide any exemptions or hardship assistance. The provision of an exemption or hardship assistance in any one year shall in no way establish a right or entitlement to such exemption or assistance in any subsequent year and the provision of funds in any year may be limited to the extent funds are available and appropriated by the Board. Any funds designated for exemptions or hardship assistance shall be paid by the Town from funds other than those generated by the Fire Rescue Assessment.

(d) Any shortfall in the expected Fire Rescue Assessment proceeds due to any hardship assistance or exemption from payment of the Fire Rescue Assessments required by law or authorized by the Board shall be supplemented by any legally available funds, or combination of such funds, and shall not be paid for by proceeds or funds derived from the Fire Rescue Assessments. In the event a court of competent jurisdiction determines any exemption or reduction by the Board is improper or otherwise adversely affects the validity of the Fire Rescue Assessment imposed for any Fiscal Year, the sole and exclusive remedy shall be the imposition of a Fire Rescue Assessment upon each affected property in the amount of the Fire Rescue Assessment that would have been otherwise imposed save for such reduction or exemption afforded to such property by the Board.

*(Ord.2010-02, Sec. 1)*

## **DIVISION 3. COLLECTION AND USE OF FIRE RESCUE ASSESSMENTS**

### **Sec. 4A-17. Method of collection**

(a) Unless otherwise directed by the Board, the Fire Rescue Assessments shall be collected pursuant to the uniform method provided in the Uniform Assessment Collection Act, and the Town shall comply with all applicable provisions of the Uniform Assessment Collection Act. Any hearing or notice required by this Ordinance may be combined with any other hearing or notice required by the Uniform Assessment Collection Act or other provision of law.

## CHAPTER 4A. FIRE RESCUE ASSESSMENTS

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(b) The amount of a Fire Rescue Assessment to be collected using the uniform method pursuant to the Uniform Assessment Collection Act for any specific parcel of benefited property may include an amount equivalent to the payment delinquency, delinquency fees and recording costs for a prior year's assessment for a comparable service, facility, or program provided,

(1) the collection method used in connection with the prior year's assessment did not employ the use of the uniform method of collection authorized by the Uniform Assessment Collection Act,

(2) notice is provided to the owner as required under the Uniform Assessment Collection Act, and

(3) any lien on the affected parcel for the prior year's assessment is supplanted and transferred to such Fire Rescue Assessment upon certification of a non-ad valorem roll to the Tax Collector by the Town.

*(Ord.2010-02, Sec. 1)*

### **Sec. 4A-18. Alternative method of collection**

In lieu of using the Uniform Assessment Collection Act, the Board may elect to collect the Fire Rescue Assessments by any other method which is authorized by law or under the alternative collection method provided by this Section:

(a) The Board shall provide Fire Rescue Assessment bills by first class mail to the owner of each affected parcel of property, other than Government Property. The bill or accompanying explanatory material shall include:

(1) a brief explanation of the Fire Rescue Assessment,

(2) a description of the unit of measurement used to determine the amount of the Fire Rescue Assessment,

(3) the number of units contained within the parcel,

(4) the total amount of the Fire Rescue Assessment imposed against the parcel for the appropriate period,

(5) the location at which payment will be accepted,

(6) the date on which the Fire Rescue Assessment is due, and

(7) a statement that the Fire Rescue Assessment constitutes a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments.

(b) A general notice of the lien resulting from imposition of the Fire Rescue Assessments shall be recorded in the Official Records of the County. Nothing herein shall be construed to require that individual liens or releases be filed in the Official Records.

(c) The Board shall have the right to foreclose and collect all delinquent Fire Rescue Assessments in the manner provided by law for the foreclosure of mortgages on real property or appoint or retain an agent to institute such foreclosure and collection proceedings. A Fire Rescue Assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The Board or its agent shall notify any property owner who is delinquent in payment of his or her Fire Rescue Assessment within 60 days from the date such assessment was due. Such notice shall state in effect that the Board or its agent will either

(1) initiate a foreclosure action or suit in equity and cause the foreclosure of such property subject to a delinquent Fire Rescue Assessment in a method now or hereafter provided by law for foreclosure of mortgages on real property, or

(2) cause an amount equivalent to the delinquent Fire Rescue Assessment, not previously subject to collection using the uniform method under the Uniform Assessment Collection Act, to be collected on the tax bill for a subsequent year.

(d) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the Town may be the purchaser to the same extent as any person. One foreclosure action may include claims to collect Fire Rescue Assessments against any or all properties assessed in accordance with the provisions hereof. All delinquent owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the Board and its agents, including reasonable attorney fees, in collection of such delinquent Fire Rescue Assessments and any other costs incurred by the Board as a result of such delinquent Fire Rescue Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(e) In lieu of foreclosure, any delinquent Fire Rescue Assessment and the costs, fees and expenses

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attributable thereto, may be collected pursuant to the Uniform Assessment Collection Act; provided however, that

(1) notice is provided to the owner in the manner required by the Uniform Assessment Collection Act and this Ordinance, and

(2) any existing lien of record on the affected parcel for the delinquent Fire Rescue Assessment is supplanted by the lien resulting from certification of the Assessment Roll, as applicable, to the Tax Collector.

(f) Notwithstanding the Board's use of an alternative method of collection, the Assessment Coordinator shall have the same power and authority to correct errors and omissions as provided in Sec. 4A-14 hereof.

(g) Any Board action required in the collection of Fire Rescue Assessments may be by resolution.

*(Ord.2010-02, Sec. 1)*

### **Sec. 4A-19. Government property**

(a) In the event Fire Rescue Assessments are imposed against Government Property, the Board shall provide Fire Rescue Assessment bills by first class mail to the owner of each affected parcel of Government Property. The bill or accompanying explanatory material shall include

(1) a brief explanation of the Fire Rescue Assessment,

(2) a description of the unit of measurement used to determine the amount of the Fire Rescue Assessment,

(3) the number of units contained within the parcel,

(4) the total amount of the parcel's Fire Rescue Assessment for the appropriate period,

(5) the location at which payment will be accepted, and

(6) the date on which the Fire Rescue Assessment is due.

(b) Fire Rescue Assessments imposed against Government Property shall be due on the same date as all other Fire Rescue Assessments and, if applicable, shall be subject to the same discounts for early payment.

(c) A Fire Rescue Assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The Board shall notify the owner of any Government Property that is delinquent in payment of its Fire Rescue Assessment within 60 days from the date such assessment was due. Such notice shall state that the Board will initiate a mandamus or other appropriate judicial action to compel payment.

(d) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any mandamus or other action as described herein shall be included in any judgment or decree rendered therein. All delinquent owners of Government Property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the Town, including reasonable attorney fees, in collection of such delinquent Fire Rescue Assessments and any other costs incurred by the Board as a result of such delinquent Fire Rescue Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(e) As an alternative to the foregoing, a Fire Rescue Assessment imposed against Government Property may be collected as a surcharge on a utility bill provided to such Government Property in periodic installments with a remedy of a mandamus action in the event of non-payment.

*(Ord. 2010-02, Sec. 1)*

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**ARTICLE I. GENERALLY**

**Sec. 5-1. Building permits and Zoning Compliance Verification**

Building permits are governed by Florida Statute and the *Florida Building Code*. The Building Division of Alachua County, by interlocal agreement, is responsible for compliance with the requirements of the *Florida Building Code* within the corporate limits of the Town of Micanopy, however, a condition precedent to the issuance of a building permit by Alachua County is a Zoning Compliance Verification issued by the Town Clerk. The fee charged for a Zoning Compliance Verification shall be as established by Resolution of the Town Commission.

(Ord. 85-10, Sec. 1; Ord. 2016-03, Sec. 1)

**Sections 5-2 through 5-19 reserved.**

**ARTICLE II. HAZARDOUS BUILDINGS AND LAND**

**Sec. 5-20. Definitions**

(a) "Dangerous Buildings" means all building, buildings, or structures which have any or all of the following defects:

(1) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle half of its base.

(2) Those which, exclusive of foundation, show thirty per cent (30%) or more damage or deterioration of the supporting member or members, or fifty (50%) of damage or deterioration of a non-supporting closing or outside wall or covering.

(3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.

(4) Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the Town.

(5) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to the decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.

(6) Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may work therein.

(7) Those having inadequate facilities for egress in case of fire or panic, or those having insufficient stairways, elevators, fire escapes or other means of communication.

(8) Those which have parts thereof which are so attached that they may fall and injure members of the public or property in general.

(9) Those which, because of their condition, are unsafe and are unsanitary or dangerous to the health, morals, safety or general welfare of the people of this Town.

(b) "Hazardous Lands" means lands unoccupied as well as occupied, upon which there is an accumulation of trash, filth, excessive growth of weeds or noxious plants, or littered with other matter, on or within the premises which may cause disease or affect the health of the inhabitants of the neighborhood or Town.

(c) "Enforcing official" means the Code Enforcement Officer of the Town of Micanopy, Florida.

(d) "Owner" means any person who, alone, jointly or severally with others, holds legal or equitable title to any building or land within the scope of this Article and shall include the occupant, lessee, mortgagee, or agent and all other persons having an interest in said building or land as shown by the records of the Clerk of the Circuit Court of Alachua County, Florida.

(e) "Person" means any individual or any entity, partnership, association, corporation, company, or organization of any kind.

(f) "Town" means the Town of Micanopy, Florida.

(Ord.83-5, Sec. 17-3)

**Sec. 5-21. Authorization to inspect**

The Enforcing Official or his agent is authorized and directed to lawfully enter and inspect all buildings and to lawfully go upon and inspect all lands within the Town at reasonable times to determine their condition in

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order to safeguard the health, safety and welfare of the public, or upon receipt of complaints or when he has cause to believe a violation of this Article exists.

*(Ord.83-5, Sec. 17-4)*

### **Sec. 5-22. Designation of enforcing official and powers and duties**

The Mayor or an official designated by the Mayor shall be the Enforcing Official. The Enforcing Official shall be charged with the duty of administering the applicable standards and securing compliance therewith. In furtherance of this responsibility, the Enforcing Official shall:

(a) Make such inspections as may be necessary to effectuate the purposes and intent of this Article and to initiate appropriate action to bring about compliance with this Ordinance, if such inspections disclose any instance of non-compliance.

(b) Investigate thoroughly any complaints of alleged violations of this Article, and indicate clearly in writing as a public record in his office the disposition made of such complaints; only matters or conditions pertinent to this Article shall be considered or reported by the Enforcing Official in his inspection recommendations.

(c) Order in writing as set out below the remedy of all conditions or all violations of the Article found to exist in or on any premises; state in the violation order a time limit for compliance herewith as hereinafter set out.

(d) Request the Town Attorney to take appropriate legal action upon the failure of the responsible party to comply with such violation order at the time specified therein.

*(Ord.83-5, Sec. 17-5)*

### **Sec. 5-23. Enforcing official; procedure in handling violations**

Whenever the Enforcing Official determines that a violation of the Article exists, he shall take action as follows:

(a) Give written notice of the violation to the owner. Copies of such written notice shall be transmitted to the Mayor and the Town Attorney.

(b) The notice shall include:

(1) A description of the location of the buildings and/or land involved, either by street address or by legal description;

(2) A statement indicating the nature of the violation and reason or reasons why the notice of violation is issued;

(3) A specification of the section or sections of this Article upon which the notice of violation is based;

(4) If repairs or alterations will bring the structure into compliance with this Article, a statement of the nature and extent of such repairs or alterations necessary to comply with this Article;

(5) If the violation is of such a character that repairs or alterations cannot bring the building into compliance, a statement to the effect and order of demolition of the building indicating fully the reason therefor;

(6) If repairs, alterations or demolition of a building or structure are necessary for compliance, a specification of time for performing same shall be stated in the notice which shall be not less than ten (10) nor more than ninety (90) days. If the violation pertains only to hazardous lands, a specification of the time for cleaning or clearing same shall be stated in the notice which shall not be less than ten (10) nor more than thirty (30) days;

(7) The name or names of persons upon whom the notice of violation is served as stated in (a) of this Section;

(8) A statement advising that upon the owner's failure to comply with the notice, the Town may perform or cause to be performed the repairs, alterations, demolition, or cleaning up of the building or land involved, and that the expense of such performance by the Town shall constitute a lien against the property involved;

(9) A statement advising of the procedures available for review of the action of the Enforcing Official as set out in Sec. 5-26 of this Article.

*(Ord.83-5, Sec. 17-6)*

### **Sec. 5-24. Service of notice**

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(a) The written notice of violation referred to in Sec. 5-23 shall in all cases be served upon the owner or his agent as well as upon the occupant of the premises, if the premises are not occupied by the owner. Such service shall be deemed complete if personally delivered and if the same cannot be delivered personally within the Town, then service shall be deemed complete upon sending same by certified mail, return receipt requested, to the last known address of the owner as shown on the tax rolls of the Town, and by posting a copy of such notice in a conspicuous place on the premises.

(b) The Enforcing Official shall endorse on the copies of the written notice forwarded to the Mayor and the Town Attorney, the manner of service of the notice or notices as are hereby required.

(c) When any written notice of violation shall become an order, whether because no petition for review of the decision of the Enforcing Official has been taken and the decision of the Enforcing Official has not been reversed, then such order shall be executed by the Enforcing Official.

(d) If such order is not complied with in the time specified in the order, then the Town shall make such repairs, alterations, demolition or clean-up as may be required in such order. Such expense shall be paid by the owner in accordance with Sec. 5-27 of this Ordinance.

(e) The Enforcing Official shall place a notice on all dangerous buildings and post same on hazardous land reading as follows:

“The building and/or land has been found to be dangerous or hazardous by the Enforcing Official. This notice is to remain on the building or land as placed thereon until the requirements of the notice have been fully complied with. It is unlawful to remove this notice until such requirements have been complied with.”

*(Ord. 83-5, Sec. 17-7)*

### **Sec. 5-25. Standards for repair, vacation or demolition**

The following standards shall be followed in substance by the Enforcing Official and the Board of Appeals in ordering repair, vacation and demolition:

(a) If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this Ordinance, it shall be ordered repaired.

(b) If the dangerous building is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated.

(c) In any case where a dangerous building is fifty percent damaged or decayed, or deteriorated from its original value or structure, it shall be demolished and in all cases where a building cannot be repaired so as to no longer constitute violation of this Article, it shall be demolished. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this or any ordinance of the Town or statute of the State, it shall be demolished.

*(Ord.83-5, Sec. 17-8)*

### **Sec. 5-26. Town Commission to act as appeals board**

(a) There is hereby established an Appeals Board for Dangerous Buildings and Hazardous Land violations. The Town Commission of the Town shall serve and perform the duties of such Appeals Board for Dangerous Buildings and Hazardous Land violations under the procedure herein set forth.

(b) Meetings shall be at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence, the vice-chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Appeals Board shall keep minutes of its proceedings, including a summary of the testimony of each person appearing before it; it shall keep records of its findings and decisions. The vote of each member on each question shall be recorded, or if absent or failing to vote, the circumstances shall be noted. The concurrence of not less than three members of the Appeals Board shall be necessary to a decision of any question which the Board has the power to determine. All such records shall be public records and the same shall be filed in the office of the Appeals Board, which shall, for the purpose of this Article, be the office of the Enforcing Official.

(c) Appeals to the Appeals Board for Dangerous Buildings and Hazardous Land violations may be taken by any person aggrieved by any notice which has been issued in connection with the enforcement of this Article or by any officer or bureau or the governing body of the Town affected by any decision of the Enforcing Official. Such appeals shall be taken within fourteen (14) days after the notice of violation was served or action taken, by filing in the office of the Enforcing Official a written petition to the Board of Appeals setting forth the grounds therefor. Upon the receipt of such petition, the Appeals Board shall set a time and place for hearing the appeal, but in no case shall such hearing be less than ten days or more than forty days following



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the receipt of the petition. The Enforcing Official shall promptly transmit to the Appeals Board all papers constituting the record upon which the notice of violation was issued or action taken. Written notice of the time and mail, return receipt requested, to the person taking such appeal at least ten (10) days prior to the date of such hearing and public notice of such hearing shall be published at least once ten (10) days prior to the date of such hearing and public notice of such hearing shall be published at least once ten (10) days prior to the hearing in a newspaper of general circulation in the Town. At the hearing, any party may appear in person or by agent or attorney.

(d) After public notice and public hearing, the Appeals Board for Dangerous Buildings and Hazardous Lands violations shall have the power to sustain, modify or withdraw the notice of violation. The appeals Board shall make findings in writing justifying the exercise of its authority and the same shall be a part of the permanent record of the case.

(e) If the Appeals Board sustains the Enforcing Official, it shall find:

(1) that the facts as stated in the written notice of violation are correct and that the situation covered by the notice is, in fact, a violation of the Ordinance; and

(2) that the remedy stated by the Enforcing Official in the written notice of violation is the minimum remedial action which will bring the building or the land cited into compliance with this Article.

(f) If the Appeals Board shall modify or withdraw the notice of violation, it shall find the following, as may be applicable to the specific case:

(1) that the facts as stated in the written notice of violation are not correct and that the situation as covered by the notice is not, in fact, a violation of the Ordinance, or that the procedures required of the Enforcing Official in this ordinance have not been complied with; and

(2) that the remedial action required by Enforcing Official is not the minimum remedial action necessary to bring the structure or premises into compliance with the Article and that some other remedial action, to be stated by the Appeals Board as a part of the record necessary to secure compliance with this Ordinance.

(g) If the owner fails to comply with the order entered by the Appeals Board within the time therein allowed, the Appeals Board shall cause such building, structure or land to be repaired, vacated, demolished or cleaned up, as the facts may warrant, and shall, with the assistance of the Town Attorney, cause the cost of such repairs, vacation, demolition or clean-up to be paid by suit at law or charged against the property as otherwise herein provided.

(h) (1) In addition to the authority hereinbefore given to the Appeals Board, such Board shall have the authority upon good cause shown therefor in writing to grant an extension of time within which an owner or occupant, may be required to comply with a notice of violation which has been issued by the Enforcing Official provided such written request for the extension of time is presented to the Board prior to the expiration of the time originally stated in the written notice of violation.

(2) The Enforcing Official shall be furnished immediately with a copy of such written request for an extension and shall immediately file a written report regarding the request which shall be considered by the Appeals Board at the same time the requested extension shall be considered.

(3) The authority of the Appeals Board in hearing requests for extension of time as herein given shall be in each instance limited to either granting or denying the request for such extension, and shall not be considered as an appeal from the terms of notice of violation, and the Appeals Board shall not have authority to modify or vary the terms of the notice of violation except as to the time of performance.

(4) In granting or denying the request for extension of time, the Appeals Board shall consider such factors as are appropriate, including the good faith effort to comply, the availability of materials and workmen necessary, and other such factors as the Appeals Board may deem appropriate and consistent with the intent of the Dangerous Building and Hazardous Land Code.

(5) All requests for extension of time shall be considered at the next meeting of the Appeals Board occurring not less than three days after the filing of such request, and the person seeking the extension of time as well as the Enforcing Official shall be notified of the time and place of such hearing.

(6) In granting or denying the request, the Appeals Board shall, in each instance, state its reason therefor and state the length of time, if it is extended, during which the acts required to be done shall be completed, which time, in no instance, may be greater than ninety (90) days after the time period stated in the original notice of violation in the case of dangerous buildings nor thirty (30) days in the case of hazardous lands.

*(Ord.83-5, Sec. 17-9)*

**Sec. 5-27. Assessing liens**

(a) Promptly after completion of any demolition, repairs, alterations, clearing or clean-up done by the Town under the authority of this Article, the Enforcing Official shall cause the owner to be billed for the cost of such work including labor, materials, and title searches. The bill shall be served upon the owner by delivery to him personally or by certified mail, return receipt requested, at his last known address as shown on the Town tax rolls. If the bill is not paid within thirty (30) days following such services, the owner shall be notified by the Enforcing Official's intention to apply for a special assessment against the property. Such notice shall:

- (1) Describe the premises involved either by legal description or street address;
- (2) Describe the nature of the work done thereon and state the amount for which a special assessment is sought;
- (3) Specify the date on which the Town Commission will hold a public hearing for the purpose of making a special assessment against the property for the cost of the work done thereon, and advise the owner of his right to be heard on any matter pertaining to the proposed special assessment; and
- (4) Said notice shall be served on the owner not less than five days prior to the date set for the hearing in the same manner as set forth above in this section.

(b) At the hearing, the Enforcing Official shall report to the Town Commission on the nature of the work accomplished, the cost of the work, and the service of the required notice. All interested parties shall be given an opportunity to be heard at such hearing with respect to the validity and amount of the proposed special assessment.

(c) After such hearing, the Town Commission may levy a special assessment against the property improved for the cost of such work done on such property in such amount as the Commission may find to be proper and reasonable. Such assessments shall be made by the adoption of a resolution containing findings of the Town Commission, including the finding that:

- (a) the procedures of this Article have been followed,
- (b) that the work done was in conformity with the requirements of this Article, and
- (c) that the amount of assessment is just and reasonable and based on the actual cost of such work.

The resolution shall contain a legal description of the property, the names of the owner of such property such property, and such other information as may be deemed appropriate. The assessment shall become effective immediately upon the adoption of the resolution and shall bear interest thereafter at the rate of six per cent (6%) per annum. Upon the adoption of the resolution, the Town shall have a lien against the property on which the work was done and on the real estate on which it is located, as described in the resolution, which lien shall be of equal dignity with other municipal liens for taxes, levies and assessments and may be enforced as other such municipal liens. The owner may pay the amount of such lien, including interest, in thirty (30) consecutive, monthly installments, commencing on the first day of the month following the adoption of such resolution.

(d) A copy of such resolution shall be served on the owner by certified mail within ten (10) days of the date of its adoption, and a copy shall be published once a week for four (4) consecutive weeks in a newspaper of general circulation within the Town.

*(Ord.83-5, Sec. 17-10)*

**Sec. 5-28. Duties of the Town Attorney**

(a) Prosecute all persons failing to comply with the terms of the notice provided for in Sec. 5-23 and in the order provided for in Sec. 5-24.

(b) Appear at all hearings before the Board of Appeals in regard to dangerous buildings and hazardous lands;

(c) Bring suit to collect all municipal liens, assessments or costs incurred in repairing or causing to be vacated, demolished or repairing, altering or demolishing or cleaning up dangerous buildings and hazardous lands;

(d) Take such other legal action as is necessary to carry out the terms and provisions of this Article.

*(Ord.83-5, Sec. 17-11)*

**Sec. 5-29. Administrative liability**

No officer, agent or employee of the Town shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required by this Article. Any suit brought against an officer, agent or employee of the Town as a result of any act required or permitted in the discharge of his

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duties under this Article shall be defended by the Town Attorney until the final termination of the proceedings therein.

*(Ord.83-5, Sec. 17-12)*

### **Sec. 5-30. Penalty for failure to comply**

(a) Any person who shall fail to comply with an order issued under this Article shall be punished, upon conviction, by a fine not exceeding \$500.00 or by imprisonment for not more than sixty (60) days, or by both such fine and imprisonment.

(b) It shall be unlawful for any person to remove the notice provided for in Sec. 5-24 of this Article until the requirements thereof have been fully complied with. Any person removing the notice provided for in Sec. 5-24 hereof, shall, upon conviction therefore, be punished by a fine not exceeding \$500.00 or by imprisonment for not more than sixty (60) days, or by such fine and imprisonment.

*(Ord.83-5, Sec. 17-13)*

### **Sec. 5-31. Status of Appeals Board action; judicial review**

(a) If the Appeals Board sustains or modifies the written notice of violation given by the Enforcing Official it shall be deemed an order and action shall be taken by the Enforcing Official to enforce the same. Any notice of violation served pursuant to this Article and in conformity with its provisions shall become an order if no petition for review has been filed with the Appeals Board within the time limit set out in Sec. 5-26 hereof.

(b) Any person or persons, or any board, taxpayer, department, board or bureau of the Town government aggrieved by any decision of the Appeals Board may seek review by a circuit court, in the manner provided by the Laws of Florida. It is the intent of this ordinance that review of decisions of the Appeals Board shall be by the courts as provided by law.

*(Ord.83-5, Sec. 17-14)*

**Sections 5-32 through 5-39 reserved.**

## **ARTICLE III. BUILDING TRANSPORT**

### **Sec. 5-40. Building transport permit**

No building shall be moved, transported into, within, or out of the Town of Micanopy until a Building Transport Permit has been issued. For the purposes of Sec. 5-40 through 5-45 inclusive, a structure of less than 12 feet in width and 20 feet in length shall not be defined as a building.

*(Ord.88-6, Sec. 1)*

### **Sec. 5-41. Application for building transport permit**

The owner of a building, or his or her duly authorized agent, may apply for a Building Transport permit by filing an application with the Town Clerk. The application shall include:

(a) A map showing access roads to the lot upon which the building is to be moved on or off (if applicable), and

(b) A drawing showing the specific route to be taken within the Town limits of the Town of Micanopy, and specifically including information about any required trimming of trees or brush, utility relocation, or relocation of any public or private property improvements, and

(c) If the building transport should require the relocation of any private property, utilities or improvements, or trimming of trees or brush, the applicant shall include a letter from the owner to the Town Clerk of the Town of Micanopy giving permission for the applicant to effect the relocation of the utilities and/or improvements, and/or to conduct the trimming of trees or brush, and

(d) The contractor moving the building shall provide proof of liability insurance to cover that specific move in an amount not less than \$100,000 per person/\$300,000 per incident, and \$50,000 of property damage insurance.

*(Ord.88-6, Sec. 1)*

### **Sec. 5-42. Procedure to obtain transport permit**

(a) The procedure to obtain a Building Transport Permit shall be the same as obtaining a Building Permit.

(b) Prior to the issuance of any Building Transport Permit, the applicant shall post a refundable deposit of \$250.00 for the purpose of repairing or replacing any public or private property disturbed by the contractor during the move.

(c) The charge for a Building Transport Permit shall be as set forth by Resolution of the Town

Commission of the Town of Micanopy.

*(Ord. 88-6, Sec. 1)*

**Sec. 5-43. Building transport days**

Building Transport Permits shall provide for buildings to be moved only Monday through Thursday of each week, between the hours of 8:00 a.m. and 4:00 p.m.

*(Ord. 88-6, Sec. 1)*

**Sec. 5-44. Transport permit to be cumulative, not exclusive**

The requirements for this permit shall be in addition to the requirement of the Building Permit and any other permits that may be required, and shall not preclude the requirement of obtaining additional permits.

*(Ord. 88-6, Sec. 1)*

**Sec. 5-45. Structures moved on-site or off-site**

(a) The exterior construction, improvement or alteration of all structures moved on-site shall be completed within 120 days of the date of approval of the building permit.

(b) All lots which structures are moved off shall be cleared of all building debris within 120 days of approval of the building permit.

(c) Failure to comply with the timetables as provided in this section shall require the holder of the building permit to apply for a "de novo" building permit application and obtain a building permit under the requirements of Sec. 5-1 for the completion of construction as though no building permit had been previously obtained.

*(Ord.85-10, Sec. 5)*

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**ARTICLE 1. CONVENIENCE STORES**

**Sec. 10-1. Adoption of statutory requirements for convenience stores**

The Town hereby adopts the provisions of Florida Statutes §§812.173 and 812.174, as same may be amended from time to time, as local regulations governing the operations of convenience stores located within the Town. In no event shall the Town incur any liability for the regulation and enforcement of this Article.

*(Ord. 90-4, Sec. 1; Ord. 2016-04; Sec. 1)*

**Sec. 10-2. Enforcement**

Violations of this Article are subject to enforcement through the code enforcement process contained in Article III of Chapter 2 of this code.

*(Ord. 90-4, Sec. 2; Ord. 2016-04; Sec. 1)*

**Sections 10-3 through 10-9 reserved.**

**ARTICLE II. VENDING BOOTHS AND OPEN AIR SALES**

**Sec. 10-10. Definitions**

“Open air sales“ means the sale of goods or services conducted from any location other than a permanent structure and includes, but is not limited to, sales from a table, booth (other than a Vending Booth, as defined below), tent, vehicle, or trailer.

"Vending booth" is a temporary wheeled cart-mounted food or retail establishment that is located on private property. A vending booth cannot be propelled by an internal combustion engine, electric motor or other similar mechanical device. A vending booth must be capable of being moved from place to place, but may be stationary during the business day. Examples of vending booths are, but are not limited to, the following: coffee stands; hot dog stands; stands selling muffins, bagels and other bakery items; ice cream carts; snow cone and Italian Ice carts; fast-food carts; souvenir carts; and newsstands.

*(Ord. 2000-4, Sec. 1; Ord. 2015-02, Sec. 1)*

**Sec. 10-11. Permit required**

(a) In order to operate a vending booth or an open air sales business a permit is required which can be renewed annually upon payment of the fee established by Resolution of the Town Commission. Permits expire on October 1, regardless of when issued, and are delinquent if not renewed. In order to obtain a permit, written approval is required from the Town Administrator who will approve the application if it meets the requirements of this Article and all applicable fire safety regulations. An approved permit must be on display or immediately available for display at the site.

(b) The permit application shall include the following information:

- (1) A brief description of the goods or services to be offered for sale.
- (2) The specific location of the proposed operation.
- (3) Written permission from the owner of the property where the business will operate.
- (4) The name, address and telephone number of the applicant.
- (5) A description of the vending booth or the setting for the open air sales, i.e., the tent, vehicle, table(s), trailer, etc., intended to be used.
- (6) An agreement to operate in accordance with the provisions of this Article.

*(Ord. 2000-4, Sec. 1; Ord. 2015-02, Sec. 1)*

**Sec. 10-12. Restrictions on operations of vending booths and open air sales**

A copy of the following restrictions shall be provided to each permittee:

- (a) Operations shall be conducted only on property zoned C-1 or C-2 where the principal use of the property is other than residential.
- (b) No operations shall be conducted on any street or sidewalk.
- (c) No operations shall be located within five feet from a curb or improved right-of-way, a fire hydrant or a crosswalk.
- (d) No operation shall be situated so as to block ingress or egress from a building entrance or emergency exit.

- (e) No operation shall obstruct a driver's sight line of traffic control devices or an intersection.
- (f) Preparation or selling of food shall meet all applicable health department regulations.
- (g) A trash container shall be located at the site. All litter shall be deposited in the trash container.
- (h) Any operation using open flames or electrical devices shall be equipped with at least one approved portable fire extinguisher having a rating of ABC.
- (i) All containers of flammable liquids or gases must be protected from physical damage and, if enclosed, vented at the lowest point of the enclosure.
- (j) No alcoholic beverages shall be allowed at the site.
- (k) Operations may not be set up before 7:00 AM. Operations shall completely remove all materials from the site no later than 8:00 PM or dark, whichever occurs first.
- (l) Operations may not be conducted at any location other than the location specified in the permit.
- (m) Operations located on property zoned C-1 are limited to a single vendor at any given time.

*(Ord. 2000-4, Sec. 1; Ord. 2015-02, Sec. 1)*

**Sec. 10-13. Revocation of permit**

(a) Permits issued under this Article may be revoked by the Town Administrator after proper notice and opportunity for hearing for any of the following reasons:

- (1) Fraud, misrepresentation or false statement contained in the application for permit.
- (2) Any violation of this Article.
- (3) Conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- (4) Such revocation may be appealed directly to the Town Commission, provided such appeal is filed with the Town Administrator within 15 days of the time of the revocation. The Town Administrator shall then schedule the hearing on the appeal at the next regular meeting of the Town Commission scheduled to be at least ten days from the date the appeal is filed. The Town Commission shall review the record and may restore the permit only if it finds an abuse of discretion.

*(Ord. 2000-4, Sec. 1; Ord. 2015-02, Sec. 1)*

**Sec. 10-14. Applicability of Ordinance 2015-02**

The provisions of Ordinance 2015-02 shall not apply to any vendor actually operating a vending booth or an open air sales business in the Town of Micanopy as of June 1, 2015, however, any such business expanding or moving to another parcel shall be required to comply with Ordinance 2015-02 as to such new location.

*(Ord.2015-02, Sec. 3)*

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**ARTICLE I. ARCHAEOLOGICAL RESOURCES**

**Sec. 15-1. Title**

This Article shall be known and cited as the Town of Micanopy Archaeological Preservation Ordinance.  
(Ord. 96-8, Sec. 1)

**Sec. 15-2. Findings**

Micanopy contains many areas that are historically and archaeologically important to the citizens of this Town and the United States. Further, in the preservation and understanding of the historical importance of Micanopy, there is generally a direct relationship of historic preservation and archaeology preservation to the economic well-being of the Town and the present and future needs, public health, safety, morals and general welfare of its citizens and its visitors. Further; there is an educational value and benefit to the Town that would result from a viable program of archaeological activities and the preservation of related resources.

(Ord. 96-8, Sec. 2)

**Sec. 15-3. Definitions**

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

- (a) "Archaeological Site" means a property or location which has yielded or may yield information on the Town's history or prehistory. Archaeological sites may be found within historic sites, historic districts, private property, public properties, and other areas of the Town. Archaeological sites are evidenced by the presence of artifacts and features below the ground surface indicating the past use of a location by people.
- (b) "Artifact" means objects which are a product of human modification or objects which have been transported to a site by people. In this Town, artifacts over fifty (50) years old are protected by this Article.
- (c) "Cultural Resource" or "Historic Resource" means any prehistoric or historic district, site, building, object or other real or personal property of historical, architectural or archaeological value. The properties may include, but are not limited to, monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, treasure troves, artifacts, or other objects with intrinsic historical or archaeological value, or any part thereof relating to the history, government, and culture of the Town, the State, or the United States of America.
- (d) "Disturbance" means the cumulative digging, excavating, site preparation work or other such construction activities, regardless of the number of individual excavation or construction areas, related to an archaeological site.
- (e) "Land" includes the words "marsh," "water," or "swamp."
- (f) "Prospect" means the use of a probe, metal detector, or any other device or tool to search or test or excavate for artifacts, historic sites or archaeological sites.
- (g) "Used" or "Occupied" includes the words intended, designed, or arranged to be used or occupied.

(Ord. 96-8, Sec. 3)

**Sec. 15-4. Prospecting and excavations on private property**

No individual shall be allowed to prospect on private property, nor may any individual remove artifacts from private property without the express written permission of the landowner. The permission must be carried with the prospector at all times while searching the private property.

(Ord. 96-8, Sec. 4)

**Sec. 15-5. Prospecting and excavations on public property**

No individual shall be allowed to prospect on public property including the public rights of way, nor can any individual remove artifacts from public property or public right of way without the express written permission of the Town or the appropriate legal authority controlling the right of way. The permission must be carried with the prospector at all times while searching the public property. Furthermore, no disturbances or construction activities shall be authorized within properties belonging to the Town, including public streets and rights-of-way, without a Town right-of-way permit and without such archaeology efforts as may be addressed by this Article.

(Ord. 96-8, Sec. 5)

**Sec. 15-6. Enforcement and penalties**

Any Person or Entity violating any of the provisions of this Article shall, upon conviction, be punished as provided in §162.22 Florida Statutes. Each incident or separate occurrence of an act that violates this Article

shall be deemed a separate offense. In lieu of the above procedure, the Town may enforce this Article in the manner provided by the Town's Code of Ordinances or by any other means authorized by law.

*(Ord. 96-8, Sec. 6)*

**Sec. 15-7. Injunctive relief**

In addition to the procedures provided herein, entities that are not in conformity with these requirements shall be subject to appropriate civil action in the court of appropriate jurisdiction for injunctive relief.

*(Ord. 96-8, Sec. 7)*

**Sec. 15-8. Territory embraced**

All territory within the legal boundaries of the Town of Micanopy, as they may be changed from time to time, shall be embraced by the provisions of this Article.

*(Ord. 96-8, Sec. 8)*

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**ARTICLE I. MISCELLANEOUS**

**Sec. 20-1. Unlawful to allow places in which mosquitoes may breed; penalties**

(a) It shall be unlawful for the owner, occupant or agent of any lot or parcel of a lot to allow any pool of water or well of water to stand or remain open or unused until the water of same shall become stagnant whereby the comfort or health of any citizen shall be impaired or endangered.

(b) It shall be unlawful for any person to keep, maintain, cause or permit within the corporate limits of the Town of Micanopy any collection of standing or flowing water in which mosquitoes breed, or are likely to breed, unless such collection of water is treated so as to effectually prevent such breeding; such treatment to be in conformity with the rules and regulations of the State of Florida.

(c) For the purposes of this section, collections of water in which mosquitoes breed or are likely to breed are described as those contained in ditches, ponds, pools, excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, fills, wells, barrels, troughs (except horse troughs in frequent use), urns, cans, boxes, bottles, tubs, defective house roof gutters, tanks of flush closets or other similar water containers.

(d) Any person, persons, firm or corporation or the agent of any person, persons, firm or corporation who violates the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in the sum of not less than ten dollars (\$10.00) or more than one hundred dollars (\$100.00).

*(Ord.83-5, Sec. 28-1)*

**Sec. 20-2. Excessive growth of weeds, etc. prohibited; abatement; cost**

It shall be unlawful for the owner, or person occupying or having control of any vacant lot or any premises, to keep or to allow to remain thereon, any excessive growth of weeds, or noxious plants, or any unwholesome, or offensive vegetable matter whatever calculated to annoy any citizen, or to endanger public health. The existence of any of the conditions herein prohibited upon any premises, shall be deemed and held to be a public nuisance, which may be abated or removed.

*(Ord.83-5, Sec. 28-2)*

**Sec. 20-3. Nuisance conditions**

(a) It shall be unlawful for the owner or occupant of any lot or parcel of land in the Town to permit to exist on any such lot or parcel of land any condition which may be declared to be noxious, detrimental to health or to constitute a nuisance.

(b) The existence of any of the following conditions on any lot or parcel of land in the Town is hereby declared to be noxious, detrimental to health and to constitute a nuisance and to be violative of this Article:

(1) Any growth of weeds or grass to a greater height than twelve (12) inches.

(2) Any accumulation of animal or vegetable matter that is offensive by virtue of strong odors or vapors or by the inhabitancy therein of rats, mice, snakes or vermin of any kind.

(3) Any condition found by the Alachua County Health Department to be detrimental to the health of the Town or any of its inhabitants, or which is violative of any of the rules and regulations of the Alachua County Health Department.

(4) Any trees which overhang a public right of way in such a manner as to interfere with the passage of traffic thereon, or is in such a condition as to endanger persons using the right of way.

*(Ord.83-5, Secs. 28-21, 28-22)*

**Sections 20-5 through 20-19 reserved.**

**ARTICLE II. GARBAGE AND TRASH**

**Sec. 20-20. Definitions**

(a) "Garbage" shall mean every refuse accumulation of animal, fruit or vegetable matter that attends the preparation, use, cooking and dealing in, or storage of meats, fish, fowl, fruit or vegetables, and any other matter of any nature whatsoever, which is subject to decay and the generation of noxious or offensive gases or odors, or which, during or after decay, may serve as breeding or feeding material for flies or other germ carrying insects; and any bottles, cans or other containers, utilized in normal household use, which due to their facility to retain water, may serve as breeding places for mosquitoes or other water-breeding insects.

(b) "Trash" shall mean refuse, accumulations of paper, wooden or paper boxes or containers, sweepings,

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and all other accumulations of a nature other than garbage, which are usual to housekeeping and to the operation of stores, offices and other business places.

(c) "Garden or Lawn Trash" shall mean all accumulations of grass, leaves, shrubbery, vines, and trimmings.

(d) "Garbage Can" shall be defined to mean a watertight container with suitable handles and a tight fitting cover of the type commonly sold as a "garbage can" and of a capacity of not more than thirty-two (32) gallons nor less than fifteen (15) gallons.

*(Ord.83-5, Sec. 25-1)*

### **Sec. 20-21. Garbage cans required**

The owner or occupant of each single-family housing unit or business establishment in the Town shall provide therefor a garbage can or cans of sufficient capacity to hold accumulated garbage. Such cans shall not be kept upon any street, sidewalk or public place.

*(Ord.83-5, Sec. 25-2)*

### **Sec. 20-22. Deposit of garbage or trash upon unoccupied premises etc., prohibited**

It shall be unlawful for any person to deposit garbage or trash upon any vacant or unoccupied premises or in any waterway, pit or pool within the Town. Sec. 20-24. Accumulation of garbage or trash limited.

*(Ord.83-5, Sec. 25-3)*

### **Sec. 20-23. Burning trash**

No person shall burn any trash, garden or lawn trash, or garbage within the corporate limits of the Town without first obtaining a permit from the Chief of the Fire Department of the Town. Upon application a permit shall be issued unless the Chief of the Fire Department of the Town shall determine that the proposed burning shall pose a fire or health hazard to persons or property.

*(Ord.83-5, Sec. 25-4)*

### **Sec. 20-24. Accumulation of garbage or trash limited**

No person is permitted an accumulation of garbage upon any premises in the Town for a period longer than four (4) days. No person is permitted an accumulation of trash upon any premises within the Town for a period longer than eight (8) days.

*(Ord.83-5, Sec. 25-5)*

### **Sec. 20-25. Franchise**

The owner of the real property upon which said business or residence is located, and any person who receives water service from the Town at such residence or business, shall be liable for the contractor's lawful fees and charges whether or not such business or residence, actually uses the services provided by the franchisee.

*(Ord.83-5, Sec. 25-7)*

### **Sec. 20-26. Litter**

(a) It shall be unlawful for any person to throw or deposit, or cause to be thrown or deposited any decayed fruit, waste, paper, shavings, offal, garbage, dirt, or trash of any kind on any sidewalk, street, lane, road, alley, thoroughfare, or right of way within the Town limits.

(b) Any person violating any of the provisions of this section shall, upon conviction be punished by a fine of not more than one hundred dollars (\$100.00) or by imprisonment of not more than ten (10) days or by both such fines and imprisonment.

*(Ord.83-5, Sec. 25-10)*

**Sections 20-27 through 20-39 reserved.**

## **ARTICLE III. JUNK VEHICLES**

### **Sec. 20-40. Definitions**

The following definitions shall apply to interpretation and enforcement of this Article:

(a) "Person" shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

(b) "Property" shall mean any public or private real property within the Town of Micanopy which is not a

street, highway or right-of-way.

(c) "Street", "highway", or "right-of-way" shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic.

(d) "Vehicle" shall mean a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides and transports persons or property or pull machinery and shall include without limitation automobiles, trucks, trailers, motorcycles, tractors, buggies and wagons.

(e) "Junk Vehicle" shall mean any vehicle which appears to be incapable of safe operation under its own power upon public street and/or any vehicle not having both a current motor vehicle registration tag and current safety inspection.

(f) "Major Repair" shall mean the removal from the frame and the disassembly of the components of the power train of a motor vehicle to include either the engine, transmission or rear axle assembly. The term "major repair" shall also include in-frame repair of the engine which involves removal of the cylinder head, oil pan or pistons.

*(Ord.84-1, Sec. 1)*

**Sec. 20-41. Abandonment of vehicles prohibited**

It shall be unlawful for any person to abandon any vehicle within the Town and no person shall leave any vehicle at any place within the Town for such time and under such circumstances as to cause such vehicle to reasonably appear to have been abandoned.

*(Ord.84-1, Sec. 2)*

**Sec. 20-42. Major repairs prohibited in residential districts**

It shall be unlawful for any person to cause a vehicle to undergo major repair on any property residentially-zoned property within the Town.

*(Ord.84-1, Sec. 3)*

**Sec. 20-43. Junk vehicles prohibited**

(a) It shall be unlawful for the owner of any junk vehicle to allow such vehicle to remain on any property or street, highway or right-of-way within the Town for longer than seventy-two (72) hours.

(b) It shall be unlawful for the owner of any dangerous vehicle to allow such vehicle to remain on any property, street, highway or right-of-way within the Town. For the purposes of this section a dangerous vehicle shall mean a vehicle which represents or poses a danger to the public or the vehicle itself by reason of its physical location or condition (obstructing vehicular or pedestrian traffic, containing broken glass, leaking flammable liquids, etc.). Such vehicle shall be immediately repaired or removed by either the owner or the Town so as to eliminate such danger, and, if necessary, such vehicle may be impounded without prior notice of such impoundment and all costs for such impoundment and storage shall be borne by the owner of record of the junk vehicle.

(c) Sub-sections (a) and (b) of this section shall not apply with regard to a vehicle in an enclosed building.

Subsection (a) of this section shall not apply with regard to:

(1) A vehicle on the premises, for less than fifteen (15) days, of a business enterprise operated in a lawful place and in a lawful manner when necessary to the operation of such business.

(2) A vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Town of Micanopy.

*(Ord.84-1, Sec. 4)*

**Sec. 20-44. Impounding of vehicles**

(a) The Town Clerk is hereby authorized to remove and have removed and impounded any vehicle which reasonably appears to be in violation of this Article. The owner of the vehicle shall be liable for towing, storage and notice costs incurred pursuant to proper impoundment.

(b) In those cases where a vehicle is reasonably determined to be in violation of this Article, the enforcing official shall cause to be placed on the vehicle a notice declaring such vehicle to be in violation of such sections, stating with reasonable particularity the factors or reasons which caused such determination. Such notice shall indicate the date upon which it is issued and costs therefore imposed unless removed or repaired within thirty (30) days after the date of issuance of the notice, so as to no longer be in violation. The notice shall also advise that after proper impoundment the vehicle will be released to the owner only upon payment

of reasonable towing, storage and notice costs. The notice shall further state that in the event that the owner of such vehicle wishes to contest the validity of the proposed impoundment and imposition of costs, the owner must within ten (10) days after issuance of such notice, deliver to the Town Clerk of the Town of Micanopy a written request for a hearing before the Town Commission of the Town of Micanopy. The enforcing official shall cause a copy of such notice to be sent by registered mail, return receipt requested, to the address of the vehicle's owner as last shown by the records of the Division of Motor Vehicles of the State of Florida, or if the vehicle has an out of state license plate, by the records of the Division of Motor Vehicles of that State. If the owner is present at the time of the issuance of such notice, the notice may be hand delivered in lieu of posting and mailing. If the vehicle contains no license plate, notice shall be sent by registered mail, return receipt requested, to the address of the owner of the real property upon which the vehicle is located, according to the most recent records of the property appraiser of Alachua County.

(c) If a written request for a hearing to contest the validity of the determination to impound and impose costs is delivered to the Town Clerk in accordance with the time limitations imposed by this Article, the matter shall be considered at the next meeting of the Town Commission occurring not less than three (3) days after the filing of such request. The owner or his representative as well as the enforcement official or his designated representative shall be notified of the time and place of such hearing. Upon the filing of a written request for hearing, no vehicle involved shall be impounded and no further action shall be taken until a hearing has been held and a decision rendered by the Town Commission of the Town of Micanopy.

(d) Upon hearing a written request to contest the validity of the determination to impound or impose costs, the Town Commission shall render a decision affirming or overturning the determination to impound. Upon rendering a decision to impound, said impoundment shall not occur earlier than seventy-two (72) hours after the decision by the Town Commission.

(e) The vehicles impounded pursuant to this chapter shall only be released to the owner or his representative after payment of the towing, storage and notice of charges.

*(Ord.84-1, Sec. 5)*

**Sec. 20-45. Disposition of unreleased vehicles**

(a) If any vehicle is not removed and caused to be in compliance with the terms of this Article within the time allowed and thereafter such vehicle is impounded, and not released in accordance with this Article within thirty (30) days of the date of impoundment, the vehicle may be disposed of as junk if the vehicle is not reasonably repairable, and all sums received from the sale of such junk shall be deposited in the general fund of the Town of Micanopy to assist in defraying expenses for the enforcement of this Article.

(b) If such vehicle so impounded may be reasonably repaired so that title thereto may be transferred by appropriate authority, the same may be done through the procedure authorized under the provisions of Florida Statutes or under such other procedure as may be authorized by law.

(c) From the funds received from any such sale, there shall be deposited in the general fund of the Town of Micanopy to assist in defraying expenses of the enforcement of this Article all necessary expenses incurred in connection with the impounding and sale of such vehicle and the balance thereof may be claimed by the rightful owner within thirty (30) days of the date of such sale. If the rightful owner should fail to claim the balance, it shall be forfeited to the Town of Micanopy.

*(Ord.84-1, Sec. 6)*

**Sec. 20-46. Penalties**

(a) Any person violating any of the provisions of this Article shall upon conviction be punished as provided for the violation of a misdemeanor of the second degree in accordance with Florida Statutes Chapter 775.081, 775.082 and 775.083.

(b) In addition to, or in lieu of issuance of any injunction, the Town of Micanopy shall be entitled to apply for reasonable court costs and attorney's fees expended in obtaining an injunction as provided herein.

*(Ord.84-1, Sec. 7)*

**Sections 20-47 through 20-59 reserved.**

**ARTICLE IV. SEPTIC TANKS**

**Sec. 20-60. Minimum standard for existing septic tanks**

(a) An "existing septic tank" shall be defined as a septic tank installed on the building site at the time a building permit is approved.

(b) Any existing septic tank to be used for the purpose of serving new or altered kitchen or bathroom facilities, or to serve a structure moved on site, shall be:

(1) Pumped out so that thorough inspection of the interior may be made and the size of the septic tank may be determined, and

(2) A new drain field shall be installed complying with the requirements of the Alachua County Health Department.

**Sections 20-61 through 20-69 reserved.**

## **ARTICLE V. ANIMALS**

### **Sec. 20-70. Nuisance animals**

A "nuisance animal" is any animal which destroys property not belonging to its owner, bites any person, or which creates a public nuisance in the Town of Micanopy. Nuisance animals may be picked up by any law enforcement agency and disposed of in the manner provided for stray dogs.

*(Ord.83-5, Sec. 8-1)*

### **Sec. 20-71. Definitions**

(a) Wherever used in this Article, the term "Livestock" shall include cattle, horses, sheep, goats, asses, mules and all other domestic animals of a shelter nature except dogs and cats.

(b) The term "fowl" whenever used in this Article shall include chickens, ducks, geese, guineas, turkeys, pigeons, and all other domestic fowl.

*(Ord.83-5, Secs. 8-2, 8-16)*

### **Sec. 20-72. Premises subject to inspection**

The Town Clerk shall at all times be permitted to inspect any premises upon which livestock are kept.

*(Ord.83-5, Sec. 8-5; Ord. 2016-06, Sec. 1)*

### **Sec. 20-73. Keeping hogs prohibited**

The keeping, herding and feeding of hogs or swine of any kind in pens or otherwise within the corporate limits of the Town is prohibited and is hereby declared a nuisance injurious to the health of the inhabitants of the Town.

*(Ord.83-5, Sec. 8-6; Ord. 2016-06, Sec. 1)*

### **Sec. 20-74. Keeping livestock within 100 feet of dwelling prohibited**

It shall be unlawful to keep any livestock upon any property within 100 feet of any dwelling house within the Town.

*(Ord.83-5, Sec. 8-7; Ord. 2016-06, Sec. 1)*

### **Sec. 20-75. Manure**

All manure from livestock kept within Town limits shall be disposed of daily or kept in an effectively screened enclosure in a satisfactory manner so as not to be injurious to the health, safety and welfare of the inhabitants of the Town.

*(Ord.83-5, Sec. 8-8; Ord. 2016-06, Sec. 1)*

### **Sec. 20-76. Fowl running at large**

It shall be unlawful for any person owning or having the custody of any fowl to allow the same to run at large on any street, alley or lane in the Town. Any fowl found running at large may be caught and impounded by the Town Clerk or by his order.

*(Ord.83-5, Sec. 8-19; Ord. 2016-06, Sec. 1)*

### **Sec. 20-77. Property owner may confine fowl running at large**

If any fowl be found on any public street, park, alley, or way in the Town or on the property of any person other than the owner of such fowl and be found destroying or damaging any plant, grasses, garden or other property not the property of the owner of such fowl, the person whose property is being destroyed may catch and confine such fowl and hold the same for disposition by the Town Clerk.

*(Ord.83-5, Sec. 8-20; Ord. 2016-06, Sec. 1)*

### **Sec. 20-78. Owner to provide enclosure**



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It shall be the duty of the owner of all fowl kept within the Town limits to provide a suitable enclosure sufficient to ordinarily keep such fowl from trespassing on the property of others.

*(Ord.83-5, Sec. 8-21; Ord. 2016-06, Sec. 1)*

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**ARTICLE I. FAIR HOUSING**

**Sec. 25-1. Declaration of policy**

It is hereby declared to be the policy of the Town of Micanopy, Florida, in the exercise of its police power for the public safety, public health, and general welfare, to assure equal opportunity to obtain adequate housing by all persons, regardless of race, color, age, sex, religion, national origin, place of birth, ancestry, handicap, or familial status, and, to that end, to eliminate discrimination in housing.

*(Ord. 91-1, Sec. 1)*

**Sec. 25-2. Definitions**

When used herein:

- (a) "Commission" means the Town Commission of the Town of Micanopy, Florida.
- (b) "Discriminatory housing practice" means an act that is unlawful under Sec. 25-4, 25-5, or 25-6 of this Article.
- (c) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designated or intended for occupancy, as, a residence by one or more families, and any for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.
- (d) "Familial status" means one or more individuals who have not attained the age of eighteen (18) years being domiciled with:
  - (1) A parent or another person having legal custody of such individual or individuals: or
  - (2) The Designee of such parent or other person having such custody with the written permission of such parent or other person. The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the legal age of eighteen (18) years.
- (e) "Family" includes a single individual.
- (f) "Handicap" means that a person has a physical impairment which substantially limits one or more major life activities or that he or she has a record of having, or is regarded as having, such physical impairment.
- (g) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.
- (h) "To rent" includes to lease, to sublease, to let and otherwise grant for a consideration the right to occupy premises not owned by the occupant.

*(Ord. 91-1, Sec. 2)*

**Sec. 25-3. Exemptions**

- (a) Nothing in Sec. 25-4 (other than subsection (b)) shall apply to:
  - (1) Any single-family house sold or rented by an owner:
    - PROVIDED, that such private individual owner does not own more than three (3) such single-family houses at any one time;
    - PROVIDED FURTHER, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four (24) month period;
    - PROVIDED FURTHER, that such bona fide private individual owner does not own interest in, nor is there owned or reserved on his or her behalf, under any express or voluntary agreement, title to any right to all or a portion of the proceeds from the sale or rental of more than three (3) such single-family houses at any one time;
    - PROVIDED FURTHER, that after the effective date of this Article the sale or rental of any such single family house shall be excepted from the application of this Article only if such house is sold or rented
      - (A) without the use of any manner of sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and,

(B) without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of Sec. 25-4(c) of this title; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and such other professional assistance as necessary to perfect or transfer the title, or

(2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(b) For the purposes of subsection (a), a person shall be deemed to be in the business of selling or renting dwellings if:

(1) He has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein, or

(2) He has, within the preceding twelve (12) months, participated as agent, other than in the sale of his personal residence in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein, or

(3) He is the owner of any dwelling designated intended for occupancy by, or occupied by, five (5) more families.

(c) Nothing in this Article shall prohibit a religious organization, association, or society, or any non-profit institution, or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons unless membership in such religion is restricted on account of race, color, age, sex, national origin, place of birth, ancestry, or familial status. Nor shall anything in this Article prohibit a private club, not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings from which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(d) Nothing in this Article requires any person renting or selling a dwelling to modify, alter, or adjust the dwelling in order to provide physical accessibility except as otherwise required by law.

*(Ord. 91-1, Sec. 1)*

**Sec. 25-4. Discrimination in the sale or rental of housing**

Except as provided by Sec. 25-3, it shall be unlawful:

(a) To refuse to sell or rent after making a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, age, sex, religion, national origin, place of birth, ancestry, handicap, or familial status.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in provision of services or facilities in connection therewith, because of race, color, age, sex, religion, national origin, place of birth, ancestry, handicap, or familial status.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, age, sex, religion, national origin, place of birth, ancestry, handicap, or familial status, or an intention to make any such preference, limitation, or discrimination.

(d) To represent to any person because of race, color, age, sex, religion, national origin, place of birth, ancestry, handicap, or familial status, that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(e) For profit to induce or attempt to induce any person to sell or rent any dwelling by representation regarding the entry or perspective entry into the neighborhood of a person or persons of a particular race, color, age, sex, religion, national origin, place of birth, ancestry, handicap, or familial status.

*(Ord. 91-1, Sec. 4)*

**Sec. 25-5. Discrimination in the financing of housing**

It shall be unlawful for any bank, savings and loan association, insurance company, or other corporation, association, firm, or enterprise, whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against that person in the fixing of the amount or terms because of race, color, age, sex, religion, national origin, place of birth, ancestry, handicap, or familial status, of such person, or of any person associated with such person, in

connection with a loan or other financial assistance of present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given:

PROVIDED, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in Sec. 25-3.

*(Ord. 91-1, Sec. 5)*

**Sec. 25-6. Discrimination in the provision of brokerage service**

It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against any person in terms or conditions of such access, membership, or participation, on account of race, color, age, sex, religion, national origin, place of birth, ancestry, handicap, or familial status.

*(Ord. 91-1, Sec. 6)*

**Sec. 25-7. Administration**

- (a) The authority and responsibility for administering this Article shall be with the Commission.
- (b) The Commission may delegate its functions, duties, and powers to an appointed Board including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this Article.
- (c) The Commission or its appointed Board shall:
  - (1) implement the provisions of this Article and rules and regulations promulgated hereunder and all Ordinances, codes, rules, and regulations pertaining to housing discrimination;
  - (2) receive, initiate, and investigate any and all complaints alleging violations of the Article, and take appropriate action to eliminate, conciliate, prevent and/or initiate prosecution of any such violations;
  - (3) provide assistance in all matters relating to equal housing opportunity;
  - (4) publish and disseminate public information and educational materials relating to housing discrimination;
  - (5) enter into written working agreements as may be necessary to effectuate the purpose of this Article, with federal, state, and county agencies involved in reducing housing discrimination;
  - (6) administer oaths and compel the attendance of witnesses and the production of evidence before it by subpoenas issued by the Commission or its appointed Board;
  - (7) take other informational, educational, or persuasive actions to implement the intent and purposes of this Article.

*(Ord. 91-1, Sec. 7)*

**Sec. 25-8. Procedure**

- (a) Any person aggrieved by an unlawful practice prohibited by this Article must file a written complaint with the Commission or its appointed Board within forty-five (45) days after the alleged unlawful practice occurs.
- (b) Upon receipt of a complaint, the Commission or its appointed Board shall serve upon the individual charged with a violation (hereinafter referred to as "respondent"), the complaint and a written resume setting forth the rights of the parties including, but not limited to, the right of the respondent to a hearing on the matter before adjudication by the Commission or its appointed Board.
- (c) The Commission or its appointed Board shall immediately investigate the complaint within sixty (60) days from the date of the receipt of the complaint, the Commission or its appointed Board shall establish a written report with findings of fact.
- (d) Copies of the Commission or its appointed Board's report shall be sent to the complainant and the respondent. Either may, within ten (10) days after such service, request a hearing before the Commission.
- (e) When the complainant or the respondent request a hearing by the Commission or its appointed Board, or when the Commission or its appointed Board itself determine that a hearing is desirable, the Commission or its appointed Board shall call and conduct such hearing in accordance with Sec. 25-9 as hereafter provided.
- (f) The Commission or its appointed Board shall carry into execution the actions specified in its report, or, if a hearing is held, shall carry into execution the actions determined upon by the Commission or its

appointed Board in the hearing.

- (g) The Commission or its appointed Board in its review or its hearing may determine:
- (1) that the complaint lacks grounds upon which to base action for violation of this Article, or
  - (2) that the complaint has been adequately dealt with by a conciliation of the parties, or
  - (3) that the case warrants filing charges against the offending party in the appropriate court. In such cases, both conciliation and adjudicative orders, or both adjudicative orders and initiation of court action may be indicated.
- (h) If the Commission or its appointed Board issues an adjudicative order to correct, adjust, conciliate, prevent, or prohibit any unlawful act prohibited by this Article, and the respondent refuses or fails to comply with or obey such adjudication, the Commission or its appointed Board shall forthwith request that the State Attorney file a complaint in the appropriate court.
- (i) The provisions of Rule 1.090, Florida Rules of Civil Procedure, shall govern the computation of any period of time prescribed by this Article.
- (j) All papers or pleadings required by this Article to be served may be served certified mail or in accordance with the provisions of Rule 1.080(b), Florida Rules of Civil Procedure.

*(Ord. 91-1, Sec. 8)*

**Sec. 25-9. Hearings before the Commission or appointed Board**

- (a) When a hearing is required before the Commission or its appointed Board, as specified in Sec. 25-8(e) above, the Commission or its appointed Board shall schedule the hearing and serve upon all interested parties a notice of time and place of the hearing. The hearing shall be held promptly, but not less than fifteen (15) days after service of such notice of the Commission or its appointed Board's written report (Sec. 25-8(d) above).
- (b) The parties, or their authorized counsel, may file such statements with the Commission or its appointed Board, prior to the hearing date, as they deem necessary in support of their positions. The parties may appear before the Commission or its appointed Board in person or by duly constituted representative and may have the assistance of attorneys. The parties may present testimony and evidence, and the right to cross-examine witnesses shall be preserved. All testimony shall be given under oath or by affirmation. The Commission or its appointed Board shall not be bound by strict rules of evidence prevailing in courts of law or equity but due process shall be observed. The Commission or its appointed Board shall keep a full record of the hearing, which record shall be public and open to inspection by any person, and upon request, by any principal party to the proceedings, the Commission or its appointed Board shall furnish such party a copy of the hearing record at cost. The constitutional rights of the respondent not to incriminate himself shall be scrupulously observed.
- (c) The Commission or its appointed Board shall make a finding of fact, and determination of action to be taken (Sec. 25-8(g) above).
- (d) The Commission or its appointed Board may subpoena respondents and witnesses to its hearings. The Commission or its appointed Board may also subpoena evidence. Subpoenas may be served by the Sheriff of Alachua County or by a subpoena server duly appointed by the Commission.
- (e) Witnesses summoned by subpoena of the Commission or its duly appointed Board shall be entitled to the same witness and mileage fees as are witnesses in proceedings in the State Courts of Florida. Fees payable to witnesses summoned by subpoena issued at the request of respondent shall be paid by the respondent, unless the respondent is indigent, in which case the Commission shall bear the cost of said fees.
- (f) Within ten (10) days after service of a subpoena upon any person, such person may petition the Commission or its appointed Board to revoke or modify the subpoena. The Commission or its appointed Board shall grant the petition if it finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good and valid reason.
- (g) In case of refusal to obey a subpoena, the Commission or its appointed Board may petition for its enforcement in the appropriate court.

*(Ord. 91-1, Sec. 9)*

**Sec. 25-10. Other remedies**

Nothing herein contained shall prevent any person from exercising any right or seeking any remedy to which he might otherwise be entitled, or from filing any complaint with any other agency or any court having proper

jurisdiction.

*(Ord. 91-1, Sec. 10)*

**Sec. 25-11. Report to real estate commission**

If a real estate broker, a real estate salesman, or an employee thereof has been found to have committed an unlawful practice in violation of this Article, or has failed to comply with an order issued by the Commission or its appointed board, the Commission or its appointed Board shall, in addition to other procedures set forth herein, report the fact to the Real Estate Commission of the State of Florida.

*(Ord. 91-1, Sec. 11)*

**Sec. 25-12. Limited invalidation**

If any provision of this Article or the application thereof to any person or circumstances is held invalid, the remainder of the Article and the application of the provisions to other persons not similarly situated or other circumstances shall not be affected thereby.

*(Ord. 91-1, Sec. 13)*

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**ARTICLE I. NUDITY IN PUBLIC PLACES**

**Sec. 30-1. Intent**

It is the intent of this Article to protect and preserve the health, safety, and welfare of the citizens of Micanopy by prohibiting a person from intentionally or recklessly appearing or being nude, or causing another person to appear or be nude, in a public place and in other places which may reasonably be expected to be observed by the public within the Town limits of Micanopy except when such person appears nude in a place provided or set apart for nudity provided such person is nude for the sole purpose of performing the legal function(s) that is customarily intended to be performed within such place provided or set apart for nudity; and

- (a) such person is not nude for the purpose of obtaining money or other financial gain for such person or for another person or entity; or
- (b) when the conduct of being nude cannot legally be prohibited by this Article because it constitutes a part of a bona fide live communication, demonstration or performance by such person wherein such nudity is expressive conduct incidental to and necessary for the conveyance or communication of a genuine message or public expression and is not a guise or pretense utilized to exploit nudity for profit or commercial gain (see for instance *Board of County Commissioners v. Dexterhouse*, 348 So.2d 916 (Fla. 2nd DCA 1977) and as such is protected by the United States or Florida Constitution; or
- (c) because it is otherwise protected by the United States or Florida Constitution.

It is the further intention of the Town to accomplish those intents and purposes expressed by the Town in the provisions of this Article, each of which are incorporated by reference into this section.

(Ord. 95-4, Sec. 1)

**Sec. 30-2. Definitions**

Terms, when used in this Article, shall have the following meanings:

- (a) "Alcoholic beverages" shall mean any beverage described in §§563.01, 564.01, and 565.01 Florida Statutes.
- (b) "Breast" means a portion of the human female mammary gland (commonly referred to as the female breast) including the nipple and the areola (the darker colored area of the breast, surrounding the nipple) and an outside area of such gland wherein such outside area is
  - (i) reasonable compact and contiguous to the areola, and
  - (ii) contains at least the nipple and the areola and one-fourth of the outside surface area of such gland.
- (c) "Entity" means any proprietorship, partnership, corporations, association, business trust, joint venture, joint-stock company or other for-profit and/or not-for-profit organization.
- (d) "Establishment dealing in alcoholic beverages" means any business, commercial or other establishment (whether for profit or not for profit and whether open to the public at large or where entrance is limited by cover charge or membership requirement) including those licensed by the State for sale and/or service of alcoholic beverages, and any bottle club; hotel; motel; restaurant; night club, country club; adult cabaret; meeting facility utilized by any religious, social, fraternal or similar organization; business, commercial or other establishment; where a product or article is sold, dispensed, served or provided with the knowledge, actual or implied, that the same will be or is intended to be mixed, combined with or drunk in connection or combination with an alcoholic beverage on the premises or curtilage of said business, commercial or other establishment; or business, commercial or other establishment where the consumption of alcoholic beverages is permitted. Premises, or portions thereof such as hotel rooms, used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be an establishment dealing in alcoholic beverages.
- (e) "Nude" means any person insufficiently clothed in any manner so that any of the following body parts are not entirely covered with a fully opaque covering:
  - (1) The male or female genitals; or
  - (2) The male or female pubic area; or
  - (3) The female breast; or
  - (4) The anus and natal cleavage, with material at least 3/4" wide along its entire length. Attire which is sufficient to comply with this requirement includes, but is not limited to, thongs and T-backs. Attire which is insufficient to comply with this requirement includes, but is not limited to, G-Strings, body paint, body

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dyes, tattoos, liquid latex, whether wet or dried, and similar substances shall not be considered opaque covering. Each female person may determine which one-fourth of her breast surface area (see definition of breast) contiguous to and containing the nipple and the areola is to be covered.

(f) "Person" means any live human being aged ten (10) years of age or older.

(g) "Place provided or set apart for nudity" means enclosed single-sex public restrooms, enclosed single-sex functional shower, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and the sphere of privacy constitutionally protected therein. This term shall not be deemed to include places where a person's conduct of being nude is used for his or her profit or where being nude is used for the promotion of business or is otherwise commercially exploited.

(h) "Public place" means any location frequented by the public or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places include, but are not limited to, streets, sidewalks, parks, forests, lakes, business and commercial establishments (whether for profit or not for profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement), bottle clubs, hotels, motels, restaurants, night clubs, country clubs, adult cabarets and meeting facilities utilized by any religious, social, fraternal or similar organization. Premises or portions thereof such as hotel rooms, used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be a public place.

*(Ord. 95-4, Sec. 1)*

### **Sec. 30-3. Legislative findings**

In addition to and supplemental to the findings and determinations contained in the "Whereas" provisions of Ordinance No. 95-4, which are incorporated by reference into this Section, it is hereby found by the Town, acting in its legislative capacity for the purpose of regulating the conduct of appearing nude in public places and for the purpose of regulating nudity and other conduct in establishments dealing in alcoholic beverages, that, considering what has happened in other communities, the acts prohibited in this Article encourage or create the potential for the conduct of prostitution, attempted rape, rapes and assault in and around establishments dealing in alcoholic beverages; that actual and simulated nudity and sexual conduct, coupled with the consumption of alcoholic beverages in public places, begets and has the potential for begetting unhealthy and unlawful behavior; that sexual, lewd, lascivious, and salacious conduct among patrons and employees within establishments dealing in alcoholic beverages results in violation of law and creates dangers to the health, safety, and welfare of the public and those who engage in such conduct; and, it is the intent of this Article to specifically prohibit nudity, gross sexuality and the simulation thereof in establishments dealing in alcoholic beverages.

*(Ord. 95-4, Sec. 1)*

### **Sec. 30-4 Nudity, sexual conduct prohibited in establishments dealing in alcoholic beverages**

The following prohibitions and criteria shall apply within existing and/or newly created establishments dealing in alcoholic beverages and the curtilages thereof:

(a) no person shall knowingly, intentionally or recklessly appear, or cause another person to appear, nude, or expose to public view his or her genitals, pubic area, vulva, anus, or any simulation thereof.

(b) no female person shall knowingly, intentionally or recklessly expose, or cause another female person to expose, her breasts or any simulation thereof to public view other than as permitted by Florida law (i.e. breast-feeding).

(c) no person or entity maintaining, owning, or operating an establishment dealing in alcoholic beverages shall encourage, allow or permit any person to appear nude or to expose to public view his or her genitals, pubic area, vulva, anus, or simulation thereof.

(d) no person or entity maintaining, owning, or operating an establishment dealing in alcoholic beverages shall encourage, allow or permit any female person to expose her breasts or any simulation thereof to public view other than as permitted by Florida law.

(e) the prohibitions of this Sec. 30-4 shall not apply when a person appears nude in a place provided or set apart for nudity provided:

(1) such person is nude for the sole purpose of performing the legal function(s) that is customarily intended to be performed within such place provided or set apart for nudity; and

(2) such person is not nude for the purpose of obtaining money or other financial gain for such

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person or for another person or entity.

(f) each female person may determine which one-fourth of her breast surface area (see definition of breast) contiguous to and containing the areola is to be covered.

(g) this Sec. 30-4 shall not be deemed to address photographs, movies, video presentations, or other non-live performances.

(Ord. 95-4, Sec. 1)

### **Sec. 30-5. Nudity prohibited in public places**

It shall be unlawful for any person to knowingly, intentionally, or recklessly appear, or cause another person to appear, nude in a public place or in any other place which is readily visible to the public, except as provided in Sec. 30-6. It shall also be unlawful for any person or entity maintaining, owning, or operating any public place establishment to encourage, suffer or allow any person to appear nude in such public place, except as provided in Sec. 30-6.

(Ord. 95-4, Sec. 1)

### **Sec. 30-6. Exemptions**

The prohibitions of Sec. 30-5 of this Article shall not apply:

(a) when a person appears nude in a place provided or set apart for nudity provided:

(1) such person is nude for the sole purpose of performing the legal function(s) that is customarily intended to be performed within such place provided or set apart for nudity; and

(2) such person is not nude for the purpose of obtaining money or other financial gain for such person or for another person or entity; or

(b) when the conduct of being nude cannot legally be prohibited by this Article

(1) because it constitutes a part of a bona fide live communication, demonstration or performance by a person wherein such nudity is expressive conduct incidental to and necessary for the conveyance or communication of a genuine message or public expression and the performance, communication or demonstration is not a mere guise or pretense utilized to exploit the conduct of being nude for profit or commercial gain (see for instance *Board of County Commissioners v. Dexterhouse*, 348 So.2 d916 (Fla. 2<sup>nd</sup> DCA 1977) and as such is protected by the United States or Florida Constitution; or

(2) because it is otherwise protected by the United States or Florida Constitution.

(Ord. 95-4, Sec. 1)

### **Sec. 30-7. Enforcement and penalties**

Any Person or Entity violating any of the provisions of this Article shall, upon conviction, be punished as provided in §162.22 Florida Statutes. Each incident or separate occurrence of an act that violates this Article shall be deemed a separate offense. In lieu of the above procedure, the Town may enforce this Article in the manner provided by the Town's Code of Ordinances or by any other means authorized by law.

(Ord. 95-4, Sec. 1)

### **Sec. 30-8. Injunctive relief**

In addition to the procedures provided herein, entities that are not in conformity with these requirements shall be subject to appropriate civil action in the court of appropriate jurisdiction for injunctive relief.

(Ord. 95-4, Sec. 1)

### **Sec. 30-9. Territory embraced**

All territory within the legal boundaries of the Town of Micanopy, as they may be changed from time to time, shall be embraced by the provisions of this Article.

(Ord. 95-4, Sec. 1)

**Sections 30-10 through 30-14 reserved.**

## **ARTICLE II. ADULT PERFORMANCE ESTABLISHMENT, ESCORT SERVICE AND ESCORT LICENSES**

### **Part 1. General Provisions**

#### **Sec. 30-15. Authority, scope, and purpose**

(a) This Article is enacted under the home rule power of the Town of Micanopy, Florida, in the interest of the health, peace, safety, and general welfare of the people of the Town, and under the authority of the Town

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to regulate the sale and consumption of alcoholic beverages under the twenty-first Amendment to the Constitution of the United States.

(b) This Article shall be effective throughout the Town of Micanopy, Florida.

(c) The intent of the Town Commission in adopting this Article is to establish reasonable and uniform regulations for adult performance establishments and escort services that will protect the health, safety, property values, and general welfare of the people of the city. It is not the intent of the Town Commission to legislate with respect to matters of obscenity. These matters are regulated by federal and state law, including Chapter 847, Florida Statutes.

(Sec. 95-5, Sec. 1)

### **Sec. 30-16. Findings of fact**

The Town Commission hereby finds:

(a) Commercial establishments exist or may exist within the Town and other nearby cities or counties in North Central Florida where dancers, entertainers, performers, or other individuals, for commercial gain, perform or are presented while displaying or exposing specified anatomical area; or who engage in straddle dancing or touching with customers.

(b) The activities described in (a) above occur at establishments which operate for the purpose of making a profit, and, as such, are subject to regulation by the Town in the interest of the health, safety, economy, property values and general welfare of the people, businesses, and industries of the Town. Promoting tourism is important to the community's continued economic welfare, including tourism by persons seeking to bring children to visit attractions who wish to stay in a community with a family atmosphere.

(c) When the activities described in (a) above are present in establishments, other activities which are illegal, unsafe, or unhealthy tend to accompany them, concentrate around them, and be aggravated by them. Such other activities include, but are not limited to, prostitution, pandering, solicitation for prostitution, lewd and lascivious behavior, exposing minors to harmful materials, possession, distribution and transportation of obscene materials, sale and possession of controlled substances, and violent crimes against persons and property.

(d) When the activities described in (a) above are competitively exploited in establishments, they tend to attract an undesirable number of transients, blight neighborhoods, adversely affect neighboring businesses, lower real property values, promote the particular crimes described in (c) above, and ultimately lead residents and businesses to move to other locations.

(e) The establishments in which the activities described in (a) above occur have exterior signs or appearance that lower the surrounding property values and contribute to urban decline.

(f) The concurrence of the sale and consumption of alcoholic beverages with the activities described in (a) above leads to a further increase in criminal activity, unsafe activity, and disturbances of the peace and order of the surrounding community.

(g) The concurrence of the sale and consumption of alcoholic beverages with the activities described in (a) above creates additional hazards to the health and safety of persons in attendance and further depreciates the value of adjoining property harming the economic welfare of the surrounding community and adversely affecting the quality of life, tone of commerce, and community environment.

(h) In order to preserve and safeguard the health, safety, property values, and general welfare of the people, businesses, and industries of the Town, it is necessary and advisable for the Town to regulate the sale and consumption of alcoholic beverages at establishments where the activities described in (a) above occur.

(i) Employees of establishments at which the activities described in (a) above occur engage in a higher incidence of certain types of unhealthy or criminal behavior than employees of other establishments.

(j) Physical contact or touching within establishments at which the activities described in (a) above occur between employees exhibiting specified anatomical areas and customers poses a threat to the health of both and promotes the spread of communicable and social diseases.

(k) In order to preserve and safeguard the health, safety, and general welfare of the people of the Town it is necessary and advisable for the Town to regulate the conduct of owners, managers, operators, agents, employees, entertainers, performers, and customers at establishments where the activities described in (a) above occur.

(l) Straddle dancing, unregulated private performances, and enclosed adult booths in establishments at which the activities described in (a) above occur have resulted in indiscriminate commercial sex between

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strangers and poses a threat to the health of the participants and promotes the spread of communicable sexually transmitted diseases. Straddle dancing is primarily conduct rather than communication or expression.

(m) The potential dangers to the health, safety, and general welfare of the people of the Town posed by permitting an establishment at which the activities described in (a) above occur to operate without meeting the requirements for obtaining a license under this Article are so great as to require the licensing of such establishment; prior to their being permitted to operate.

(n) Requiring employees of establishments at which the activities described in (a) above occur to keep a list of information concerning current employees and certain recent past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects, and by preventing minors from working in such establishments.

(Ord.95-5, Sec. 1)

### **Sec. 30-17. Definitions**

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

(a) "Adult performance establishment" means an establishment where any employee or participant in an event sponsored by the establishment:

(1) engages in a private performance or displays or exposes any specified anatomical areas to a patron, regardless of whether the employee actually engages in dancing;

(2) wears any covering, tape, pastie or other device that simulates or otherwise gives the appearance of the display or exposure of any specified anatomical areas, regardless of whether the employee actually engages in dancing;

(3) offers, solicits, or contracts to dance or perform with a patron and accepts any consideration, tip, remuneration or compensation from or on behalf of that person; or

(4) dances or performs within three (3) feet of a patron while displaying or exposing any specified anatomical areas and accepts any consideration, tip, remuneration, or compensation from or on behalf of that person.

It is an affirmative defense that an establishment is not an adult performance establishment if the establishment is a bona fide private club whose membership as a whole engages in social nudism or naturism as in a nudist resort or camp, or such other establishment in which the product, service, or entertainment that is intended to provide sexual stimulation or sexual gratification to customers, and the establishment is not distinguished by an emphasis on or the advertising or promotion of materials relating to or employees depicting, describing, displaying, exposing, or simulating specified sexual activities or specified anatomical areas. An adult performance establishment shall not be deemed a place provided or set apart for the purpose of exposing or exhibiting a person's sexual organs in a manner contrary to the first sentence of Section 800.03, Florida Statutes, the State's indecent exposure statute, as set forth in the decision of the Supreme Court of Florida in the case *Hoffman v. Carson*, 250 So.2 d 891, 893 (Fla. 1971), *appeal dismissed*, 404 U.S. 981 (1971).

(b) "Alcoholic Beverage" means any beverage described in §§563.01, 564.01, and 565.01, Florida Statutes.

(c) "Town Clerk" shall mean Town Clerk or designee unless otherwise indicated.

(d) "Conviction" means a determination of guilt resulting from plea or trial, regardless of whether adjudication was withheld or whether imposition of sentence was suspended.

(e) "Employee" means a person who works, performs, dances or provides other services at an adult performance establishment or for an escort service, irrespective of whether said person is paid a salary or wage, and shall include, but is not limited to, independent contractors, sub-contractors, lessees, or sub-lessees who work or perform at an adult performance establishment or for an escort service.

(f) "Escort service" means a business that:

(1) advertises as an "escort service" or advertises that it can send or provide "escorts," private (one-on-one) dancers or private (one-on-one) models; or

(2) offers or provides for a fee or gratuity employees, other than massage therapists licensed under Ch. 480, Florida Statutes., for pre-arranged private (one-on-one) sessions with customers at a place of business (other than the escort service), hotel room or motel room for the purpose of companionship, entertainment, modeling, massage, conversation or sexual activities.

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- (g) "Law enforcement officer" means an officer who is on official duty for a law enforcement agency.
- (h) "Licensee" means any person whose application for an adult performance establishment has been granted and who owns, operates or controls the establishment; or whose application for an escort service has been granted and who owns, operates or controls the escort service; or whose application for an escort license has been granted.
- (i) "Operator" means any person who engages in or performs any activity necessary to, or which facilitates, the operation of an adult performance establishment, including but not limited to the licensee, manager, owner, doorman, bartender, disc jockey, sales clerk, ticket taker, or movie projectionist.
- (j) "Patron" or "customer" means any person at an establishment other than employees or operators of the establishment, regardless of whether that person has actually given any consideration or spent any money for goods or services.
- (k) "Private performance" means modeling, posing, or the display or exposure of any specified anatomical area by an employee of an adult performance establishment to a patron, while the patron is in an area not accessible during such display to all other persons in the establishment or while the patron is in an area in which the patron is totally or partially screened or partitioned during such display from the view of all persons outside the area.
- (l) "Specified anatomical areas" shall mean less than completely covered:
- (1) Human genitals;
  - (2) Pubic region;
  - (3) Buttock; and
  - (4) Female breast below a point immediately above the top of the areola; and
  - (5) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (m) "Specified sexual activities" shall mean:
- (1) Human genitals in a state of sexual stimulation or arousal;
  - (2) Acts of human masturbation, sexual intercourse or sodomy; and
  - (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
- (n) "Specified violation" or "criminal act" means:
- (1) A violation of this Article;
  - (2) An offense under the following chapters of the Florida Statutes: Chapter 794, regarding sexual battery; Chapter 796, regarding prostitution; Chapter 800, regarding lewdness and indecent exposure; and Chapter 847 regarding obscene literature; or
  - (3) An offense under an analogous statute of a state other than Florida, or under an analogous ordinance of another County or Town.
- (o) "Straddle dance" also known as a "lap dance," "face dance" or "friction dance," means either of the following acts at an establishment:
- (1) the use by an employee of any part of his or her body to touch the genital or pubic area of another person, or the touching of the genital or pubic area of any employee by a person. It shall be a straddle dance regardless of whether the "touch" or "touching" occurs while the employee is displaying or exposing any specified anatomical area. It shall also be a straddle dance regardless of whether the "touch" or "touching" is direct or through a medium.
  - (2) the straddling of the legs of an employee over any part of the body of another person at the establishment, regardless of whether there is a touch or touching, or the touch or touching is direct or through a medium.

*(Ord.95-5, Sec. 1)*

### **Sec. 30-18. Enforcement**

Unless otherwise specified, the provisions of this Article may be enforced by:

- (a) a suit brought by the Town Attorney, with the consent of the Town Commission, in the circuit court to restrain, enjoin, or prevent a violation of this Article; or
- (b) enforcement proceedings by the Town Code Enforcement Board; or
- (c) prosecution in a court of competent jurisdiction; or
- (d) civil citation process.

*(Ord.95-5, Sec. 1)*

**Sec. 30-19. Appeals**

Any final decision of the Town pursuant to Part 2 of this Article ("Licensing Provisions") may be immediately reviewed as a matter of right by the circuit court upon the filing of an appropriate pleading by an aggrieved party.

*(Ord.95-5, Sec. 1)*

**Sec. 30-20. Notice**

Any notice required under this Article shall be accomplished by sending a written notification by certified mail to the mailing address set forth on the application for the license, which shall be considered the correct address for service unless the Town Clerk has been otherwise notified in writing, or by personal service or delivery to the applicant or licensee.

*(Ord.95-5, Sec. 1)*

**Sec. 30-21. Immunity from prosecution**

The Town or any of its departments or agents or any law enforcement officer shall be immune from prosecution, civil or criminal, for reasonable, good-faith trespass upon an adult performance establishment or escort service while acting within the scope of the authority under this Article.

*(Ord.95-5, Sec. 1)*

**Sec. 30-22. Construction**

This Article shall be liberally construed to accomplish its purpose of licensing and regulating adult entertainment and related activities.

*(Ord.95-5, Sec. 1)*

**Part 2. Licensing Provisions**

**Sec. 30-23. Adult performance establishment license required**

No adult performance establishment or escort service is permitted to operate without having been first granted an adult performance establishment license or escort service license, respectively, by the Town Clerk under this Article.

*(Ord.95-5, Sec. 1)*

**Sec. 30-24. Application for license; application fee; consent by applicant**

(a) Any person desiring to operate an adult performance establishment or an escort service shall file with the Town Clerk a sworn license application on a standard application form supplied by the Town Clerk.

(b) The completed application shall contain the following information and shall be accompanied by the following documents:

(1) if the applicant is:

a. an individual, the individual shall state his legal name and any aliases and submit satisfactory proof that he is eighteen (18) years of age or older; or

b. a partnership, the partnership shall state its complete name, and the names and residential addresses and residential telephone numbers of all partners whether general or limited, the residence address of at least one person authorized to accept service of process, and provide a copy of any existing partnership agreement; or

c. a corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing, the names and capacity of all officers, directors and stockholders holding 5 percent or more of the voting shares of the corporation, the name and address of the registered corporate agent for service of process, the name, residential address, and residential telephone number of the person making the application for the corporation and provide a copy of its Articles of Incorporation;

(2) if the applicant intends to conduct the establishment or escort service under a name other than that of the applicant, the fictitious name registration under §865.09 Florida Statutes;

(3) whether the applicant or any of the other individuals listed pursuant to subparagraph (1) above has, within the five (5) year period immediately preceding the date of the application, been convicted of a felony of any state or of the United States or any specified violation or criminal act, and, if so, the specified violation or criminal act involved, the date of conviction and the place of conviction;



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(4) whether the applicant or any of the other individuals listed pursuant to subparagraph (1) above has had a previous license under this Article suspended or revoked, including the name and location of the business for which the license was suspended or revoked, as well as the date of the suspension or revocation, and whether the applicant or any other individuals listed pursuant to subparagraph (1) has been a partner in a partnership or an officer, director or stockholder of 5 percent or more of the voting shares of a corporation whose license under this Article has previously been suspended or revoked, including the name and location of the business for which the license was suspended or revoked, as well as the date of the suspension or revocation;

(5) whether the applicant or any other individuals listed pursuant to subparagraph (1) above holds any other licenses under this Article and, if so, the names and locations of such other licensed businesses:

(6) the single classification of license for which the applicant is filing;

(7) the commercial location of the proposed business, including a legal street address.

(8) the applicants mailing address, business addresses, and business telephone number;

(9) if an adult performance establishment, building plans drawn to appropriate scale of the proposed establishment, including, but not limited to:

a. all windows, doors, entrances and exits, fixed structural features, walls, stages, partitions, projection booths, admission booths, adult booths, concession booths, stands, counters and similar structures;

b. all proposed improvements or enlargements to be made, which shall be indicated and calculated in terms of percentage of increase in floor size;

(10) a recent photograph of the applicant; and

(11) the applicant's social security number or employer's tax identification number and either the applicant's driver's license number or the number of a state or federally issued identification card.

(c) Each application shall be accompanied by a non-refundable fee established by resolution of the Town Commission. If the application for a license is approved and a license is granted, the fee shall be applied as a credit towards the annual license fee required for the first year pursuant to Sec. 30-28 of this Article.

(d) In the event the Town Clerk determines or learns at any time that the applicant has not properly completed the application for a proposed establishment or escort service, the applicant shall promptly be notified of such fact and shall be allowed ten (10) days to properly complete the application. The time period for granting or denying a license under this Article shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.

(e) By applying for a license under this Article the applicant shall be deemed to have consented to the provisions of this Article and to the exercise by the Town Clerk of the responsibilities under this Article.

*(Ord.95-5, Sec. 1; Ord. 2008-07, Sec. 4*

### **Sec. 30-25. Processing of application**

Upon receipt of a complete application properly filed with the Town Clerk and upon payment of the non-refundable application fee, the Town Clerk shall immediately stamp the application as received and shall begin processing of the application.

*(Ord.95-5, Sec. 1)*

### **Sec. 30-26. Grant; denial; rejection**

(a) The Town Clerk shall grant or deny an application for a license under this Article within thirty (30) days from the date of its proper filing. Upon the expiration of the thirtieth day, the applicant shall be permitted to begin operating the business for which a license is sought, unless and until the Town Clerk notifies the applicant of a denial of the application and states the reason(s) for the denial.

(b) If the Town Clerk has not made a finding that would require that the application be denied, the Town Clerk shall grant the application, notify the applicant of the granting, and issue the license to the applicant upon payment of the appropriate annual license fee.

(c) (1) The Town Clerk shall review staff's findings and deny the application for any of the following reasons:

a. the application contains material information which is false, is incomplete, or the applicant has failed to comply with Chapter 607, Florida Statutes, regarding corporations; Chapter 620, Florida Statutes regarding partnerships, or Section 895.09, Florida Statutes, regarding fictitious

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names.

b. the granting of the application would violate a statute or ordinance, or an order from a court of law that prohibits the applicant from obtaining an adult performance establishment or escort service license.

c. the applicant or any other individual listed pursuant to Sec. 30-24 has had a license under this Article or under an analogous ordinance of another jurisdiction suspended or revoked within the past three (3) years.

d. the applicant or any other individual listed pursuant to Sec. 30-24 has been convicted of a specified violation or criminal act as listed in Sec. 30-17(n)(2) or an analogous statute of a state other than Florida within the last five (5) years.

(2) If the Town Clerk denies the application, the applicant shall be notified of the denial and the reason(s) for the denial.

(d) If a person applies for a license at a particular location within a period of nine (9) months from the date of denial of a previous application for a license at the location, and there has not been an intervening change in the circumstances which will probably lead to a different decision regarding the former reason(s) for denial, the application shall be rejected.

*(Ord.95-5, Sec. 1)*

### **Sec. 30-27. Licenses; terms; renewal; expiration; cancellation; reports; consent**

(a) A license granted under this Article shall state the name of the licensee, the name of the business, the street address of the business, the classification of the license, the date of issuance, and the date of expiration.

(b) All licenses issued under this Article shall be annual licenses which shall commence running on October 1, if they have been paid for, and shall expire on September 30 of the following year. If a license is issued after October 1, but by March 31 of the following year, the applicant shall pay the applicable license fee. If a license is issued after March 31, but by October 1 of the same year, the applicant shall pay one half the applicable license fee.

(c) Licenses shall be renewed annually. Subject to other provisions of this Article, a licensee under this Article shall be entitled to a renewal of its annual license from year to year, as a matter of course, by October 1, by presenting the license for the previous year, restating and updating all information required for a license application, and by paying the appropriate license fee.

(d) A license that is not renewed under this Article by October 1 of each year shall expire. An expired license may be renewed by November 30 of the same year upon presentation of an affidavit stating that the business has conducted no activity regulated by this Article subsequent to expiration, upon payment of the appropriate license fee, and upon payment of a penalty of ten (10) percent of the appropriate license fee for the month of October, or fraction thereof, and an additional penalty of five (5) percent of the appropriate license fee for the month of November, or fraction thereof.

(e) All expired licenses not renewed by November 30 shall be canceled summarily by the Town Clerk.

(f) Each licensee shall keep such records and make such reports as may be required by the Town Clerk to implement this Code and to carry out its purpose. Whenever the information required by or provided under Sec. 30-24(b) has changed, the licensee shall promptly report to the Town Clerk the changed information.

(g) By holding a license under this Article, the licensee shall be deemed to have consented to the provisions of this Article and to the exercise by the Town Clerk of responsibilities under this Article.

*(Ord.95-5, Sec. 1)*

### **Sec. 30-28. Annual license fee**

(a) There is hereby levied for an adult performance establishment license an annual license fee established by resolution of the Town Commission and for an escort service license an annual license fee established by resolution of the Town Commission.

(b) The annual license fees collected under this Article are declared to be regulatory fees which are collected for the purpose of examination and inspection of adult performance establishments and escort services under this Article and the administration thereof. These regulatory fees are in addition to and not in lieu of the occupational license taxes imposed by other ordinances.

*(Ord.95-5, Sec. 1; Ord. 2009-07. Sec. 5)*

### **Sec. 30-29. Transfer**

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(a) No adult performance establishment license or escort service license is transferable to another person by surrendering or transferring possession, control, or operation of the licensed business. For the purposes of this provision, the change of ownership of more than ten (10) percent interest of the business shall be considered a transfer of the licensed business.

(b) A licensee shall not transfer a license to another location.

(c) Any attempted transfer of a license either directly or indirectly in violation of this section is hereby declared void, and the license shall be deemed void.

*(Ord.95-5, Sec. 1)*

### **Sec. 30-30. Changing name of business**

No licensee may change the name of an adult performance establishment or escort service unless and until the licensee satisfies each of the following requirements:

(a) gives the Town Clerk thirty (30) days' notice in writing of the proposed name change, accompanied by an affidavit stating there has been no change of ownership of the business since the last reporting to the Town;

(b) pays the Town Clerk a change-of-name fee established by resolution of the Town Commission; and

(c) complies with Section 865.09. Florida Statutes, if applicable.

*(Ord.95-5, Sec. 1; Ord. 2009-07. Sec. 6)*

### **Sec. 30-31. Suspension**

(a) In the event the Town Clerk learns or finds upon sufficient cause that a licensed business is operating in violation of a building, fire, health, or zoning statute, code, ordinance or regulation, whether federal, state or local, contrary to the respective general requirements of Sec. 3-33 the Town Clerk shall promptly notify the licensee of the violation and, unless the violation is a life-safety violation, shall allow the licensee a reasonable period in which to correct the violation. If the licensee fails to correct the violation before the expiration of the reasonable period or if the violation is a life-safety violation the Town Clerk shall forthwith suspend the license, and shall notify the licensee of the suspension. The suspension shall remain in effect until the Town Clerk finds that the violation of the provision in question has been corrected.

(b) In the event the Town Clerk learns or finds upon sufficient cause that a licensee engaged in a license transfer contrary to Sec. 30-29, the Town Clerk shall forthwith suspend the license, and notify the licensee of the suspension. The suspension shall remain in effect until the Town Clerk is satisfied that the ownership has been restored to that licensed.

(c) (1) In the event three (3) or more violations of any specified violation or criminal act occur at an adult performance establishment or escort service within a two (2) year period, and convictions result from at least three (3) of the violations, the Town Clerk shall, upon receiving evidence of the third conviction, suspend the license, and notify the licensee of the suspension. The suspension shall remain in effect for a period of thirty (30) days.

(2) In the event one (1) or more violations of any specified violation or criminal act occur at the establishment or escort service within a period of two (2) years from the date of the violation from which the conviction resulted for which the license was suspended for thirty (30) days under (c)(1) above, but not including any time during which the license was suspended for thirty (30) days, and a conviction results from one (1) or more of the violations, the Town Clerk shall, upon receiving evidence of the first conviction, suspend the license again, and notify the licensee of the suspension. The suspension shall remain in effect for a period of ninety (90) days.

(3) In the event one (1) or more violations of any specified violation or criminal act occur within a period of two (2) years from the date of the violation from which the conviction resulted for which the license was suspended for ninety (90) days under (c)(2) above, but not including any time during which the license was suspended for ninety (90) days, and a conviction results from one (1) or more of the violations, the Town Clerk shall, upon receiving evidence of the first conviction, suspend the license again, and notify the licensee of the suspension. The suspension shall remain in effect for a period of one hundred eighty (180) days.

(4) The transfer or renewal of a license pursuant to this Article shall not defeat the terms of (c)(1)-(3) above.

(d) All periods of suspension shall begin ten (10) days after the date the Town Clerk mails the notice of suspension to the licensee or on the date the licensee delivers the license to the Town Clerk, whichever occurs first.

*(Ord.95-5, Sec. 1)*

**Sec. 30-32. Revocation**

(a) In the event the Town Clerk receives evidence that a license was granted based upon false information, misrepresentation of fact, or mistake of fact, the Town Clerk shall forthwith revoke the license and notify the licensee of the revocation.

(b) (1) In the event one (1) or more violations of any specified violation or criminal act occur at an adult performance establishment or escort service which has had a license suspended for a period of one hundred eighty (180) days pursuant to Subsection 30-31(c)(3), and the violation(s) occur within a period of two (2) years from the date of the violation from which the conviction resulted for which the license was suspended for one hundred eighty (180) days, but not including any time during which the license was suspended for one hundred eighty (180) days, the Town Clerk shall, upon receiving evidence of a conviction for the subsequent violation, forthwith revoke the license, and notify the licensee of the revocation.

(2) The renewal of a license pursuant to this Article shall not defeat the terms of (b)(1) above.

(c) If a license is revoked the licensee shall not be allowed to obtain another adult performance establishment license or escort service license and no license shall be issued again to any other person for the location upon which the adult performance establishment or escort service was situated for a period of three (3) years.

(d) The revocation shall take effect ten (10) days after the date the Town Clerk mails the notice of revocation to the licensee or on the date the licensee delivers the license to the Town Clerk, whichever happens first.

*(Ord.95-5, Sec. 1)*

**Part 3. General Operational Rules**

**Sec. 30-33. General requirements**

Each adult performance establishment and escort service is subject to all of the following general requirements and shall:

(a) conform to all applicable building, fire, health, zoning and land use statutes, codes, ordinances, and regulations, whether federal, state or local;

(b) on the first Monday of each month provide the Town Clerk with a report of all persons who are employees or who were employees during the previous month, which report shall contain the name, date of birth, and stage name, if any, of such persons.

(c) keep its license posted in a conspicuous place at the licensed location available for inspection by the public at all times;

(d) install, construct, keep, maintain or allow only those signs at the licensed location which comply with the Town sign ordinances. In addition, no sign shall contain any flashing lights, photographs, silhouettes, drawings or pictorial representations of any manner (except for the logo of the establishment, provided the logo shall not contain any specified anatomical areas, or any male or female forms at or below the clavicle).

*(Ord.95-5, Sec. 1)*

**Sec. 30-34. Adult performance establishment**

In addition to the general requirements for an adult entertainment establishment contained in Sec. 30-33, an adult performance establishment shall comply with the following special requirements:

(a) cover opaquely each window or other opening through which a person outside the establishment may otherwise see inside the establishment; and

(b) have a stage provided for the display or exposure of any specified anatomical area by an employee to a patron consisting of a permanent platform (or other similar permanent structure) raised a minimum of eighteen (18) inches above the surrounding floor and encompassing an area of at least one hundred (100) square feet; and

(c) any area in which a private performance occurs shall:

(1) have a permanently open entrance not less than thirty-two (32) inches wide and not less than six (6) feet high, which entrance shall not have any curtain rods, hinges, rails, or the like which would allow the entrance to be closed or partially closed by any curtain, door, or other partition; and

(2) have a wall-to-wall, floor-to-ceiling partition of solid construction without any holes or openings, which partition may be completely or partially transparent, and which partition separates the employee from the person viewing the private performance; and

(d) maintain the exterior walls and surfaces of the establishment, excluding signs, a single achromatic or

light pastel color, and maintain all awnings, canopies, window shutters, window treatments, or other trim the same color or a single different shade of the same achromatic or light pastel color. The trim color shall not exceed twenty (20) percent of the entire exterior surface of the building. Nothing in this subsection shall be construed to require the painting of an otherwise unpainted exterior portion of an establishment such as brick or stone.

*(Ord.95-5, Sec. 1)*

**Sec. 30-35. Employee records**

(a) An adult performance establishment or escort service shall maintain a record of all employees who currently work for or perform at the business, and of all former employees who worked for or performed at the business during the preceding one (1) year period. The record shall contain the current or former employee's full legal name, including any aliases, date of birth, and a recent photograph of the employee. The record shall also state whether each employee is a paid employee for whom income taxes are withheld or is a lessee, sublessee, independent contractor, or subcontractor who is allowed to work for or perform at the business.

(b) The original records required by (a) above, or true and exact photocopies thereof, shall be kept at the licensed location at all times.

(c) All operators of the establishment shall be responsible for knowing the location of the original records, or the true and exact photocopies thereof.

(d) An operator of the licensed business shall, upon request by a law enforcement or code enforcement officer when the business is open, immediately make available for inspection the original records, or the true and exact photocopies thereof.

*(Ord.95-5, Sec. 1)*

**Part 4. Violations**

**Sec. 30-36. Operation without valid license**

It shall be unlawful for any person to be an operator of an adult performance establishment or escort service when:

- (a) the business does not have the appropriate license;
- (b) the license of the business is under suspension;
- (c) the license of the business has been revoked or canceled; or
- (d) the business has a license which has expired.

*(Ord.95-5, Sec. 1)*

**Sec. 30-37. Operation contrary to certain provisions**

(a) It shall be unlawful for any person to be an operator of an adult performance establishment or escort service:

- (1) which does not satisfy all of the general requirements of Sec. 30-33;
- (2) which is an adult performance establishment and does not satisfy all of the special requirements of Sec. 30-34.; or,
- (3) while the entrance or exit of the establishment is locked when a patron is inside the establishment.

*(Ord.95-5, Sec. 1)*

**Sec. 30-38. Prohibited acts**

It shall be unlawful for an employee of an adult performance establishment to commit any of the following acts or for an operator of an adult performance establishment to knowingly or with reason to know, permit, suffer or allow any employee to commit any of the following acts:

- (a) engage in a straddle dance with a person at the establishment;
- (b) offer, contract or otherwise agree with a person to engage in a straddle dance with a person at the establishment;
- (c) engage in any specified sexual activity at the establishment;
- (d) display or expose at the establishment specified anatomical areas while such employee is not continuously positioned at least three (3) feet away from all other persons or while such employee is not in an area as described in Subsection 30-34(a);

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- (e) display or expose specified anatomical areas at an establishment where alcoholic beverages are sold, offered for sale, distributed, or consumed.
- (f) display or expose any specified anatomical area while simulating any specified sexual activity with any other person at the establishment;
- (g) engage in a private performance unless such employee is in an area which complies with the requirements of Subsection 30-34(c);
- (h) intentionally touch any person at the adult performance establishment while engaged in the display or exposure of any specified anatomical area; or
- (i) intentionally touch the clothed or unclothed body of any person at the adult performance establishment, at any point below the waist and above the knee of the person, or to intentionally touch the clothed or unclothed breast of any female person.
- (j) Exception - notwithstanding any provision indicating to the contrary, it shall not be unlawful for any employee of an adult performance establishment to expose any specified anatomical area during the employee's bona fide use of a restroom, or bona fide use of a dressing room that is used and occupied only by other employees.

*(Ord.95-5, Sec. 1)*

### **Sec. 30-39. Touching employees prohibited**

- (a) It shall be unlawful for any person in an adult performance establishment to intentionally touch an employee who is displaying or exposing any specified anatomical area at the adult performance establishment.
- (b) It shall be unlawful for any person in an adult performance establishment, other than another employee, to intentionally touch the clothed or unclothed breast of any employee, or to touch the clothed body of any employee at any point below the waist and above the knee of the employee.

*(Ord.95-5, Sec. 1)*

### **Sec. 30-40. Advertising prohibited activity**

It shall be unlawful for an operator of an adult performance establishment to advertise, encourage or promote any activity prohibited by this Article.

*(Ord.95-5, Sec. 1)*

### **Sec. 30-41. Minors prohibited**

It shall be unlawful for an operator or employee of an adult performance establishment or escort service to knowingly, or with reason to know, permit, suffer, or allow a person under eighteen (18) years of age to:

- (a) enter or remain in the establishment; or
- (b) purchase goods or services at the establishment; or
- (c) work at the business as an employee.

*(Ord.95-5, Sec. 1)*

### **Sec. 30-42. Failure to maintain employee records**

It shall be unlawful to be an operator of a licensed adult performance establishment or escort service at which all records for employees required by Sec. 30-35 have not been compiled, are not maintained, or are not made available for inspection by a law enforcement or code enforcement officer upon request when the establishment is open for business.

*(Ord.95-5, Sec. 1)*

### **Sec. 30-43. Alteration of license**

It shall be unlawful for any person other than the Town Clerk to alter or otherwise change the contents or appearance of an adult performance establishment or escort service license.

*(Ord.95-5, Sec. 1)*

### **Sec. 30-44. False statement in application for license**

It shall be unlawful for any person applying for an adult performance establishment or escort service license pursuant to Part 2 of this Article to make a false statement or provide false information which is intended to facilitate the issuance of a license on the application required by Sec. 30-24, to provide false information in the reports required by Sec. 30-27, or to falsify the records required by Sec. 30-33 or 30-34.

*(Ord.95-5, Sec. 1)*

**Sec. 30-45. Solicitation or personal advertising**

It shall be unlawful for any employee of an adult performance establishment while situated outside any structure at the adult performance establishment, or at a place at the adult performance establishment where the employee is visible from any public right-of-way or pandering, or solicitation, whether passive or otherwise, on behalf of the employee, any other employee or the adult performance establishment. Personal advertising is defined as encouraging or enticing, by whatever direct or indirect means, potential customers beyond the adult performance establishment to enter the adult performance establishment. Additionally, it shall be unlawful for an operator or any employee to suffer, permit, or allow any door that is visible from a public right-of-way or sidewalk to be opened or remain opened except when a person is entering or exiting the establishment.

*(Ord.95-5, Sec. 1)*

**Sec. 30-46. Prohibited activity**

It shall be unlawful for an operator or an employee of an adult performance establishment to knowingly or with reason to know, permit, suffer, or allow any person or patron to engage in any specified sexual activity at the establishment. It is an affirmative defense to a violation of this section that the operator or employee immediately left the establishment and notified the police of the illegal activity.

*(Ord.95-5, Sec. 1)*

**Sec. 30-47. Existing establishments**

(a) All adult performance establishments and escort services that are in existence and open to the public as of January 10, 1996, shall apply for a license by 5 P.M. on January 31, 1996, and complete all required building modifications by June 30.

(b) All escort services that are in existence and providing service to the public under a valid, current home occupation permit as of January 10, 1996 may continue to provide service under that permit until it expires on September 30, 1996. No new home occupation permit shall be issued for an escort service after January 10, 1996, and no home occupation permit for an escort service shall be renewed.

*(Ord.95-5, Sec. 1)*

**Sec. 30-48. Penalties**

Anyone who is convicted of violating the provisions of this Article shall be punished as provided by § 162.22 Florida Statutes. Each day the violation continues shall be considered a separate offense.

*(Ord.95-5, Sec. 1)*

**Part 5. Escort License Provisions**

**Sec. 30-49. License required**

On and after January 10, 1996, no person shall become or remain an employee of an escort service and meet any customer within the Town limits without having been first granted an escort license by the Town Clerk. Persons who are employees of more than one escort service must obtain a separate license for each escort service for which they meet any customer within the Town limits.

*(Ord.95-5, Sec. 1)*

**Sec. 30-50. Application for license; application fee; consent by applicant**

(a) Any person desiring to obtain an escort license shall file with the Town Clerk a sworn license application on a standard application form supplied by the Town Clerk.

(b) The completed application shall contain the following information and be accompanied by the following documents:

- (1) the person's legal name and any aliases;
- (2) proof that the person is 18 years of age or older;
- (3) a statement of whether the applicant has, within the five (5) year period immediately preceding the date of the application, been convicted of a felony of any state or of the United States or any specified violation or criminal act, and, if so, the specified violation or criminal act involved, the date of conviction and the place of conviction;
- (4) a statement of whether the applicant has had a previous escort license suspended or revoked, including the date of the suspension or revocation;

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- (5) the name and location of the escort service or services for which the applicant will be working;
- (6) the applicant's mailing address, and business telephone number;
- (7) a recent photograph of the applicant; and
- (8) the applicant's social security number and either the applicant's driver's license number or the number of a state or federally issued identification card.

(c) Each application shall be accompanied by a non-refundable fee established by resolution of the Town Commission. If the application for license is approved, and the license is granted, the fee shall be applied as a credit towards the annual license fee required for the first year pursuant to Sec. 30-52.

(d) In the event the Town Clerk determines or learns at any time that the applicant has not properly completed the application for an escort license, the applicant shall promptly be notified of such fact and shall be allowed ten (10) days to properly complete the application. The time period for granting or denying a license shall be stayed during this period.

(e) By applying for an escort license, the applicant shall be deemed to have consented to the provisions of this Article and to the exercise by the Town Clerk of the responsibilities under this Article.

*(Ord.95-5, Sec. 1; Ord. 2008-07, Sec. 7)*

### **Sec. 30-51. Processing of application**

(a) Upon receipt of a complete application properly filed with the Town Clerk and upon receipt of the non-refundable application fee, the Town Clerk shall immediately stamp the application as received and shall begin processing of the application.

(b) The Town Clerk shall grant or deny an application for an escort license within five (5) business days from the date of its proper filing.

(c) If the Town Clerk has not made a finding that would require the application be denied, the Town Clerk shall grant the application, notify the applicant of the decision, and issue the license to the applicant upon payment of the appropriate annual license fee.

(d) (1) The Town Clerk shall review staff's findings and deny the application for any of the following reasons:

- a. the application contains material information which is false or the application is incomplete;
- b. the granting of the application would violate a statute or ordinance, or an order from a court of law that prohibits the applicant from obtaining an escort license.
- c. the applicant has had a license under this Article or under an analogous ordinance of another jurisdiction suspended or revoked within the past three (3) years.
- d. the applicant has been convicted of a specified violation or criminal act as listed in Sec. 30-17 or an analogous statute of a state other than Florida within the last five (5) years.

(2) If the Town Clerk denies the application, the applicant shall be notified of the denial and the reason(s) for the denial.

*(Ord.95-5, Sec. 1)*

### **Sec. 30-52. Licenses; terms; renewal; expiration; cancellation; reports; consent**

(a) An escort license shall state the name of the licensee, the date of issuance, name of escort service and the date of expiration and shall contain a photograph and signature of the licensee. The license shall be laminated or enclosed in plastic so that it may be attached to a garment.

(b) All licenses issued under this Article shall be annual licenses which shall commence running on October 1, if they have been paid for and shall expire on September 30 of the following year. If a license is issued after October 1, but by March 31 of the following year, the applicant shall pay the applicable license fee. If a license is issued after March 31, but by October 1 of the same year, the applicant shall pay one half the applicable license fee.

(c) Licenses shall be renewed annually. Subject to other provisions of this Article, a licensee under this Article shall be entitled to a renewal of its annual license from year to year, as a matter of course, by October 1, by presenting the license for the previous year, restating and updating all information required for a license application, and by paying the appropriate license fee.

(d) A license that is not renewed under this Article by October 1 of each year shall expire. An expired



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license may be renewed by November 30 of the same year upon payment of the appropriate license fee, and upon payment of a penalty of ten (10) percent of the appropriate license fee for the month of October, or fraction thereof, and an additional penalty of five (5) percent of the appropriate license fee for the month of November, or fraction thereof.

(e) All expired licenses not renewed by November 30 shall be canceled summarily by the Town Clerk.

(f) By holding a license under this Article, the licensee shall be deemed to have consented to the provisions of this Article and to the exercise by the Town Clerk of responsibilities under this Article.

*(Ord.95-5, Sec. 1)*

### **Sec. 30-53. Annual license fee**

(a) There is hereby levied for an escort license an annual license fee established by resolution of the Town Commission.

(b) The annual license fee is declared to be a regulatory fee collected for the purpose of administration of this Article. The fee is in addition to and not in lieu of the occupational license tax imposed by other ordinances.

*(Ord.95-5, Sec. 1; Ord. 2008-07, Sec. 8)*

### **Sec. 30-54. Transfer**

The escort license is personal, not transferable to another person. Any use of the license by a person other than the licensee shall result in revocation of the license.

*(Ord.95-5, Sec. 1)*

### **Sec. 30-55. Regulations**

(a) Licensees must have their licenses attached to an outer garment while they are inside a place of business, hotel or motel for the purpose of, or subsequent to, meeting a customer.

(b) Licensee must notify the front desk of any hotel or motel that they have entered for the purpose of meeting a customer, and provide the name and room number of the customer. They must again notify the front desk immediately before leaving the hotel and motel.

(c) No escort shall engage in any specified sexual activity or display or expose any specified anatomical area to a customer while on duty.

*(Ord.95-5, Sec. 1)*

### **Sec. 30-56. Suspension or revocation**

(a) An escort license issued under the provisions of this Article may be revoked or suspended for a specified period of time by the Town Clerk if the holder has been convicted of any specified violation or criminal act.

(b) Prior to suspension or revocation, the licensee shall be given reasonable notice of the proposed action to be taken, and shall have an opportunity to present to the Town Clerk evidence as to why the escort license should not be revoked or suspended.

*(Ord.95-5, Sec. 1)*

**Sections 30-57 through 30-59 reserved.**

## **ARTICLE III. ALCOHOLIC BEVERAGES**

### **Sec. 30-60. Consumption on premises; hours**

It is unlawful for any person to consume or to permit the consumption of any alcoholic beverages on premises open to the public, catering to the sale and/or consumption of alcoholic beverages between the hours of 2:00 a.m. and 7:00 a.m. immediately following on Tuesday, Wednesday, Thursday, Friday and Saturday; between the hours of 2:00 a.m. on Sunday and 12 :00 a.m. on the same day; and 12:00 p.m. Sunday and 7 :00 a.m. on the following Monday. The provisions of this section shall apply whether said premises holds a valid beverage license or not and shall apply within or without any improvement located thereon.

*(Ord.83-5, Sec. 5-1)*

### **Sec. 30-61. Sale or consumption off premises; hours**

No alcoholic beverage may be sold for consumption off premises in any place holding a beverage license under the laws of Florida, after 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday, Thursday, Friday and before 7:00 a.m. on the following morning; and after 11:00 p.m. Saturday and before 12:00 a.m. on the

following morning.

*(Ord.83-5, Sec. 5-2)*

**Sections 30-62 through 30-69 reserved.**

**ARTICLE IV. MISCELLANEOUS**

**Sec. 30-70. Unlawful to violate State Law; penalties**

(a) It shall be unlawful to commit, within the corporate limits of the Town of Micanopy, any act which is or shall be recognized by the laws of the State of Florida as a misdemeanor; and the commission of such acts are hereby forbidden.

(b) Whosoever shall violate the provisions of this ordinance, upon conviction thereof, shall be punished by a fine not to exceed five hundred dollars (\$500.00), or by imprisonment for a period of time not greater than sixty (60) days; or by both fine and imprisonment.

*(Ord.83-5, Sec. 40-1)*

**Sec. 30-71. Placing injurious substances on streets and sidewalks prohibited**

No person shall place or cause to be placed on any street or sidewalk of the Town broken glass, nails, tacks, wire or other material that may damage passing persons or vehicles.

*(Ord.83-5, Sec. 40-2)*

**Sec. 30-72. Injuring or defacing shade trees prohibited**

It shall be unlawful for any person to affix signs to or in any other way injure, mar or deface any of the shade trees growing on any of the streets of the Town.

*(Ord.83-5, Sec. 40-3)*

**Sec. 30-73. Destroying, etc., public property**

It shall be unlawful for any person to willfully and maliciously mar or deface any building or sign, or extinguish any city light, or break or destroy any city light within the corporate limits of the Town. It shall be unlawful for any person to willfully or mischievously throw stones or other missiles within the corporate limits of the Town.

*(Ord. 83-5, Sec. 40-12)*

**Sec. 30-74. Disturbing religious worship**

It shall be unlawful for any person to disturb or interrupt any congregation of people lawfully assembled in any church, or place of public worship to perform divine service, or cause any riot or disturbance in or about any of the churches or places of public worship of any recognized sect or denomination of religion, in the Town.

*(Ord. 83-5, Sec. 40-14)*

**Sec. 30-75. Playing baseball, football, etc., on streets prohibited**

It shall be unlawful for any person to engage in the playing of baseball or football or any other game on the streets of the Town.

*(Ord.83-5, Sec. 40-4)*

**Sec. 30-76. Obstructing streets, etc., generally; digging holes, etc.**

It shall be unlawful for any person to place or construct any fence or building or other obstruction, upon or over, or otherwise obstruct, all or any part of any street, avenue, alley, lane, or sidewalk or other public grounds of the Town, or to dig any hole in any street, sidewalk or other public highway or grounds of the Town, without the written consent of the Town Commission.

*(Ord.83-5, Sec. 40-5)*

**Sec. 30-77. Obstructing sidewalks with vehicles, etc.**

It shall be unlawful for any person to park any dray or vehicle across any sidewalk for the purpose of loading or unloading freight or goods in such a manner as to obstruct the free usage of such sidewalk by pedestrians.

*(Ord.83-5, Sec. 40-6)*

**Sec. 30-78. Vendor's stands, etc.**

It shall be unlawful for any person to display, keep or maintain any stand, Article or item of personal property whether for sale, advertising or other purpose, on any of the streets or sidewalks of the Town without first obtaining a permit thereof from the Town Commission.

*(Ord.83-5, Sec. 40-7)*

**Sec. 30-79. Penalties for violation of ordinances which provide no specific penalty**

Whenever in any Ordinance of the Town of Micanopy an act is prohibited or is made or declared to be unlawful or an offense, misdemeanor or public nuisance, or whenever in such Ordinances the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefore, the violation of any such provision of such ordinance shall be punished by a fine not exceeding five hundred dollars (\$500.00), or imprisonment for a term not exceeding sixty (60) days, or by both such fine and imprisonment. Each day any violation of any provision of such ordinance shall continue shall constitute a separate offense.

*(Ord.83-5, Sec. 40-30)*

**Section 30-80. Special events/applicability**

Sec. 30-80 through 30-85 apply to Special Events, defined as a festival, celebration, gathering, parade, or other event where members of the public use the streets and byways of the Town for a particular purpose to the exclusion of the normal uses thereof. A Special Event may include booths, tents, or other such temporary structures for the displays or sales of food, arts, crafts, merchandise, and the like. A Special Event may include musical performances, entertainment of all sorts, or other attractions.

*(Ord.2009-02, Sec. 1)*

**Section 30-81. Permit Required**

No special event shall be held or conducted unless the Town first issues a permit authorizing same.

*(Ord.2009-02, Sec. 2)*

**Section 30-82. Permit application**

An application for special event permit shall contain the following:

- (a) Statement of use and activities. A general statement of the proposed use including the purpose of the event, types of proposed activities, duration of use, hours of operation, anticipated attendance, security, medical facilities, and other information that may be reasonably required by the Town Clerk.
- (b) Development plan. A general development plan for the temporary use, including property boundaries, access to the site, location of tents or other temporary structures, location of proposed activities, parking, signs, temporary lighting, utilities, generators and other mechanical equipment, and setbacks of all structures, equipment, and activities from adjacent properties.
- (c) Sanitation and public health. Plans for sanitation and public health protection including temporary bathroom facilities, inspection of food facilities, drainage, and garbage and litter control.
- (d) Permissions. Should the Special Event involve the use of private property, permissions from the owners thereof.
- (e) Hold Harmless and Indemnity Agreement. An agreement, acceptable in form and content to the Town Attorney, agreeing to hold harmless and indemnify the Town from and against claims, suits, losses, and damages for personal injuries, including death, and property damage arising from the Special Event.
- (f) Insurance. Proof of general liability insurance, naming the Town as an additional insured, with minimum liability limits of one million dollars combined limit, providing coverage for the Special Event.

*(Ord.2009-02, Sec. 3)*

**Section 30-83. Additional standards**

The Town Clerk may place additional conditions or restrictions on a Special Event permit, including but not limited to the following:

- (a) Hours of operation;
- (b) Traffic control and access;
- (c) Lighting;
- (d) Noise control; and
- (e) Security and/or law enforcement.
- (f) Surety. The Town Clerk may require the operator of a Special Event to post a cash surety, or other form of security, to provide funds to cleanup or otherwise mitigate a site following such use. The amount of the surety shall be determined by the Town Clerk.

*(Ord.2009-02, Sec. 4)*

**Section 30-84. Overnight camping**

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No overnight camping shall be permitted as part of a Special Event unless approved by the Town Commission.

*(Ord.2009-02, Sec. 5)*

### **Section 30-85. Approval**

Unless otherwise provided herein, the Town Clerk has the authority to approve a Special Event permit, including any conditions or restrictions placed on the proposed activities.

*(Ord.2009-02, Sec. 6)*

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**ARTICLE I. MICANOPLY CEMETERY**

**Sec. 35-1. Word "cemetery" construed**

When the term "cemetery" is used in this Article, it shall be construed to mean the Micanopy Cemetery.

*(Ord.83-5, Sec. 14-1)*

**Sec. 35-2. Lands designated; purpose**

The lands now owned by the Town and known as Micanopy Cemetery and all lands hereafter acquired by the Town contiguous thereto are hereby designated as Micanopy Cemetery and it shall be used for the interment of any body or the cremated remains of any body.

*(Ord.83-5, Sec. 14-2)*

**Sec. 35-3. Supervision and operation**

The Micanopy Cemetery Association shall supervise and operate the Cemetery. They are hereby authorized to employ the necessary personnel for such operation.

*(Ord.83-5, Sec. 14-3)*

**Sec. 35-4. Disposition of proceeds from sale, rental and upkeep**

All monies from the sale, rental and upkeep of lots in the Cemetery shall be paid to the Micanopy Cemetery Association.

*(Ord.83-5, Sec. 14-4)*

**Sec. 35-5. Deeds of conveyance**

The Micanopy Cemetery Association, through its President and Secretary, together with three members of the Town Commission, are hereby authorized to execute deeds of conveyance to lots within the Cemetery.

*(Ord.83-5, Sec. 14-5)*

**Sec. 35-6. Rules and regulations**

The Micanopy Cemetery Association shall by resolution promulgate rules and regulations for cemetery.

*(Ord.83-5, Sec. 14-6)*

**Sec. 35-7. Penalties**

Any person violating or failing to comply with any of the provisions of this Article or any of the rules or regulations promulgated hereunder, shall be punished as provided by Florida Statute Chapter 775 for commission of a misdemeanor of the second degree.

*(Ord.83-5, Sec. 14-7)*

**ARTICLE II. PARKS AND RECREATIONAL FACILITIES RULES AND REGULATIONS**

**Sec. 35-8. Parks and Recreational Facilities Rules and Regulations**

The following rules and regulations apply to the use of all parks and recreational facilities owned by the Town of Micanopy:

- (1) Operating hours are from 8:00 am – 8:00 pm unless otherwise posted or approved by the Town Commission.
- (2) Animals (except for service animals as defined in F.S. §413.08) are not allowed in areas where posted. In any area where animals are permitted, the animal must be on a leash and the person in charge of the animal shall remove any waste created by the animal. The use of service animals is subject to the requirements of F.S. §413.08.
- (3) No glass containers or consumption of alcoholic beverages is allowed.
- (4) The following are prohibited:
  - (a) Use of any tobacco product, including chewing tobacco, snuff and smokeless tobacco; and
  - (b) Use of smokeless cigarettes, also known as e-cigarettes.
- (5) No overnight camping of any type or sleeping shall be allowed except in those areas that are specifically designed or otherwise approved for such use by the Town Commission.
- (6) No dumping of any kind is permitted.

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(7) No use of metal detecting equipment is permitted. No person shall destroy, injure, deface, mar, move, dig, harmfully disturb or remove from any area any artifacts, historic resources, equipment, park property, soil, sand, gravel, rocks, stones, fossils, minerals, plants, trees and shrubs, animals, or other materials.

(8) No person shall solicit or canvass for the sale or rental of merchandise, services, goods or property of any kind or character. This prohibition shall not apply to a tenant, concessionaire, permittee or licensee of the Town lawfully operating within the terms of any lease, concession agreement, license or permit granted by the Town.

(9) No person shall perform any activity, which, at the time of performance, is not compatible with the public's utilization of the area. No person shall ride, use or operate bicycles, roller skates, roller blades, skate boards and/or similar devices in or on gazebos, structures, shelters, benches, tables, chairs, paver areas or improved surfaces, monuments, signs, newspaper racks or other amenities.

(Ord.2016-07, Sec. 1)

### **Section 35-9. Penalties**

Any person violating any of the rules and regulations provided in this Article shall be punished by:

(1) A fine not to exceed five hundred dollars (\$500.00);

(2) Imprisonment in the county jail for a period not to exceed sixty (60) days;

(3) Both such fine and imprisonment in the discretion of the court having jurisdiction over the cause.

(Ord.2016-07, Sec. 1)

**Sections 35-10 through 35-14 reserved.**

## **ARTICLE III. MICANOPY FIRE DEPARTMENT**

### **Sec. 35-15. Definitions**

For the purposes of this Article, the following words are defined:

(a) "Chief" shall mean the Chief of the Micanopy Fire Department.

(b) "Department" shall mean the Micanopy Fire Department.

(Ord. 90-6, Sec. 1)

### **Sec. 35-16. Organization**

(a) The Department shall be a Department of the Town of Micanopy.

(b) The Department shall be composed of a Chief, officers, firefighters and volunteers as such shall be necessary to operate the Department. The management plan determining the job description and responsibility of officers, firefighters and volunteers for the Department shall be submitted by the Chief and approved by the Town Administrator.

(c) Members of the Department shall be appointed by the Chief.

(d) Members may be suspended or removed by the Chief, subject to review by Town Administrator.

(Ord. 90-6, Sec. 2, 3, 8, 9; Ord. 2016-08, Sec. 1)

### **Sec. 35-17. Selection and removal of chief**

(a) The Chief shall be selected by the Town Commission. The Town Commission shall consider the recommendations of the Town Administrator, who shall consult with members of the Department before making any recommendation. Consultation shall be a meeting of the Department members attended by the Town Administrator at which selection of the Chief shall be discussed.

(b) The Chief may be removed by the Town Administrator. The Chief may appeal removal to the Town Commission. The Town Commission after due public notice and hearing may affirm, modify, or reverse the decision of the Town Administrator.

(Ord. 90-6, Sec. 5, 6; Ord. 2016-08, Sec. 1)

### **Sec. 35-18. Duties of chief**

The Chief shall:

(a) Supervise Department personnel.

(b) Promote, schedule, and maintain personnel training records for all educational training for Departmental personnel.

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- (c) Maintain the station log and make all the required reports, including but not limited to State Fire Marshal reports.
- (d) Working with the Town Administrator, develop an annual Department budget.
- (e) Develop equipment specifications for acquisition of Department equipment.
- (f) Maintain and safeguard Department property and equipment.
- (g) Perform such other duties as may be assigned by the Town Administrator and/or Town Commission.  
(*Ord. 90-6, Sec. 7; Ord. 2016-08, Sec.1*)

**Sections 35-19 through 35-29 reserved.**

### **ARTICLE IV. MICANOPY WATER UTILITY**

#### **Sec. 35-30. Application**

It shall be unlawful for any person to use City water without first making written application to the Town for such service at least forty-eight (48) hours before the service is desired and paying all charges incident to such application. Such application shall be made on forms furnished by the Town and shall constitute an agreement by the consumer with the Town to abide by the rules of the Town in regard to its service of water. Applications for service by firms, partnerships, associations and corporations shall be tendered only by their duly authorized agents and the official title of such parties shall be signed to the application.

(*Ord.83-5, Sec. 61-1*)

#### **Sec. 35-31. New construction – connection**

No Zoning Compliance Verification or building permit for the construction of any building or structure to be used for human occupancy, employment, recreation, business or other purposes located on property within the Town of Micanopy shall be issued unless same is directly connected with the public water system.

(*Ord.83-5, Sec. 61-2; Ord. 85-4; Ord. 2016-09, Sec. 1*)

#### **Sec. 35-32. Existing building – connection**

The owner of any existing house, building or other improvements on any property used, or to be used, for human occupancy, employment, recreation, business or other purposes which is or shall be served by a water system other than by a direct connection to the Town public water system, and located on property abutting on any street, alley, right-of-way or easement on which a public water distribution line is installed, and located within two hundred (200) feet of such water line shall within two (2) years after the completed construction of such water line in operative condition, connect or cause to be connected, such house, building or other improvement, to the Town Water System. Upon connection with the Town Water System, the owner shall cease the use of all other facilities.

(*Ord.83-5, Sec. 61-3*)

#### **Sec. 35-33. Connection costs and fees**

The Town shall furnish to the consumer all necessary labor and materials to provide water service to consumer's property line inside the corporate limits of the Town, subject to consumer's prepaying those labor and material costs. The connection fee for new service shall be established by resolution of the Town Commission. The Town may, at its discretion, extend water lines and provide for all necessary labor and materials at no charge to individual consumers where it deems the extension to be in the Town's interest, and not specifically in the interest of any individual consumer.

(*Ord.83-5, Sec. 61-4; Ord. 2004-09, Sec. 1; Ord. 2016-09, Sec. 1*)

#### **Sec. 35-34. Deposits**

- (a) An initial deposit established by resolution of the Town Commission shall be paid in order to receive water service.
- (b) The deposit will be held in an interest bearing account. The interest accrued will be used by the Town for the administration of the program. The consumer will not be entitled to any of the interest while the Town holds the deposit.
- (c) After the initial deposit is paid, an additional amount established by resolution of the Town Commission shall be required as deposit every time the consumer's water is shut off due to delinquency, up to the maximum amount established by resolution of the Town Commission.
- (d) In the event that a consumer leaves Micanopy without paying an outstanding water bill, the Town shall retain the deposit in order to satisfy the debt to the Town. If the deposit amount is insufficient to cover



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the bill, assumption of the deposit shall not be construed to be a release of a cause of action against the consumer.

*(Ord.2000-7; Ord. 2004-09, Sec. 1; Ord. 2008-07, Sec. 9; Ord. 2016-09, Sec. 1)*

### **Sec. 35-35. Rates**

The rates to be charged and collected from consumers of water furnished by the Town shall be established by resolution of the Town Commission. The Town Commission may change the rates and charges for water service at any regularly scheduled meeting of the Town Commission provided that notice of the proposed rate change has first been mailed to all water consumers at least fourteen (14) days before the meeting. Such notice shall contain the proposed new rates and the date, time and location of the meeting at which the rate increase is to be considered.

*(Ord. 83-10, Sec. 1; 2008-07, Sec. 10; Ord. 2016-09, Sec. 1)*

### **Sec. 35-36. Back flow preventer charges**

(a) Base residential water rate [minimum rate] for water service shall be increased by an amount established by resolution of the Town Commission.

(b) Commercial service rates shall be increased by the amount equal to the cost of the installation of the back-flow preventer. (This shall include the cost of the equipment plus the cost of installation, including labor.) Each commercial installation shall be charged separately. All invoices for services on the installation for commercial users shall be preserved for a period of one year. The cost of installation and the cost of equipment shall be charged to the commercial user account. The commercial user account shall be debited the amount due at the next billing cycle. The commercial consumer shall have three billing cycles in which to pay the cost of the installation with no interest charges. Interest charges in the amount of 12% (1% per month) shall be charged for any unpaid balance due after the first three billing cycles have expired.

(c) The Town of Micanopy shall impose an annual testing fee for commercial service users. This fee shall be the actual cost to the Town of Micanopy for the testing, including testing fees and labor costs. This fee shall be paid within one billing cycle of its appearance on the commercial water service invoice. Testing shall be completed by Town employees or contract employees, as required by Florida State Statutes.

*(Ord.98-6; Ord. 2008-07, Sec. 11; Ord. 2016-09, Sec. 1)*

### **Sec. 35-37. Meters**

(a) The rates for new meter installation shall be established by resolution of the Town Commission.

(b) In the event any meter on the consumer's premises is destroyed by fire or other the consumer will be billed for the period involved on a basis of previous consumption.

*(Ord.83-5, Sec. 61-7; Ord. 2004-09, Sec. 1; Ord. 2016-09, Sec. 1)*

### **Sec. 35-38. Shut-off boxes**

Shut-off boxes or service boxes shall be placed on every service pipe, and shall be located between the curb line and the sidewalk line where this is practicable. Such boxes shall be located so that they are easily accessible and shall be protected from frost.

*(Ord.83-5, Sec. 61-8)*

### **Sec. 35-39. Liability of consumer for payment**

The liability of the consumer for service shall begin on the day the consumer is connected to the Town Water System and shall continue thereafter unless disconnected for nonpayment or other cause until written notice is given the Town by the consumer of his desire to terminate the service.

*(Ord.83-5, Sec. 61-9)*

### **Sec. 35-40. Combined monthly statements for all utilities, rendering**

Combined monthly statements for all utilities services including water and solid waste collection plus applicable taxes shall be rendered each consumer of such service, but the rendering of such statement is not an obligation on the part of the Town. Failure of the consumer to secure such statement shall not release or diminish the obligation of the consumer for the payment thereof or release the consumer from any obligation under this Chapter.

*(Ord. 83-5, Sec. 61-10; Ord. 2004-09, Sec. 1; Ord. 2016-09, Sec. 1)*

### **Sec. 35-41. Billing procedures; delinquent accounts; courtesy notice; non-payment; shut-off; turn-on**

## CHAPTER 35. PUBLIC FACILITIES AND SERVICES

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- (a) Bills will be due and payable upon the billing date (usually the last day of the month).
- (b) Bills are considered late and past due if not paid in full by the end of the 21<sup>st</sup> day of the month following the billing date.
- (c) A late fee in an amount established by resolution of the Town Commission will be imposed on all outstanding accounts as of the 22<sup>nd</sup> day of the month following the billing date.
- (d) A **Courtesy Notice** specifying the pending shut-off date for a past due account may be mailed after the past due date (21<sup>st</sup> of the month).
- (e) Bills will be considered delinquent and eligible for shut-off if not paid in full by the last day of the month following the billing date. Delinquent accounts may be shut off if not paid in full by noon on the first day of the month following such payment delinquency.
- (f) Water service will be re-established for delinquent accounts once the account has been brought current, all outstanding balances have been paid in full and payment of a reconnection fee.
- (g) A reconnection fee in an amount set by resolution of the Town Commission shall be charged for each occurrence that the water is required to be turned-on after having been shut-off by consumer request or for delinquent payment.

*(Ord.83-5, Sec. 61-11; Ord. 2008-07, Sec. 12; Ord. 2016-09, Sec. 1)*

### **Sec. 35-42. Interconnection with private system**

No person shall interconnect a privately owned water system to the Town's water system or turn on any water service or tap or make any alteration to any main or distribution line of the Town Water System or in any way interfere with or molest any of the wells, reservoirs, basins or water in the same, or permit any connection or tapping to be made to the Town's water system on his premises or premises occupied by him or to knowingly use Town water from unauthorized connections.

*(Ord.83-5, Sec. 61-12)*

### **Sec. 35-43. Supplying separately owned properties through one meter prohibited**

(a) Separately owned properties shall not be supplied with water through one meter. No water shall be resold or distributed by the consumer thereof from the Town supply to any premises other than that for which application has been made.

(b) For purposes of subsection (a) hereof, "separately owned property" is property which is:

- (1) Non-contiguous or
- (2) Contiguous, but not owned by the same person or persons.

(c) Other provisions of this section notwithstanding, if any part of premises served by the Town Water System is rented to an additional living unit or business, each such additional living unit or business shall be served through a separate meter, provided, however, that the owner of the building used as a multiple family dwelling, which building was constructed prior to January 1, 1974 may elect to have more than one living unit in the building served by a single meter, in which case the minimum monthly charge for water supplied through each meter shall be the number of living units served by the meter multiplied by an amount established by resolution of the Town Commission, and provided further that mobile home parks within the Town shall be served by a single meter, and the minimum monthly charge shall be the number of families or mobile homes served multiplied by an amount established by resolution of the Town Commission.

*(Ord.83-5, Sec. 61-13; Ord. 2008-07, Sec. 13)*

### **Sec. 35-44. Inspection of plumbing**

No water service shall be connected until the connection to the Town's System has been inspected and approved by an official of the Town as designated by the Town Commission.

*(Ord.83-5, Sec. 61-14; Ord. 2016-09, Sec. 1)*

### **Sec. 35-45. Access to premises by Town employees**

The consumer shall grant or cause to be granted to the Town without cost, all rights, easements, permits and privileges which are necessary for the rendering of service. Duly authorized employees of the Town shall have access at all reasonable hours to the premises of the consumer for the purpose of reading meters, installing or removing any of its property or for any purpose incidental to the rendering of service.

*(Ord.83-5, Sec. 61-15)*

### **Sec. 35-46. Withholding and discontinuance of service**

## CHAPTER 35. PUBLIC FACILITIES AND SERVICES

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The Town may withhold or discontinue water service rendered under any application made by any member or agent of a family, household, organization or business unless all prior indebtedness due by such family, household, organization or business is paid in full.

*(Ord.83-5, Sec. 61-16)*

### **Sec. 35-47. Temporary service**

Temporary service, such as for circuses, fairs, carnivals, construction work and the like, shall be rendered upon written application accompanied by a deposit sufficient to cover the Town's estimate of the cost of water to be consumed, materials, labor and any other expense incurred by the Town in rendering such service. Upon termination of the service, any balance of the deposit shall be returned to the consumer.

*(Ord.83-5, Sec. 61-17)*

### **Sec. 35-48. Testing meters**

Upon written notice by the consumer, a meter will be tested by the Town. In the event the meter, when tested, is found to be not more than 3% fast, the expense of the test, which shall be established by resolution of the Town Commission, shall be paid by the consumer. If the meter is found to be more than 3% fast, the expense of the test will be borne by the Town and billing adjustments for a period not to exceed six (6) months will be made.

*(Ord.83-5, Sec. 61-18; Ord. 2008-07, Sec. 14)*

### **Sec. 35-49. Liability of Town; restricting use of water**

The Town shall not be liable for any damage resulting from the bursting of any main service pipe or cock, from the shutting off of water or repairs, of the water supply from any cause whatsoever. In case of emergency, the Town shall have the right to restrict the use of water in any reasonable manner for the protection of the Town and its water supply.

*(Ord.83-5, Sec. 61-19; Ord. 2016-09, Sec. 1)*

### **Sec. 35-50. Penalties**

Any person violating any provision of this Article, shall upon conviction, be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment of not more than sixty (60) days or by both said fine and imprisonment.

*(Ord.83-5, Sec. 61-20)*

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**ARTICLE I. EXCAVATION**

**Sec. 40-1. Short title**

Sec. 40-1 through 40-6 shall be known and may be cited as The Street and Public Property Excavation Ordinance of the Town of Micanopy.

*(Ord.83-5, Sec. 43-1)*

**Sec. 40-2. Excavation permit**

It shall be unlawful for any person to dig up, break, excavate, tunnel, undermine or in any manner break up any street or public property, or to make or cause to be made any excavation in or under the surface of any street or public property for any purpose, or to place, deposit or leave upon any street any earth or other excavated material obstructing or tending to interfere with the free use of the street, unless such person shall first obtain an excavation permit therefor from the Town Clerk of the Town of Micanopy as herein provided.

*(Ord.83-5, Sec. 43-2)*

**Sec. 40-3. Application**

No excavation permit shall be issued unless a written application for the issuance of an excavation permit is submitted to the Clerk of the Town of Micanopy. The written application shall state the name and address of the applicant, the nature, purpose and location of the excavation, the date of the commencement and the date of completion of the excavation.

The application shall be accompanied by plans showing the extent of the proposed excavation work, the dimensions and elevations of both the existing ground prior to said excavation work, the dimensions and elevations of both the existing and of the proposed excavated surfaces, and the location of the excavation work.

*(Ord.83-5, Sec. 43-3)*

**Sec. 40-4. Maintain drawings**

Users of sub-surface street space shall maintain accurate drawings, plans, and profiles showing the location and character of all underground structures, including abandoned installations. Corrected maps shall be filed with the Town Clerk within sixty (60) days after new installations, changes or replacements are made.

*(Ord.83-5, Sec. 43-4)*

**Sec. 40-5. Ordinance not applicable to Town work**

The provisions of Sec. 40-1 through 40-6 shall not be applicable to any excavation work under the direction of competent Town authorities by employees of the Town or by any contractor of the Town performing work for and in behalf of the Town necessitating openings or excavations in streets on public property.

*(Ord. 83-5, Sec. 43-5)*

**Sec. 40-6. Penalties**

Any person violating any provision of this Article shall upon conviction be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment of not more than sixty (60) days or by both such fine and imprisonment.

*(Ord.83-5, Sec. 43-6)*

**Sections 40-7 through 40-9 reserved.**

**ARTICLE II. PARKING**

**Sec. 40-10. No parking areas**

Except when necessary to avoid conflict with other traffic or in compliance with law or the direction of a law enforcement officer, no person shall park, stand or stop a vehicle in any area prohibited by a resolution of the Town Commission and so designated by the erection of an official sign which prohibits the stopping, standing or parking of a vehicle.

**Sections 40-11 through 40-19 reserved.**

**ARTICLE III. STREET CLOSINGS**

**Sec. 40-20. Generally**

(a) This Article lists the streets that the Town of Micanopy, upon review of the circumstances, has closed

## CHAPTER 40. ROADS AND BRIDGES

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as a public right-of-way and relinquished any claim of ownership. In each case the owners of the property adjacent to the closed street section are recognized by the Town of Micanopy as the owners of record of one-half of the street right-of-way from the centerline of the closed street to the lot line on each adjacent lot or lots respectively.

(b) With regard to all of those intersections of streets, alley ways, and rights of way where the street, road way or alley way has been vacated and abandoned in all four directions, that intersection shall also be deemed to have been vacated and abandoned.

### **Sec. 40-21. Portion of Ocala Street**

(a) Pursuant to application, and upon review that part of Ocala Road lying South of State Road 25-A and lying within the following legal description is hereby closed as a public right-a-way:

A parcel of land located in Section 26, Township 11 South, Range 20 East, Micanopy, Florida, being more particularly described as follows:

Commence at an iron pipe 165 feet East of the Northeast corner of J. J. Barr's tract of land in the Town of Micanopy, Florida in Section 26, Township 11 South, Range 20 East, thence run South 03 deg. 05 min. 06 sees. East 316 .53 feet to a 30 inch pecan tree, thence run South 34 degrees 29 minutes 25 seconds East 255.04 feet to an iron pipe and the Point of Beginning, thence continue South 34 degrees 29 minutes 25 seconds East 30.00 feet to an iron pipe, then run North 82 degrees 12 minutes 09 seconds East 267.06 feet to an iron pipe, thence run North 02 degrees 04 minutes 32 seconds East 419.32 feet to an iron pipe and the South right-of-way of County Road 25-A (66 foot right-of-way) thence run along said right-of-way North 82 degrees 14 minutes 30 seconds West 303.84 feet to an iron pipe, thence run South 00 degrees 31 minutes 19 seconds East 471.59 feet to an iron pipe and the Point of Beginning.

*(Ord.84-6, Sec. 1)*

(b) That portion of Ocala Street Extension lying north of Lots 57 and 58 of Livingston Addition and lying south of Lot 59 of Livingston Addition and Lot 2 of Hunnellwell Addition.

*(Ord.86-3, Sec. 2)*

### **Sec. 40-22. Certain streets within Payne Addition**

The following streets and alleyways located in Payne Addition to the Town of Micanopy are hereby closed as public rights-of-way and vacated and abandoned by the Town of Micanopy:

(a) That alleyway lying east of Lot 48 of Payne Addition and lying west of Lot 47 of Payne Addition.

(b) That portion of Ogeohee Street in the Town of Micanopy lying east of Lots 33, 40, and 45 of Payne Addition and lying west of Lots 32, 41 and 44 of Payne Addition.

(c) That portion of an alleyway lying east of Lot 32 of Payne Addition and lying west of Lot 31 of Payne Addition.

(d) That alleyway lying south of Lots 29 and 30 of Payne Addition, and lying north of Lots 31 and 32 of Payne Addition extending from the east right-of-way of Ogeohee Street to the west right-of-way line of Division Street.

(e) That street lying south of Lots 31 and 32 of Payne Addition and lying north of Lots 41 and 42 of Payne Addition extending from the east right-of-way of Ogeohee Street to the west right-of-way line of Division Street.

(f) That alleyway lying south of Lots 37 and 41 of Payne Addition and lying north of Lots 44 and 48 of Payne Addition.

(g) That alleyway lying south of Lot 42 and north of Lot 43 of Payne Addition extending from the west line of Lots 42 and 43 to the west right-of-way line of Division Street.

*(Ord.86-3, Sec. 1)*

(h) That alley way lying East of Lots 1, 12, 13, 24, 25, 36, and 37 of Payne Addition and lying West of Lots 2, 11, 14, 23, 26, 35, and 38 of Payne Addition.

(i) That portion of Chacala Street lying East of Lots 2, 11, 14, 23, 26, 35, 38, and 47 of Payne Addition and lying West of Lots 3, 10, 15, 22, 27, 34, 39, and 46 of Payne Addition.

(j) That alley way lying East of Lots 3, 10, 15, 22, 27, 34, 39, and 46 of Payne Addition and lying West of Lots 4, 9, 16, 21, 28, 33, 40, and 45 of Payne Addition.

(k) That portion of Ogeohee Street lying East of Lots 4, 9, 16, 21, and 28 of Payne Addition and lying West of Lots 5, 8, 17, 20, and 29 of Payne Addition.

## CHAPTER 40. ROADS AND BRIDGES

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- (l) That alley way lying East of Lots 5, 8, 17, 20, and 29 of Payne Addition and lying West of Lots 6, 7, 18, 19, and 30 of Payne Addition.
- (m) That portion of Yallaha Street lying South of Lots 7 through 12 inclusive of Payne Addition and lying North of Lots 13 through 18 inclusive of Payne Addition.
- (n) That alley way lying South of Lots 13 through 17 inclusive of Payne Addition and lying North of Lots 20 through 24 inclusive of Payne Addition.
- (o) That street, alley, or right of way lying South of Lots 19 through 24 inclusive of Payne Addition and lying North of Lots 25 through 30 inclusive of Payne Addition.
- (p) That alley way lying South of Lots 25 through 28 inclusive of Payne Addition and North of Lots 33 through 36 inclusive of Payne Addition.
- (q) That street, alley, or right of way lying South of Lots 33 through 36 inclusive of Payne Addition and lying North of Lots 37 through 40 inclusive of Payne Addition.
- (r) That alley way lying South of Lots 38 through 40 inclusive of Payne Addition and North of Lots 45 through 47 inclusive of Payne Addition.

*(Ord. 94-1, Sec. 1)*

### **Sec. 40-23. Certain streets within Stoughton Addition**

The following streets and alleyways located in the Stoughton Addition to the Town of Micanopy are hereby closed as public rights-of-way and vacated and abandoned by the Town of Micanopy:

- (a) That portion of Lucky Street lying south of Lots 13 through 15 inclusive of Stoughton Addition and north of Lots 10 through 12 inclusive of Stoughton Addition extending from the east right-of-way line of Division Street to the west right-of-way line of Cholokka Boulevard.
- (b) That portion of Yallaha Street lying south of Lots 31 through 33 inclusive of Stoughton Addition and north of Lots 28 through 30 inclusive of Stoughton Addition extending from the west right-of-way line of Division Street to the east right-of-way line of Cholokka Boulevard.
- (c) That portion of Division Street lying east of Lots 6, 7, and 18 of Payne Addition and lying west of Lots 28, 33 and 34 of Stoughton Addition extending from the north Town limits to the north right-of-way line of State Road #25.

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## CHAPTER 45. TAXATION AND SPECIAL ASSESSMENTS

### **ARTICLE I. OCCUPATIONAL TAX**

#### **Sec. 45-1. Tax assessments**

The following occupational license taxes shall be paid to the Town of Micanopy by persons engaging in occupations, professions or business enterprises within the Town of Micanopy. These tax amounts may be amended by resolution of the Town Commission:

<u>Category</u>	<u>Occupational License Amount</u>
Industrial Enterprises	\$250.00
Residential or Commercial Landlords and Mobile Home Parks	\$40.00 per unit or space
Businesses, Professions, etc. located in the Historic General Business District	\$40.00
Businesses, Professions, etc. located in any other zoning district	\$40.00

*(Ord. 86-4, Sec. 2)*

#### **Sec. 45-2. Due dates**

All occupational licenses are valid from October 1<sup>st</sup> through September 30<sup>th</sup> of the following year. Occupational licenses that are not renewed when due and payable are delinquent and subject to a delinquency penalty of ten (10) percent for the month of October, plus an additional five (5) percent penalty for each subsequent month of delinquency until paid. However, the total delinquency penalty may not exceed twenty-five (25) percent of the occupational license tax for the delinquent establishment.

*(Ord.2016-10, Sec. 1)*

#### **Sec. 45-3. Enforcement**

(1) Any person who engages in or manages any business, occupation, or profession without first obtaining an occupational license is subject to a penalty of twenty-five (25) percent of the tax due, in addition to the costs of any collection proceedings.

(2) Any person who engages in any business, occupation, or profession covered by this Article, who does not pay the required occupational license tax within one hundred fifty (150) days after the initial notice of tax due is subject to civil actions and penalties, including court costs, reasonable attorneys' fees, additional administrative costs incurred as a result of collection efforts, and a penalty of up to two hundred fifty dollars (\$250.00).

(3) As an alternative means of enforcement, the Town may initiate code enforcement proceedings under Sec. 2-30, et. seq. of this code.

*(Ord.2016-10, Sec. 1)*

**Sections 45-4 through 45-9 reserved.**

### **ARTICLE II. PUBLIC SERVICE TAX**

#### **Sec. 45-10. Authority**

The Micanopy Public Service Tax is imposed by this Article pursuant to Sections 163.231, et seq., Florida Statutes, (2003).

*(Ord. 2004-01, Sec. 1)*

#### **Sec. 45-11. Definitions**

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

"Fuel oil" as used in this Article, shall include Fuel Oil Grade Nos. 1, 2, 3, 4, 5, and 6, kerosene, and coal oil.

## CHAPTER 45. TAXATION AND SPECIAL ASSESSMENTS

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“*Purchaser*” shall include any person, firm, corporation, partnership, society, club or association of persons acting together as a unit who purchase or cause to be purchased for consumption utility service within the corporate limits of the Town.

“*Seller*” shall include any person, individual, firm, co-partnership, joint venture, association, corporation, partnership, society, club, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, and shall include the state and any political subdivision, municipality, state agency, bureau, board, commission, instrumentality or department, or any combination thereof, and the plural as well as the singular number.

“*Utility service*” shall mean electricity, metered or bottled gas (natural, liquefied petroleum gas or manufactured), water service, and fuel oil, sold, purchased, delivered or received within the boundaries of the Town.

(Ord. 2004-01, Sec. 2)

### **Sec. 45-12. Levy**

(a) There is hereby levied by the Town on each and every purchase in the Town of any utility service a tax of ten (10) percent of the charge made by the seller of such service or commodity, provided that on fuel oil the tax shall instead be four (4) cents per gallon.

(b) The tax hereby levied on purchases of utility service shall be collected only once upon the same commodity or service and after the commodity or service has lost its interstate character.

(Ord. 2004-01, Sec. 3)

### **Sec. 45-13. Exemptions**

(a) *Political subdivisions, churches.* Purchases by the United States government, the State of Florida, and all counties, school districts and the Town, and by public bodies exempted by law or court order, and by any recognized church of this state for use exclusively for church purposes, are exempt from the tax levied under Sec. 45-12.

(b) *Fuel adjustments.* The tax imposed under Sec. 45-12 shall not be applied against any fuel adjustment charge and such charge shall be separately stated on each bill. "Fuel adjustment charge" means all increases in the cost of utility services to the ultimate consumer resulting from an increase in the cost of fuel to the utility subsequent to October 1, 1973.

(c) *Special fuels, fuels in certain quantities and for certain uses.* The tax imposed under Sec. 45-12 shall not be imposed on the purchase of fuel oil or kerosene for use as an aircraft engine fuel or propellant or for use in internal combustion engines; nor on the purchase of natural gas or fuel oil by a public or private utility, including municipal corporations and rural electric cooperative associations, either for resale or for use as fuel in the generation of electricity.

(d) The extension of the utility tax authorized by F.S. §166.231, to fuel oil as defined by this Article is based upon the legislative finding that fuel oil as defined by this Article is competitive with other utilities taxed by this Article under the doctrine announced by the Florida Supreme Court in the case of *Central Oil Company v. Cheney*, 253 So.2d 869 (Fla. 1971). It is further determined and declared that items that are exempt under this Article and other items which are not taxed under this Article, such as coal, wood, charcoal and alcohol are not competitive with those other items that are taxed by this Article.

(Ord. 2004-01, Sec. 4)

### **Sec. 45-14. Collection from purchaser; compensation to seller**

It shall be the duty of every seller of electricity, metered or bottled gas (natural, liquefied petroleum gas, or manufactured), water service, and fuel oil, within the corporate limits of the Town to collect from the purchaser thereof for the use of the Town, the tax levied by Sec. 45-12 at the time of collecting the selling price thereof, and to report and pay over on or before the 20th day of each calendar month to the Town Clerk or designee, all such taxes levied and collected during the preceding calendar month. It shall be unlawful for any seller to collect for any utility service without at the same time collecting the tax hereby levied unless such seller shall elect to assume and pay such tax without collecting the same from the purchaser. Any seller failing to collect such tax at the time of collecting for any such utility service where the seller has not elected to assume and pay such tax shall be liable to the Town for the amount of such tax; provided, however, that the seller shall not be liable for the payment of such tax upon uncollected bills. If any purchaser shall fail, neglect or refuse to pay for such utility service, including the tax hereby imposed, the seller shall have the right and is hereby authorized and empowered to immediately discontinue further service to such purchaser until the tax and the seller's bill shall have been paid in full.

*(Ord. 2004-01, Sec. 5)*

**Sec. 45-15. Records; monthly statements; payment to Town**

(a) *Records.* Each seller of services that are taxable under Sec. 45-12 shall preserve applicable records relating to such taxes until the expiration of the time within which the Town may make an assessment with respect to that tax. The Town may, during the seller's normal business hours at the official location of the seller's books and records, audit the records of any seller of a service that is taxable under Sec. 45-12, for the purpose of ascertaining whether taxable services have been provided or the correctness of any return that has been filed or payment that has been made. Each such seller must provide to the Town, upon sixty (60) days' written notice of intent to audit, access to applicable records for such service, except an extension of this sixty (60) day period shall be granted if reasonably requested by the seller. The seller may at its option waive the sixty (60) day notice requirement.

(b) *Monthly statements; payments.*

(1) Every seller is hereby required to sign and file not later than the 20th day of each month in the office of the Town Clerk or designee, a statement setting forth the amount of the tax to which the Town became entitled under the provisions of this Article on account of bills paid by purchasers during the preceding month, and to pay the amount of the tax to the Town Clerk or designee, to be deposited to the credit of such funds of the Town as may have been provided by the Town Commission.

(2) Statements and payments shall be accepted as timely if postmarked on or before the 20th day of the month; if the 20th day falls upon a Saturday, Sunday, or federal or state holiday, statements and remittances shall be accepted as timely if postmarked on the next succeeding workday.

*(Ord. 2004-01, Sec. 6)*

**Sec. 45-16. Monthly payment; forms; rules and regulations**

(a) In all cases where the seller of utility service collects the price thereof at monthly periods the tax hereby levied may be computed on the aggregate amount of the sales during such period provided that the amount of tax to be collected shall be the nearest whole dollar to the amount computed.

(b) The Town Clerk or designee shall prescribe, prepare and furnish forms for the reporting and return of the tax levied and collected under the terms of this Article and sellers of utility service shall make all returns of the taxes collected by them on such forms. The Town Clerk or designee is hereby further authorized to prescribe and promulgate necessary rules and regulations pertaining to the administration of the provisions of this Article.

*(Ord. 2004-01, Sec. 7)*

**Sec. 45-17. Interest on late payment**

Any seller failing to file any required return or pay the tax imposed by Sec. 45-12 due shall be subject to assessment of interest at the rate of one percent per month of the delinquent tax from the date the tax was due until paid. Interest shall be computed on the net tax due after application of any overpayments.

*(Ord. 2004-01, Sec. 8)*

**Sec. 45-18. Penalties for non-payment or not filing return**

(a) It shall be unlawful for a purchaser to willfully fail, refuse or neglect to pay the tax hereby imposed and levied and for a seller, or an officer, agent or employee of a seller, to willfully make a false report, fail to make a report or fail to pay the tax, or violate any other provision hereof. The person shall, upon conviction, be guilty of a class D offense or a civil fine not to exceed ten thousand dollars (\$10,000.00).

(b) In addition, any purchaser willfully failing or refusing to pay the tax imposed by Sec. 45-12 to file any required return shall be subject to the following:

(1) In the case of willful neglect, willful negligence, or fraud, penalties shall be assessed at the rate of five (5) percent per month of the delinquent tax, not to exceed a total penalty (not including interest) of twenty-five (25) percent. The penalty for failure to file a return shall not be less than fifteen dollars (\$15.00).

(2) In the case of a fraudulent return or a willful intent to evade payment of the tax, the seller making such fraudulent return or willfully attempting to evade payment of the tax shall be liable for a specific penalty of one hundred (100) percent of the tax.

(3) Penalties shall be computed on the net tax due after application of any overpayments.

*(Ord. 2004-01, Sec. 9)*

**Sec. 45-19. Effective date**

## CHAPTER 45. TAXATION AND SPECIAL ASSESSMENTS

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This Article shall become effective on October 1, 2004.

(Ord. 2004-01, Sec. 11)

**Sections 45-20 through 45-29 reserved.**

### **ARTICLE III. TELECOMMUNICATIONS TAX**

#### **Sec. 45-30. Intent**

It is the intent of the Town of Micanopy, Florida, to make an election under section 337.401(3)(c)1, Florida Statutes (2000), as amended by Section 34, Enrolled CS/CS/SB 1878 by the 2001 Florida Legislature, regarding the Town of Micanopy, Florida's decision on whether to require and collect fees from any providers of communications services that use or occupy municipal roads or rights-of-way for the provision of communications services.

(Ord. 2001-3, Sec. 1)

#### **Sec. 45-31. Election not to require and collect permit fees**

The Town of Micanopy, Florida, elects not to require and collect permit fees from any provider of communications services that uses or occupies municipal roads or rights-of-way for the provision of communications services. As provided in 337.401(3)(c)1, Florida Statutes (2000), this election shall take effect October 1, 2001.

(Ord. 2001-3, Sec. 2)

#### **Sec. 45-32. Election to increase local communications services tax**

(a) Pursuant to section 337.401(3)(c)1.b., Florida Statutes (2000), as amended by Section 34, Enrolled CS/CS/SB 1878 by the 2001 Florida Legislature, the Town of Micanopy, Florida elects to increase its total rate for the local communications services tax as computed under section 202.20(1) and (2), Florida Statutes (2000), as amended, by an amount of 0.12%, and this election shall take effect October 1, 2001.

(Ord. 2001-3, Sec. 3)

(b) Pursuant to Section 202.19, Florida Statutes, the Telecommunications Tax to be collected within the Town of Micanopy shall be 5.1 percent commencing on January 1, 2005. This does not include the additional 0.12 % authorized by Section 337.401, Florida Statutes, for municipalities, such as the Town of Micanopy, that have elected not to collect permit fees from telecommunications providers.

(Ord. 2004-2, Sec. 1)

### **ARTICLE IV. HOMESTEAD TAX EXEMPTIONS**

#### **Sec. 45-45 Definitions**

As used in this Article, and as prescribed in F.S. § 196.075, the term:

"Household" means a person or group of persons living together in a room or group of rooms as a housing unit, but the term does not include persons boarding in or renting a portion of the dwelling.

"Household income" means the adjusted gross income, as defined in Section 62 of the United States Internal Revenue Code, of all members of a household.

(Ord. 2015-3, Sec. 1)

#### **Sec. 45-46 First additional exemption for persons 65 and older**

A first additional homestead exemption for persons 65 and older from assessed valuation for Town ad valorem tax levies in the amounts specified in Sec. 45-48 of this Article is hereby authorized. Those persons entitled to the homestead exemptions in F.S. §196.031, and meeting the criteria for the first additional exemption listed in Sec. 45-47 of this Article may apply for and receive the first additional homestead exemption as provided in this Article. Receipt of the first additional homestead exemption provided for by this Article shall be subject to the provisions of F.S. §§196.131 and 196.161, if applicable.

(Ord. 2015-3, Sec. 1)

#### **Sec. 45-47 Criteria for first additional exemption for persons 65 and older**

The first additional homestead exemption for persons 65 and older authorized by this Article is available to any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, who has attained age sixty-five (65), and whose household income does not exceed twenty thousand dollars (\$20,000.00).

Beginning January 1, 2001, the twenty thousand dollar (\$20,000.00) income limitation shall be adjusted annually, on January 1, by the percentage change in the average cost-of-living index in the period of January 1 through December 31 of the immediate prior year compared with the same period of the year prior to that. The index is the average of the monthly consumer price index figures for the stated 12-month period, relative to the United States as a whole, issued by the United States Department of Labor.

Any person claiming the first additional homestead exemption authorized by this Article must annually submit to the property appraiser, no later than March 1, a sworn statement of household income on a form prescribed by the Department of Revenue. Such statement must be supported by copies of any federal tax returns for the prior year, any wage and earnings statements and any other documents required by the Department of Revenue, for each member of the household. The taxpayer's statement shall attest to the accuracy of such copies. The property appraiser may not grant the exemption without the required documentation.

*(Ord. 2015-3, Sec. 1)*

**Sec. 45-48 Amount of first additional homestead exemption for persons 65 and older**

The first additional homestead exemption for persons sixty-five (65) and older authorized by this Article shall be twenty-five thousand dollars (\$25,000.00).

A person eligible for the first additional homestead exemption authorized by this Article shall be entitled to the full amount of the exemption as provided by this section. However if the granting of the first additional homestead exemption authorized by this Article, when added to any other exemption from ad valorem assessment granted to a particular property, results in an exemption that exceeds the ad valorem assessment of the property, then the first additional homestead exemption shall only be available to the extent that it is equal to the difference between the ad valorem assessment of the property and any other exemption from ad valorem assessment granted to the property.

*(Ord. 2015-3, Sec. 1)*

**Sec. 45-49 Second additional exemption for persons 65 and older**

A second additional homestead exemption for persons sixty-five (65) and older from assessed valuation for Town ad valorem tax levies in the amounts specified in Sec. 45-51 of this Article is hereby authorized. Those persons entitled to the homestead exemptions in F.S. §196.031, and meeting the criteria for the second additional exemption listed in Sec. 45-50 of this Article may apply for and receive the second additional homestead exemption as provided in this Article. Receipt of the second additional homestead exemption provided for by this Article shall be subject to the provisions of F.S. §§ 196.131 and 196.161, if applicable.

*(Ord. 2015-3, Sec. 1)*

**Sec. 45-50 Criteria for second additional exemption for persons 65 and older**

The second additional homestead exemption for persons sixty-five 65 and older authorized by this Article is available to any person who has the legal or equitable title to real estate with a just value less than two hundred fifty thousand dollars (\$250,000), has maintained thereon the permanent residence of the owner for at least twenty-five (25) years, who has attained age sixty-five (65), and whose household income does not exceed twenty thousand dollars (\$20,000.00).

Beginning January 1, 2001, the twenty thousand dollar (\$20,000.00) income limitation shall be adjusted annually, on January 1, by the percentage change in the average cost-of-living index in the period of January 1 through December 31 of the immediate prior year compared with the same period of the year prior to that. The index is the average of the monthly consumer price index figures for the stated 12-month period, relative to the United States as a whole, issued by the United States Department of Labor.

Any person claiming the second additional homestead exemption authorized by this Article must annually submit to the property appraiser, no later than March 1, a sworn statement of household income on a form prescribed by the Department of Revenue. Such statement must be supported by copies of any federal tax returns for the prior year, any wage and earnings statements and any other documents required by the Department of Revenue, for each member of the household. The taxpayer's statement shall attest to the accuracy of such copies. The property appraiser may not grant the exemption without the required documentation.

*(Ord. 2015-3, Sec. 1)*

**Sec. 45-51 Amount of second exemption for persons 65 and older**

The second additional homestead exemption for persons sixty-five (65) and older authorized by this Article shall be the amount of the assessed value of the property.

A person eligible for the second additional homestead exemption authorized by this Article shall be entitled to

## CHAPTER 45. TAXATION AND SPECIAL ASSESSMENTS

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the full amount of the exemption as provided by this section. However if the granting of the second additional homestead exemption authorized by this Article, when added to any other exemption from ad valorem assessment granted to a particular property, results in an exemption that exceeds the ad valorem assessment of the property, then the second additional homestead exemption shall only be available to the extent that it is equal to the difference between the ad valorem assessment of the property and any other exemption from ad valorem assessment granted to the property.

*(Ord. 2015-3, Sec. 1)*

### **Sec. 45-52 Applicability of exemptions**

The exemptions granted by this Article apply only to taxes levied by the Town Commission of the Town of Micanopy.

*(Ord. 2015-3, Sec. 1)*

### **Sec. 45-53 Jointly held title**

If title is held jointly with right of survivorship, the person residing on the property and otherwise qualifying may receive the entire amount of the homestead exemptions authorized by this Article.

*(Ord. 2015-3, Sec. 1)*

## **ARTICLE V. SPECIAL ASSESSMENTS**

### **Sec. 45-54. Alachua County solid waste management**

(a) Subject to the conditions provided in this section, the Town Commission of the Town of Micanopy, as the Town's governing body, consents to the inclusion of the Town in the Municipal Service Benefit Unit for a non-ad valorem special assessment for the provision of solid waste management as stated in Alachua County Resolution No. 97-142, adopted on December 9, 1997.

(b) This consent is granted subject to the following conditions:

(1) the total assessment in both the incorporated and unincorporated areas of the County does not exceed the maximum amount to be collected from the assessment which is printed on the first class notice distributed by Alachua County, which amount will replace the costs for the County's hazardous waste program, waste alternatives office, and partial cost of the rural collection centers, plus administration and billing costs associated with the assessment;

(2) all residences in the mandatory collection area of the unincorporated area and incorporated areas of the County are assessed equally;

(3) all non-residential property in the unincorporated area and incorporated areas of the County are assessed an amount based on factors other than their location in an incorporated or unincorporated area; and

(4) that the benefit of the programs provided for by this assessment equal or exceed the amount assessed.

This consent does not apply to assessments for collection, disposal or recycling costs other than specifically provided herein.

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