

HILLIARD TOWN COUNCIL MEETING

Hilliard Town Hall / Council Chambers
15859 West County Road 108
Post Office Box 249
Hilliard, FL 32046

TOWN COUNCIL MEMBERS

Floyd L. Vanzant, Mayor
John P. Beasley, Council President
Kenny Sims, Council Pro Tem
Lee Pickett, Councilman
Jared Wollitz, Councilman
Callie Kay Bishop, Councilwoman

ADMINISTRATIVE STAFF

Lisa Purvis, Town Clerk
Richie Rowe, Public Works Director
Gabe Whittenburg, Parks & Rec Director

TOWN ATTORNEY

Christian Waugh

HILLIARD PLANNING AND ZONING BOARD MEETING

BOARD MEMBERS

Harold "Skip" Frey, Chair
Wendy Prather, Vice Chair
Charles A. Reed, Board Member
Josetta Lawson, Board Member
Lee Anne Wollitz, Board Member

ADMINISTRATIVE STAFF

Janis Fleet, AICP
Land Use Administrator

PLANNING AND ZONING ATTORNEY

Mary Norberg

AGENDA

TUESDAY, NOVEMBER 08, 2022, 6:00 PM

CALL TO ORDER

PRAYER & PLEDGE OF ALLEGIANCE

ROLL CALL

WORKSHOP

ITEM-1

ARTICLE XIII - SUBDIVISION - Chapter 62 Zoning and Land Development Regulations moved from Chapter 46 Subdivision by FS 177.

ITEM-2

ARTICLE X - PROPORTIONATE FAIR-SHARE PROGRAM - Chapter 62 Zoning and Land Development Regulations Comp Plan Add Ordinance No. 2008-01.

ADDITIONAL COMMENTS

ADJOURNMENT

ADA NOTICE

In accordance with Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this meeting should contact the Town Clerk's Office at (904) 845-3555 at least seventy-two hours in advance to request such accommodations.

PUBLIC PARTICIPATION

Pursuant to Section 286.0114, Florida Statutes, effective October 1, 2013, the public is invited to speak on any "proposition" before a board, commission, council, or appointed committee takes official action regardless of whether the issue is on the Agenda. Certain exemptions for

emergencies, ministerial acts, etc. apply. This public participation does not affect the right of a person to be heard as otherwise provided by law.

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Chapter 46 SUBDIVISIONS¹

ARTICLE I. IN GENERAL

Sec. 46-1. Definitions.

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

Block means a tier or group of lots existing within well-defined and fixed boundaries within a subdivision, usually being an area surrounded by streets or other physical barriers and having an assigned number, letter or other name by which it may be identified.

Building includes the term "structure" and shall be construed as if followed by the phrase "or part thereof."

Developer means a person or his duly authorized agent who undertakes the subdivision of land as defined in this section. The term "developer" includes the term "subdivider." Developer" means the owners of record executing the dedication required by F.S. § 177.081 and applying for approval of a plat of a subdivision pursuant to F.S. § 177.01 et seq.

Developer's engineer means a professional engineer registered in the state and engaged by the developer to prepare engineering plans and to supervise construction.

Land includes the term "water," "marsh" or "swamp."

Lot includes the term "plot" or "parcel." A lot is also identified as a single unit in a subdivision.

Plat means a map on which the developer's plan for subdivision is presented and which he submits for approval and intends, in final form, to record.

Subdivision means one of the following:

- (1) The division of any parcel of land, of any size whatsoever, into two or more lots of any size.
- (2) The establishment or dedication of a road, street or alley through a tract of land, regardless of area.
- (3) The resubdivision of land heretofore or hereafter divided or platted into lots.

The following shall not be included within this definition nor be subject to this chapter:

- (1) The sale or exchange of lots to or between adjoining property owners, where the sale or exchange does not create additional lots.
- (2) The public acquisition by purchase, acceptance of deed of dedication or exercise of the right of eminent domain of strips of land for the widening or opening of streets or roads.

Surveyor means a land surveyor registered in the state and engaged by the developer to survey and plat the land for subdivision.

¹State law reference(s)—Municipal Home Rule Powers Act, F.S. ch. 166; platting, F.S. ch. 177.

Town-approved road or street means a road or street paved in accordance with the specifications prescribed in this chapter, involved in any division of land into a recorded or unrecorded subdivision plat.

(Code 1997, § 46-1; Ord. No. 85-102, § 1.01, 9-10-1985)

Sec. 46-2. Intent and purposes.

It is determined and declared:

- (1) The public health, safety, order, convenience, prosperity, morals and welfare require the harmonious, orderly and progressive development of land throughout the town. It is intended that this chapter be liberally construed to accomplish those purposes.
- (2) These subdivision regulations are adopted for the following purposes:
 - a. To establish uniform and adequate standards for the design of subdivision plats and for minimum necessary improvements.
 - b. To provide regular and orderly procedures for the uniform and expeditious processing of subdivision plats by the proper agencies and officials.
 - c. To ensure coordination of subdivision plats with public improvements of the county and the town.
 - d. To ensure subdivision, design which will encourage the development of a sound and economically stable community and the creation of a healthful living environment.
 - e. To prevent traffic hazards and to provide safe and convenient traffic circulation, both vehicular and pedestrian.
 - f. To discourage premature, uneconomical and scattered development.
 - g. To assure cooperation and greater convenience for developers.

(Code 1997, § 46-2; Ord. No. 85-102, § 1.02, 9-10-1985)

Sec. 46-3. Jurisdiction; compliance.

The regulations set out in this chapter apply to all land within the town. No land shall be subdivided or laid out into lots, unless by plat in accordance with this chapter, nor shall any building be constructed in a subdivision unless the subdivision conforms to this chapter.

(Code 1997, § 46-3; Ord. No. 85-102, § 2.01, 9-10-1985)

Sec. 46-4. Exceptions.

- ~~(a) *Abutting publicly owned and maintained right-of-way.* Property may be subdivided into two or more lots provided the subdivided property abuts a publicly owned and maintained right-of-way and the subdivided property meets the requirements for the zoning district the property is within.~~
- ~~(b) *Unusual size or shape.* Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that strict application of the requirements contained in this chapter would result in real difficulties or in substantial hardships or injustice, the council, after a report by the town engineer, may vary or modify the requirements of this chapter, by a duly adopted ordinance, so that the developer may develop the property in a reasonable manner, but so that, at the time, the public~~

welfare and interest of the town and surrounding area are protected and the general intent and spirit of this chapter are preserved.

(Code 1997, § 46-4; Ord. No. 85-102, § 6.01, 9-10-1985; Ord. No. 2002-02, § 1, 2-7-2002)

Sec. 46-5. When plat not recorded.

The clerk of the circuit court will not record any instrument showing a subdivision of land that does not bear the approval of the town engineer, the town attorney, the town clerk and the mayor.

(Code 1997, § 46-5; Ord. No. 85-102, § 7.01, 9-10-1985)

Sec. 46-6. Town not to approve expenditure of money.

The town will not permit any money to be expended for improvements in any area that has been subdivided or upon any street that has been platted after the effective date of the ordinance from which this chapter is derived unless the subdivision or street has been approved in accordance with this chapter.

(Code 1997, § 46-6; Ord. No. 85-102, § 7.02, 9-10-1985)

Secs. 46-7—46-30. Reserved.

ARTICLE II. PLATTING

Sec. 46-31. General procedure for plat approval.

A. The preliminary and final plat shall be submitted to the town engineer for his recommendation to the council. The town attorney shall likewise examine the preliminary and final plat to determine its compliance with all legal conditions set forth in this chapter and in F.S. ch. 177. Upon approval by the town engineer and town attorney, the plat shall be submitted to the council for final approval. No plat shall be recorded and no lots shall be sold from the plat unless and until finally approved as provided in this chapter.

(Code 1997, § 46-31; Ord. No. 85-102, § 2.02, 9-10-1985)

Sec. 46-32. Preliminary plat.

The developer shall submit three prints of the proposed plat accompanied by two copies of the preliminary plat that will show the following:

- (1) The location of present property and section line boundaries of existing lots, streets, buildings, lakes and watercourses.
- (2) Any existing sanitary or storm sewers, water mains and culverts within the tract or adjacent thereto.
- (3) The proposed location and width of streets, lots, setback lines, easements and typical street cross sections showing proposed pavements, wearing surfaces, curbs, shoulders and the like.
- (4) The title under which the proposed subdivision is to be recorded and the name of the developer platting the tract.
- (5) The names of adjoining subdivisions and the ownership of adjoining parcels of unsubdivided land.

- (6) North point, scale and date.
- (7) Contours of the land on one-foot and 50-foot grid or less on current geodetic datum and an area outside the boundaries that will show the final disposition of all surface drainage.
- (8) Benchmarks at convenient points with locations and elevations indicated on the preliminary plat.
- (9) A location key map that will show the relation of the proposed subdivision to existing community facilities, main traffic arteries and the like.
- ~~(10) Department of agriculture survey results for property.~~
- (11) A written statement regarding proposed grades of streets and the facilities for surface water drainage.

(Code 1997, § 46-32; Ord. No. 85-102, § 2.03, 9-10-1985; Ord. No. 2002-02, § 2, 2-7-2002)

Sec. 46-33. Final plans. Engineering Plans? Should this section be with Chapter 58?

The final plans shall be submitted in triplicate on black and white or blue line prints drawn at a scale of not more than 50 feet to the inch on sheets 24 inches by 36 inches in size, with a one-half inch margin at the right, top and bottom edges and a three-inch margin at the left (binding) edge. If more than two sheets are required, the title sheet shall show the entire subdivision on one sheet and the various areas shall be shown on other sheets. The final plans shall be signed by the developer's engineer.

(Code 1997, § 46-33; Ord. No. 85-102, § 2.04, 9-10-1985)

Sec. 46-34. Final plat.

The final plat shall have the dimensions prescribed in section 46-33, shall be submitted in triplicate and shall show the following: **Mylar plus PDF as described in application?**

- (1) The boundary lines of the area platted with distance and bearings and the legal description of the property. The property appraiser's parcel identification number is not acceptable as legal description.
- (2) The lines of all proposed streets with their widths and names.
- (3) The outline of any portions of the property intended to be dedicated for public use, such as for schools, parks and so forth.
- (4) The lines of adjoining streets with their widths and names.
- (5) All lot lines, together with the identification system of all lots and blocks, and the square foot area of each lot. The lot numbers within a subdivision shall be assigned counterclockwise from the northeast corner and shall follow in a logical numerical order within a particular block.
- (6) The location of all setback lines and easements provided for public use, service, utilities or drainage.
- (7) All dimensions, both linear and angular, for locating the boundaries of the subdivision, lots, streets, easements and any other areas for public or private use. Linear dimensions shall be given to the nearest 1/100 of a foot. Closure shall be shown on the plat.
- (8) The radii, arcs, chords, chord bearings, points of tangencies and central angles for curved streets and rounded block corners.
- (9) The location of all survey monuments and benchmarks with their descriptions.
- (10) The name of the subdivision, the scale of the plat, points of the compass and the name of the owner of the subdivision.

- (11) The certificate of the surveyor as to the correct representation of the plat and as to F.S. ch. 177, pt. I (F.S. § 177.011 et seq.).

(12) Private restrictions and trusteeships and their period of existence. Easements?

- (13) Acknowledgment of the owner to the plat and restrictions, including dedication to public use of all streets and parks, the dedication of or granting of required easements and a statement that all streets are paved and drained or will be paved and drained before any lots are sold.

(Code 1997, § 46-34; Ord. No. 85-102, § 2.05, 9-10-1985; Ord. No. 2002-02, § 3, 2-7-2002)

Sec. 46-35. Signatures; certifications and acknowledgments.

The final plat must contain space and forms for the appropriate certifications and acknowledgments and shall be signed by the following:

- (1) A notary public or other officer authorized by law to take acknowledgments as to the certification of the acknowledgment by the owner.
- ~~(2) A representative of the state department of health and/or the county health officer as to sanitary sewage facilities.~~
- (3) The town engineer as to approval for engineering requirements.**
- (4) The town attorney as to legal sufficiency and compliance.
- (5) The town clerk as to approval by the council.
- (6) The mayor as to approval for the town.
- (7) The clerk of the circuit court for the county as to the plat having been filed for record. The plat book and page designation shall be obtained from the clerk at the time it is presented to the clerk for recording.

(Code 1997, § 46-35; Ord. No. 85-102, § 2.06, 9-10-1985)

Secs. 46-36—46-80. Reserved.

ARTICLE III. DESIGN STANDARDS

Sec. 46-81. Relation to adjoining street system.

The arrangement of streets in a subdivision shall make provision for the continuation of the principal existing streets in adjoining areas or their proper projection where adjoining land is not subdivided insofar as this may be deemed necessary by the council for public requirements. The street arrangement shall be such as not to cause hardships to owners of adjoining property when they plat their own land and seek to provide convenient access to it. Offset streets shall be avoided and the angle of intersection between streets shall not vary by more than ten degrees from a right angle. Streets obviously in alignment with existing streets shall bear the names of the existing streets.

(Code 1997, § 46-81; Ord. No. 85-102, § 3.01, 9-10-1985; Ord. No. 2002-02, § 4, 2-7-2002)

Sec. 46-82. Street widths.

- (a) As a minimum requirement for streets, sidewalks and public utilities, the plat shall dedicate a minimum width of 60 feet. Dead-end streets and/or culs-de-sac, streets that terminate within a subdivision other than at boundary line, shall have a minimum width of 60 feet and shall terminate in a turnaround with a minimum radius of 50 feet.
- (b) The council may, after proper study, require a street width in excess of 60 feet, if traffic engineering surveys indicate that present or anticipated future traffic densities justify a street of greater width.
- (c) Where streets parallel and adjoin section and half-section lines adjoining unsubdivided property, a half-street, 50 feet in width, shall be dedicated and, whenever subdivision property adjoins a half-street on a section or half-section line, the remainder of a 100-foot right-of-way shall be dedicated. Water systems shall be placed within 43½ feet of the section and half-section lines.
- (d) The council may, after proper study and due consideration, reduce the right-of-way on certain half-section lines to a width of 80 feet.
- (e) Alleys are not recommended in a residential district.

(Code 1997, ~~§ 46-82~~; Ord. No. ~~85-102~~, ~~§ 3.02~~, 9-10-1985)

Sec. 46-83. Blocks.

- (a) Where a tract of land is of such size and location as to prevent a lot arrangement related to a normal street design, there may be established courts, dead-end streets or culs-de-sac, provided that a proper access shall be given to all lots from a dedicated street or court.
- (b) No block shall be longer than 600 feet. Where blocks are made longer than 600 feet in length, a crosswalk, ten feet in width, shall be required near the center of the block.

(Code 1997, § 46-83; Ord. No. 85-102, § 3.03, 9-10-1985)

Sec. 46-84. Lots.

- (a) The minimum building setbacks required are 25 feet from the right-of-way of the street. Side lot setbacks will be ten percent of the front lot width, with a minimum of ten feet.
- (b) Lots shall comply with the zoning district that the subdivision is located within.
- (c) A corner lot shall have widths sufficient to permit the establishment of front building lines on both the front and side of the lot adjoining the streets.
- (d) The arrangement and design shall be such that all lots will provide satisfactory and desirable building sites, properly related to topography and the character of the surrounding development.
- (e) Restrictions requiring buildings to be set back to the building lines shall be shown on the plat. Restrictions shall also be made and shown on the plat requiring all residential buildings to be set a minimum of ten feet off each side lot line and not less than 25 feet from rear lot lines.
- (f) All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, except where a variation to this rule will provide a better street and lot layout.

(Code 1997, ~~§ 46-84~~; Ord. No. ~~85-102~~, ~~§ 3.04~~, 9-10-1985; Ord. No. ~~2002-02~~, ~~§ 5, 2-7-2002~~)

Sec. 46-85. Easements.

- (a) Easements at least 7 ½ feet in width shall be provided on each side of all back lot lines and five feet in width on each side of side lot lines where necessary for poles, wires, conduits, sewers, gas or water lines or drainage swales. Easements of greater width may be required along or across lots where necessary for proper drainage for street rights of way.
- (b) Whenever any stream or important surface drainage course is located in an area being subdivided, the developer shall provide an adequate easement along the stream for sanitary sewer installations and for the purpose of widening, deepening or improving or for drainage use.

(Code 1997, § 46-85; Ord. No. 85-102, § 3.05, 9-10-1985)

Secs. 46-86—46-110. Reserved.**ARTICLE IV. REQUIRED IMPROVEMENTS****Sec. 46-111. Preparation of plans and specifications for improvements.**

Receipt of the signed copy of the approved preliminary plat is authorization for the developer to proceed with the preparation of plans and specifications for the minimum improvements required by this article and with preparation of the final plat. Prior to the construction of any required improvements, the developer shall furnish the town engineer all plans, information and data necessary to determine the character of the improvements. These plans shall be examined and will be approved if in accordance with this article. Following this approval, construction can be started or the amount of the bond guaranteeing the improvements determined. No final or official plat of a subdivision shall be approved unless either:

- (1) The improvements listed in this article have been installed prior to the approval; or
- (2) The developer files with the town a surety bond to secure the construction of the improvements listed in this article in a satisfactory manner and within a period specified by the council, this period not to exceed 12 months. The bond shall be in an amount at least equal to the cost of constructing the improvements as estimated by the developer's engineer and approved by the town engineer and in a form approved by the town attorney.

(Code 1997, § 46-111; Ord. No. 85-102, § 4.01, 9-10-1985)

Sec. 46-112. Inspection.

- (a) The town may have an inspector on the project when deemed necessary during the construction period, and the inspector shall be authorized to enforce the construction of the work in accordance with the approved plans and specifications. The developer shall pay the cost of the inspector. If any changes are required in the approved plans or specifications during the period of construction, the changes must first be approved, in writing, by the town or its authorized representative so that subdivision files can be complete.
- (b) The developer shall have available, when necessary, a qualified engineer for the purpose of setting all line and grade stakes when required by the contractor or inspector.
- (c) The engineer shall furnish the town engineer with a written construction schedule at intervals of at least once each month. The schedule shall show the construction work to be accomplished during the period covered by the schedule.

(Code 1997, § 46-112; Ord. No. 85-102, § 4.06, 9-10-1985; Ord. No. 2002-02, § 6, 2-7-2002)

Sec. 46-113. Acceptance for maintenance by town.

- (a) Prior to acceptance by the town, the developer shall furnish a certificate prepared by the developer's engineer to the effect that all improvements have been completed in accordance with the approved plans and specifications. Where the developer elects to post a bond ensuring that the work will be completed in a stated period of time, the certificate required by this section will be required at the time of completion of construction.
- (b) Upon completion of the work covered by the plans and a unilateral agreement, the owner shall notify the town engineer in writing. Upon receipt of notification, the town will make an inspection of the construction work. If all work is found to be satisfactorily completed, then the town, after a period of 90 days from the time of inspection, will make a final inspection. If the work is found satisfactory and if all deficiencies are repaired or corrected, then the town will accept the improvements for maintenance. A performance bond in the amount of 100 percent of the estimated cost of street improvements will be required in all subdivisions.

(Code 1997, § 46-113; Ord. No. 85-102, §§ 5.01, 5.02, 9-10-1985)

Sec. 46-114. Street improvements.

- (a) All streets and public ways shall be cleared and graded to their full width of right-of-way, including side slopes, and to the appropriate grade and shall be surfaced in accordance with the applicable standard specifications of the state department of transportation and the manual of uniform minimum standards. They shall meet the following minimum specifications:
 - (1) Pavement shall be 22 feet in width.
 - (2) Shoulders shall be six feet in width.
 - (3) Front and back slopes shall not be less than 3:1.
 - (4) All shoulders and slopes shall be seeded, mulched and fertilized.
 - (5) Paving specifications and application shall be according to the current edition of the state department of transportation specifications for road and bridge construction.
 - (6) Street cross drains will have headwalls and endwalls.
- (b) If required to prevent erosion or excessive washing of the shoulders, protective measures shall be taken as required by the town or its representative.
- (c) Curbs and gutters shall be constructed along both sides of all streets and in accordance with the standards of the state department of transportation. A modified curb, constructed in accordance with county specifications, may be used on streets with gradients of two percent or less. Where required, turnouts will comply with town specifications and be constructed before the building is completed and before the lot or building is sold.
- (d) The following pavement bases shall be constructed of the following type having a minimum thickness of six inches:
 - (1) Sand-bituminous road mix.
 - (2) Florida limerock base.
 - (3) Limerock stabilized base (300 pounds per square yard).

(4) Shell cement mix.

(5) Soil cement mix.

- (e) All pavement bases shall have a surface wearing course of one of the following types, as outlined in the state department of transportation specifications:
- (1) Double surface treatment.
 - (2) Asphaltic concrete surface course, one-inch minimum thickness.
 - (3) Hot sand asphalt surface course, one-inch minimum thickness.
 - (4) Concrete roads are not acceptable.
- (f) Subgrades, paving bases and surface wearing course shall be constructed in accordance with the specifications of the state department of transportation.
- (g) The owner or developer shall retain a reputable recognition commercial laboratory which shall certify to the town that all materials entering into the completed work are in accordance with these specifications. Where the pavement base is to be sand-bituminous road mix or soil cement mix, the laboratory shall furnish a report covering the blending of soil materials with bituminous materials or cement prior to base construction. A report of the laboratory shall be submitted covering the completed pavement.
- (h) Concrete sidewalks shall not be required in residential areas unless, in the opinion of the council after proper study, pedestrian traffic will justify the installation of sidewalks as a safety precaution.
- (i) All street markers will be constructed, painted and erected in accordance with town specifications. Street markers will be installed by the developer at the locations shown on the drawings.
- (j) Radii at intersections shall be a minimum of 25 feet.
- (k) A developer shall place appropriate road signs, within the area described by the plat to be recorded. The signs shall be constructed by the town and paid for by the developer.
- (l) All design shall meet requirements of the Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways prepared by the state department of transportation.

(Code 1997, § 46-114; Ord. No. 85-102, § 4.02, 9-10-1985; Ord. No. 2002-02, § 7, 2-7-2002)

Sec. 46-115. Drainage requirements. SJRWMD Requirements??

- (a) All drainage pipe shall have adequate capacity to carry the runoff resulting from a rainfall intensity which may be exceeded on the average of at least once every year. All drainage facilities shall be designed for a positive outfall to existing storm sewer system, lakes, canals, rivers, streams or previously constructed town, county or state road ditches. If the added runoff from the developed area overtaxes the existing road or outfall ditches, the developer shall include in the plans sufficient work to enlarge the present facilities to care for the added drainage imposed on the system.
- (b) Where storm sewers are provided, the maximum overland flow shall be 400 feet. Minimum grade for curb and gutter shall be three-tenths of one percent; provided that one-half percent grade shall be held insofar as practical.
- (c) Drainage pipe shall be corrugated metal pipe, plain or reinforced concrete pipe or plain or extra strength vitrified clay pipe, except that corrugated metal pipe shall not be installed under a paved road unless it is asphalt coated. Minimum pipe size shall be 15 inches in diameter.
- (d) All plans shall show, in addition to contours, the outlines and sizes in acres of drainage areas at the various points of concentration.

- (e) Catchbasins, drop inlets, curb inlets and manholes shall be of a class A concrete or brick construction and in accordance with state department of transportation standards. All grates shall be cast iron or steel with minimum size of two square feet net open area.
- (f) Where land is subject to periodic flooding by the overflow from creeks, rivers or streams, a floodplain must be established and no building will be permitted within the area of the floodplain, unless the entire area is filled to two feet above the floodplain.
- (g) Permits shall be obtained from St. Johns River Water Management District prior to final approval.

(Code 1997, § 46-115; Ord. No. 85-102, § 4.03, 9-10-1985; Ord. No. 2002-02, § 8, 2-7-2002)

Sec. 46-116. Water lines.

- (a) Where an approved public water supply is reasonably accessible or procurable, each lot within the subdivision shall be provided with a connection to the water supply. The water service for each lot will be installed at the time of the application for a building permit. All mains, to the under paving, shall be constructed prior to the paving installation. Fire hydrants will be installed in all subdivisions where a public water supply is available.
- (b) Where no approved public water supply is available, the installation of a private water supply system will be required at the time of the application for a building permit. The private water supply system shall be constructed in such a manner that an adequate supply of potable water will be available to each lot. All applicable state rules and regulations shall govern the installation of the system.
- (c) The developer shall pay all costs required to process the permit.

(Code 1997, § 46-116; Ord. No. 85-102, § 4.04, 9-10-1985; Ord. No. 2002-02, § 9, 2-7-2002)

Sec. 46-117. Sanitary sewers.

- (a) Where an adequate sanitary sewer is reasonably accessible, each lot in the subdivision shall be provided with a connection to the sanitary sewer. All connections and the subdivision sewer system shall comply with all applicable state rules.
- (b) Where sewers are not accessible and where septic tanks are not permissible, the owner or developer shall install and operate a sewage collection and treatment system of a capacity sufficient to serve the entire subdivision and all contemplated additions. The system shall be constructed in accordance with the regulations and requirements of and approval of the county health officer and the state department of environmental protection.
- (c) The developer shall pay all costs required to process the permit.

(Code 1997, § 46-117; Ord. No. 85-102, § 4.05, 9-10-1985; Ord. No. 2002-02, § 10, 2-7-2002)

Revised – ~~7/13/2022~~/23/2024

Secs. 62-527—62-550. - Reserved.

ARTICLE X. - PROPORTIONATE FAIR-SHARE PROGRAM

Sec. 62-551. - Purpose and intent.

The purpose of this article is to establish a method whereby the impacts of development on transportation, drainage, sewer, solid waste and water access and capacity can be mitigated by the cooperative efforts of the public and private sectors, to be known as the "proportionate fair-share program."

(Ord. No. 2008-01, § 1(a), 3-6-2008)

Sec. 62-552. - Applicability.

- (a) The proportionate fair-share program shall apply to all developments for which the applicant has been notified of a lack of capacity to satisfy transportation concurrency on a transportation facility, including transportation facilities maintained by the state department of transportation (FDOT), or another jurisdiction that are relied upon for concurrency determinations. The proportionate fair-share program shall also apply to all developments for which the applicant has been notified of a lack of drainage, sewer, solid waste or water capacity or access to the town water or sewer. The proportionate fair-share program does not apply to developments of regional impact (DRIs) using proportionate fair-share under F.S. § 163.3180(12), or to developments exempted from concurrency, or to lots of record which were purchased by the land owner prior to May 7, 1992.
- (b) The term development shall include any of the following activities:
- (1) Construction, clearing, filling, excavating, grading, paving, dredging, mining, drilling or otherwise significantly disturbing the soil of a site.
 - (2) Building, installing, enlarging, replacing or substantially restoring a structure, impervious surface, or water management system, and including the longterm storage of materials.

(Ord. No. 2008-01, § 1(b), 3-6-2008)

Sec. 62-553. - General requirements for transportation concurrency.

- (a) An applicant may choose to satisfy the transportation concurrency requirements by making a proportionate fair-share contribution, pursuant to the following requirements:
- (1) The proposed development is consistent with the comprehensive plan and applicable land development regulations.
 - (2) The five-year schedule of capital improvements adopted in the capital improvements element (CIE) includes a transportation improvement or transportation improvements that, upon completion, will provide the needed traffic capacity. The provisions of subsection (b) may apply if a project or projects needed to satisfy concurrency are not presently contained within the local government CIE.
- (b) *The town may choose to allow an applicant to satisfy transportation concurrency through the proportionate fair-share program by contributing to an improvement that, upon completion, will provide the needed traffic capacity, but is not contained in the five-year schedule of capital improvements in the CIE, where the following apply:*
- (1) The town adopts, by resolution or ordinance, a commitment to add the improvement to the five-year schedule of capital improvements in the CIE, no later than the next regularly scheduled update. To qualify for consideration under this section, the proposed improvement must be

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determined to be financially feasible pursuant to F.S. § 163.3180(16)(b)1, consistent with the comprehensive plan, and in compliance with the provisions of this article. Financial feasibility for this section means that additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed ten years to fully mitigate impacts on the transportation facilities.

- (2) If the funds allocated for the five-year schedule of capital improvements in the CIE are insufficient to fully fund construction of a transportation improvement required by the CMS, the town may still enter into a binding proportionate fair-share agreement with the applicant authorizing construction of that amount of development on which the proportionate fair-share is calculated if the proportionate fair-share amount in such agreement is sufficient to pay for one or more improvements which will, in the opinion of the governmental entity or entities maintaining the transportation facilities, significantly benefit the impacted transportation system.

The improvement or improvements funded by the proportionate fair-share component must be adopted into the five-year capital improvements schedule of the comprehensive plan at the next annual capital improvements element update.

- (c) Any improvement project proposed to meet the developer's fair-share obligation must meet design standards of the town for locally maintained roadways and those of the state department of transportation for the state highway system.

(Ord. No. 2008-01, § 1(c), 3-6-2008)

Sec. 62-554. - General concurrency requirements for drainage, sewer, solid waste and town water access and capacity.

- (a) An applicant may choose to satisfy concurrency requirements for drainage, sewer, solid waste and town water access and capacity by making a proportionate fair-share contribution, pursuant to the following requirements:
- (1) The proposed development is consistent with the comprehensive plan and applicable land development regulations.
 - (2) The five-year schedule of capital improvements adopted in the capital improvements element (CIE) includes drainage, sewer, solid waste and water improvements that, upon completion, will provide the needed drainage, sewer, solid waste and town water access and capacity. The provisions of subsection (b) may apply if a project or projects needed to satisfy concurrency are not presently contained within the local government CIE.
- (b) The town may choose to allow an applicant to satisfy concurrency requirements for drainage, sewer, solid waste and water through the proportionate fair-share program by contributing to an improvement that, upon completion, will provide the needed access and capacity, but is not contained in the five-year schedule of capital improvements in the CIE, where the following apply:
- (1) The town adopts, by resolution or ordinance, a commitment to add the improvement to the five-year schedule of capital improvements in the CIE, no later than the next regularly scheduled update. To qualify for consideration under this section, the proposed improvement must be determined to be financially feasible pursuant to F.S. § 163.3180(16)(b)1, consistent with the comprehensive plan, and in compliance with the provisions of this article. Financial feasibility for this section means that additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed ten years to provide the necessary drainage, sewer, solid waste and town water access and capacity.
 - (2) If the funds allocated for the five-year schedule of capital improvements in the CIE are insufficient to fully fund construction of a drainage, sewer, solid waste or water improvement required by the town, the town may still enter into a binding proportionate fair-share agreement with the applicant authorizing construction of that amount of development on which the

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proportionate fair-share is calculated if the proportionate fair-share amount in such agreement is sufficient to pay for one or more improvements which will, in the opinion of the governmental entity or entities maintaining the facilities, significantly benefit the impacted system or systems.

The improvement or improvements funded by the proportionate fair-share component must be adopted into the five-year capital improvements schedule of the comprehensive plan at the next annual capital improvements element update.

(Ord. No. 2008-01, § 1(d), 3-6-2008)

Sec. 62-555. - Intergovernmental coordination.

Pursuant to policies in the intergovernmental coordination element of the comprehensive plan and applicable policies in the regional policy plan adopted by the Northeast Florida Regional Council, the town shall coordinate with affected jurisdictions, including the state department of transportation, regarding mitigation to impacted facilities not under the jurisdiction of the local government receiving the application for proportionate fair-share mitigation. An interlocal agreement may be established with other affected jurisdictions for this purpose.

(Ord. No. 2008-01, § 1(e), 3-6-2008)

Sec. 62-556. - Application process.

- (a) Upon notification of a lack of capacity to satisfy concurrency, the applicant shall also be notified in writing of the opportunity to satisfy concurrency through the proportionate fair-share program.
- (b) Prior to submitting an application for a proportionate fair-share agreement, a preapplication meeting shall be held to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. If the impacted facility is on the strategic intermodal system (SIS), then the state department of transportation will be notified and invited to participate in the preapplication meeting.
- (c) Eligible applicants shall submit an application to the city that includes an application fee of \$250.00 and the following:
 - (1) Name, address and phone number of owner, developer and agent;
 - (2) Property location, including parcel identification numbers;
 - (3) Legal description and survey of property;
 - (4) Project description, including type, intensity and amount of development;
 - (5) Phasing schedule, if applicable;
 - (6) Description of requested proportionate fair-share mitigation method; and
 - (7) Copy of concurrency application.
- (d) The town shall review the application and certify that the application is sufficient. If an application is determined to be insufficient, incomplete or inconsistent with the general requirements of the proportionate fair-share program, then the applicant will be notified in writing of the reasons for such deficiencies. The applicant shall have 30 days of receipt of the written notification to correct the deficiencies. The town may, in its discretion, grant an extension of time not to exceed 60 days to cure such deficiencies; provided that the applicant has shown good cause for the extension and has taken reasonable steps to affect a cure. If the applicant does not provide the information within 30 days or does not request an extension, the application shall be closed.
- (e) Pursuant to F.S. § 163.3180(16)(e), proposed proportionate fair-share mitigation for development impacts to facilities on the SIS requires the concurrency of the state department of transportation.

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The applicant shall submit evidence of an agreement between the applicant and the state department of transportation for inclusion in the proportionate fair-share agreement.

- (f) When an application is deemed sufficient, the applicant shall be advised in writing and a proposed proportionate fair-share obligation and binding agreement will be prepared by the town. The agreement shall be delivered to the appropriate parties for review, including a copy to the state department of transportation for any proposed proportionate fair-share mitigation on a SIS facility.
- (g) The town shall notify the applicant regarding the date of the town council meeting when the agreement will be considered for final approval. No proportionate fair-share agreement will be effective until approved by the town council.

(Ord. No. 2008-01, § 1(f), 3-6-2008)

Sec. 62-557. - Determining proportionate fair-share obligation for transportation concurrency requirement.

- (a) Proportionate fair-share mitigation for concurrency impacts may include, private funds, contributions of land, and construction and contribution of facilities.
- (b) A development shall not be required to pay more than its proportionate fair-share. The fair market value of the proportionate fair-share mitigation for the impacted facilities shall not differ regardless of the method of mitigation.
- (c) The town clerk or his designee shall review the application and render a written decision as to what the fee for transportation concurrency should be based on a fee schedule previously approved by the town council. If the fee payer determines that he would rather have the fee determined by a methodology as provided by the statute, the fee payer shall be responsible for preparation of the individual assessment if the fee payer chooses to conduct the analysis. The person who prepares the individual assessment shall be a qualified professional in the preparation of impact analysis, and shall be approved by the town clerk or his designee on the basis of professional training and experience. The methodology used to calculate an applicant's proportionate fair-share obligation for transportation concurrency shall be as provided for in F.S. § 163.3180 (12), as follows:
 - (1) The cumulative number of trips from the proposed development expected to reach roadways during peak hours from the complete build out of a project or phase being approved, divided by the change in the peak hour maximum service volume (MSV) of roadways resulting from construction of an improvement necessary to maintain the adopted LOS, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted LOS; or
 - (2) $\text{Proportionate fair-share} = S \left[\frac{\text{Development Trips}_i}{\text{SV Increase}_i} \right]$
 Where:
 - a. *Development Trips_i* = Those trips from the development or phase of development under review that are assigned to roadway segment "i" and have triggered a deficiency;
 - b. *SV Increase_i* = Service volume increase provided by the eligible improvement to roadway segment "i" per section E;
 - c. *Cost_i* = Adjusted cost of the improvement to segment "i". Cost shall include all improvements and associated costs, such as design, right-of-way acquisition, planning, engineering, inspection, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.
- (d) For the purposes of determining proportionate fair-share obligations, the town shall determine improvement costs based upon the actual cost of the improvement as obtained from the CIE, the MPO/TIP or the state department of transportation work program. Where such information is not available, improvement cost shall be determined using one of the following methods:

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- (1) *An analysis by the town of costs by cross section type that incorporates data from recent projects and is updated annually and approved by the town council; or*
 - (2) *The most recent issue of the state department of transportation, Transportation Costs, as adjusted based upon the type of cross-section (urban or rural); locally available data from recent projects on acquisition, drainage and utility costs; and significant changes in the cost of materials due to unforeseeable events. Cost estimates for state road improvements not included in the adopted the state department of transportation work program shall be determined using this method in coordination with the state department of transportation district.*
- (e) If the town has accepted an improvement project proposed by the applicant, then the value of the improvement shall be determined using one of the methods provided in this section.
- (f) If the town has accepted right-of-way dedication for the proportionate fair-share payment, credit for the dedication of the nonsite related right-of-way shall be valued on the date of the dedication at 100 percent of the most recent assessed value by the county property appraiser or, at the option of the applicant, by fair market value established by an independent appraisal conducted by an appraiser that is a member of appraisal institute (MAI), and approved by the town and at no expense to the town. The applicant shall supply a drawing and legal description of the land and a certificate of title or title search of the land to the town at no expense to the town. If the estimated value of the right-of-way dedication proposed by the applicant is less than the town estimated total proportionate fair-share obligation for that development, then the applicant must also pay the difference. Prior to purchase or acquisition of any real estate or acceptance of donations of real estate intended to be used for the proportionate fair-share, public or private partners should contact the state department of transportation for essential information about compliance with federal law and regulations.

(Ord. No. 2008-01, § 1(g), 3-6-2008)

Sec. 62-558. - Determining proportionate fair-share obligation for concurrency requirements relating to drainage, sewer, solid waste and water access and capacity.

- (a) Proportionate fair-share mitigation for concurrency impacts may include, private funds, contributions of land, and construction and contribution of facilities.
- (b) A development shall not be required to pay more than its proportionate fair-share. The fair market value of the proportionate fair-share mitigation for the impacted facilities shall not differ regardless of the method of mitigation.
- (c) The methodology used to calculate an applicant's proportionate fair-share obligation for drainage, sewer, solid waste and water access and capacity shall be determined on the basis of generally recognized principles of impact analysis available to the town recognizing that areas of the town including but not necessarily limited to the northwest quadrant must be addressed as a whole in order to fulfill concurrency requirements relating to growth planning to ensure compliance with state law, including but not limited to, complying with wetland and stormwater management statutes and regulations. The town clerk or his designee shall review the application and render a written decision as to what the fee should be.

(Ord. No. 2008-01, § 1(h), 3-6-2008)

Sec. 62-559. - Appeal.

A potential fee payer affected by the decision on an individual assessment may appeal the decision to the town council, by filing with the town clerk or his designee within 30 days of the date of the written decision, a written notice stating and specifying briefly the grounds of the appeal. The town clerk shall place the appeal on the town council's agenda for the next regularly scheduled meeting. It is expected that the town council will sustain or reverse the fee determination based on factual findings. The decision

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of the town council shall be final. The town council may waive the application of the provisions herein upon appeal for good cause shown.

(Ord. No. 2008-01, § 1(i), 3-6-2008)

Sec. 62-560. - Proportionate fair-share agreements.

- (a) Upon execution of a proportionate fair-share agreement, the applicant shall receive a town letter or certificate of concurrency approval. Should the applicant fail to apply for a development permit within 12 months of the execution of the agreement, then the agreement shall be considered null and void, and the applicant shall be required to reapply.
- (b) Payment of the proportionate fair-share contribution is due in full prior to issuance of the final development order or recording of the final plat and shall be nonrefundable. If the payment is submitted more than 12 months from the date of execution of the agreement, then the proportionate fair-share cost shall be recalculated at the time of payment based on the best estimate of the construction cost of the required improvement at the time of payment, and adjusted accordingly.
- (c) All developer improvements authorized under this article must be completed prior to issuance of a development permit, or as otherwise established in a binding agreement that is accompanied by a security instrument that is sufficient to ensure the completion of all required improvements. It is the intent of this section that any required improvements be completed before issuance of building permits or certificates of occupancy.
- (d) Dedication of necessary right-of-way for facility improvements pursuant to a proportionate fair-share agreement must be completed prior to issuance of the final development order or recording of the final plat.
- (e) Any requested change to a development project subsequent to a development order may be subject to additional proportionate fair-share contributions to the extent the change would generate additional traffic that would require mitigation.
- (f) Applicants may submit a letter to withdraw from the proportionate fair-share agreement at any time prior to the execution of the agreement. The application fee and any associated advertising costs to the town will be nonrefundable.

(Ord. No. 2008-01, § 1(j), 3-6-2008)

Sec. 62-561. - Appropriation of fair-share revenues.

- (a) Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the town CIE, or as otherwise established in the terms of the proportionate fair-share agreement. At the discretion of the town, proportionate fair-share revenues may be used for operational improvements prior to construction of the capacity project from which the proportionate fair-share revenues were derived. Proportionate fair-share revenues may also be used as the 50 percent local match for funding under the state department of transportation, transportation regional incentive program (TRIP).
- (b) In the event a scheduled facility improvement is removed from the CIE, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or sector that would mitigate the impacts of development.
- (c) Where an impacted regional facility has been designated as a regionally significant transportation facility in an adopted regional transportation plan as provided in F.S. § 339.155, and the town may coordinate with other impacted jurisdictions and agencies to apply proportionate fair-share contributions and public contributions to seek funding for improving the impacted regional facility under the state department of transportation TRIP. Such coordination shall be ratified by the town

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through an interlocal agreement that establishes a procedure for earmarking of the developer contributions for this purpose.

(Ord. No. 2008-01, § 1(k), 3-6-2008)

Sec. 62-562. - Specific requirements for transportation concurrency to required paved roads for developments.

The Town of Hilliard finds that a specific requirement of transportation concurrency applies to developments that do not abut a paved road. Accordingly, no building permit shall be issued unless the applicant can show that in the case of a common plan of development, as defined below, the lot or lots for which a permit has been sought also abut a paved town street. A *common plan of development* is defined as a development larger than one single-family dwelling unit, duplex, triplex, or quadruplex. The St. Johns River Water Management District has regulations relating to "common plans of development" but does not appear to have defined this term. Nevertheless, it expects the town and residents to comply with this requirement. The town seeks to comply with the District's regulations even though there apparently has not been any formal rulemaking to define the term *common plan of development*. In the absence of better guidance from the district and any amendment to these provisions, the town shall consider all property under construction by the same owner within 1,000 feet of the property for which a building permit is sought that does not already abut a paved road to be part of any *common plan of development*. Property shall be considered "under construction" if a building permit has been applied for until such time the permit is denied, it expires or a certificate of occupancy has been issued for the property. An owner shall be a person with a direct or indirect ownership interest in the property, including without limitation, an ownership interest in an entity that owns an interest in the property. Permit applicants shall, upon written request, provide a notarized statement setting forth to his best knowledge, information and belief, the property owned by the following within 1,000 feet of the property for which a building permit is sought: The applicant and all owners, as defined above, of the property for which the permit is sought. The town council may waive the application of the provisions herein upon appeal for good cause shown. The town council may also approve a fair share agreement that allows for the permit to be issued despite the lack of this special requirement of transportation concurrency so long as this specific requirement of transportation concurrency is met at the conclusion of the project and adequate guarantees are provided to the town.

(Ord. No. 2008-18, § 1, 11-6-2008)