

# CHAPTER X HARDSHIP RELIEF

## TABLE OF CONTENTS

10.00.00	NONCONFORMITIES .....	10 - 1
10.00.01	PURPOSE .....	10 - 1
10.00.02	NONCONFORMING USES .....	10 - 1
10.00.03	NONCONFORMING STRUCTURES .....	10 - 2
10.00.04	NONCONFORMING LOTS OF RECORD .....	10 - 4
A.	Lots of Record Created Prior to July 1, 1984 .....	10 - 4
B.	Lots of Record Created Between July 1, 1984 and January 9, 1990 .....	10 - 4
10.01.00	VARIANCES .....	10 - 5
10.01.01	GENERAL .....	10 - 5
10.01.02	STANDARDS FOR GRANTING VARIANCES .....	10 - 5
10.01.03	LIMITATIONS ON GRANTING VARIANCES .....	10 - 5
10.01.04	PROCEDURES FOR APPLICATION .....	10 - 6
10.01.05	ACTION OF BOARD OF ADJUSTMENT .....	10 - 8
10.01.06	EXTENSIONS OF VARIANCE APPROVALS .....	10 - 9
10.01.07	APPEALS FROM THE BOARD OF ADJUSTMENT .....	10 - 9
10.01.08	(RESERVED) .....	10 - 10
10.01.09	(RESERVED) .....	10 - 10
10.01.10	(RESERVED) .....	10 - 10
10.01.11	(RESERVED) .....	10 - 10
10.01.12	(RESERVED) .....	10 - 10
10.01.13	ADMINISTRATIVE VARIANCES TO CONSTRUCT AN ACCESSORY AGRICULTURAL STRUCTURE .....	10 - 11
10.01.14	ADMINISTRATIVE VARIANCES TO THE REQUIRED MINIMUM <i>See Ord. 06-013</i> YARD SETBACK STANDARDS FOR RECREATIONAL VEHICLE PARKS .....	10 - 13
10.01.15	(RESERVED) .....	10 - 15
10.01.16	(RESERVED) .....	10 - 15
10.01.17	ADMINISTRATIVE VARIANCES FROM REQUIREMENTS OF STORMWATER MANAGEMENT .....	10 - 16
10.01.18	(RESERVED) .....	10 - 18
10.01.19	(RESERVED) .....	10 - 18
10.01.20	(RESERVED) .....	10 - 18
10.01.21	ADMINISTRATIVE VARIANCES FROM REQUIREMENTS OF DRIVEWAY REGULATIONS .....	10 - 19
10.01.22	(RESERVED) .....	10 - 20
10.01.23	(RESERVED) .....	10 - 20
10.01.24	(RESERVED) .....	10 - 20
10.01.25	SPECIAL PROVISIONS WHERE VARIANCE IS SOUGHT TO REQUIREMENTS OF FLOOD DAMAGE PREVENTION .....	10 - 21
10.01.26	(RESERVED) .....	10 - 24
10.01.27	(RESERVED) .....	10 - 24
10.01.28	(RESERVED) .....	10 - 24
10.01.29	(RESERVED) .....	10 - 24
10.01.30	VARIANCES FROM RIVERINE SHORELINE PROTECTION REGULATIONS .....	10 - 25
A.	Variances along the Indian River Lagoon System .....	10 - 25
B.	Variances along the St. Lucie River System .....	10 - 25
C.	Indian River Lagoon/st. Lucie River System Variance Requests	

	in Excess of Ten (10) Feet. ....	10 - 25
D.	Standards for Granting Variances .....	10 - 25
E.	Additional Standards for St. Lucie River System Variance .....	10 - 26
F.	Limitations on Variances .....	10 - 26
10.01.31	(RESERVED) .....	10 - 27
10.01.32	(RESERVED) .....	10 - 27
10.02.33	(RESERVED) .....	10 - 27
10.01.34	(RESERVED) .....	10 - 27
10.02.00	TRANSFERABLE DEVELOPMENT RIGHTS - (RESERVED) .....	10 - 28

# CHAPTER X

## HARDSHIP RELIEF

### 10.00.00 NONCONFORMITIES

#### 10.00.01 PURPOSE

The purpose of this Section is to regulate and limit the continued existence of uses, lots, signs, and structures established prior to the effective date of this Code that do not conform to the provisions of this Code. Nonconformities may continue, but the provisions of this Section are intended to curtail substantial investment in nonconformities and to bring about their eventual elimination, when appropriate, in order to preserve the integrity of the zoning district.

#### 10.00.02 NONCONFORMING USES

##### A. AUTHORITY TO CONTINUE

Nonconforming uses of land and nonconforming uses of structures may continue in accordance with the provisions of this Section.

##### B. ORDINARY REPAIR AND MAINTENANCE

Normal maintenance and repair of nonconforming uses may be performed.

##### C. EXPANSIONS

Nonconforming uses shall not be expanded. This prohibition shall be construed so as to prevent the:

1. Enlargement of nonconforming uses by additions to the structure in which such nonconforming uses are located, including enlargement of a conforming structure in which a nonconforming use is located, or
2. Occupancy of additional land, unless the provisions of this Code are met.

##### D. RELOCATION

The structure housing a nonconforming use may not be moved unless the use shall thereafter conform to the limitations of the zoning district into which it is moved.

##### E. CHANGE IN USE

A nonconforming use shall not be changed to any other use unless such use conforms to the provisions of this Code, except in accordance with the procedure set forth in this paragraph. A change to another nonconforming use shall be permitted if and only if the proposed nonconforming use would not result in a requirement for additional parking over that required for existing nonconforming use, and in addition, the Board of County Commissioners:

1. Determines that the proposed nonconforming use is equally or more appropriate to the

district and the specific property involved than the existing nonconforming use;

2. Determines that any adverse effect of the proposed nonconforming use upon neighboring properties and residents will not be greater than that created by the existing nonconforming use; and
3. Requires that the applicant meet appropriate conditions, limitations, and requirements as are necessary to prevent or minimize adverse effects on neighboring properties and residents.

#### F. TERMINATION

##### 1. Abandonment or Discontinuance

When a nonconforming use is discontinued or abandoned for twelve (12) months, then the nonconforming use may not be restored, unless the nonuse is due to circumstances beyond the property owners' s control.

##### 2. Damage or Destruction

If a structure housing a nonconforming use is damaged or destroyed by fifty (50%) percent or more of the assessed value of the structure, then the nonconforming use of the structure may not be restored.

### 10.00.03 NONCONFORMING STRUCTURES

#### A. AUTHORITY TO CONTINUE

A nonconforming structure devoted to a use permitted in the zoning district in which it is located may be continued in accordance with the provisions of this Code.

#### B. ORDINARY REPAIR AND MAINTENANCE

Normal maintenance and repair of nonconforming structures may be performed.

#### C. EXPANSIONS

Any expansion of a nonconforming structure shall be in conformance with the provisions of this Code. This shall not prevent expansion as long as the nonconformity is not increased. In the event that a structure is nonconforming due to the fact that there is encroachment into a required minimum yard, as defined in Section 7.04.00, expansion of the structure shall be allowed into that minimum yard. However, no such expansion shall be allowed if it results in a greater dimensional nonconformity than that which previously existed.

#### D. RELOCATION

A nonconforming structure that is moved shall thereafter conform to the regulations of the zoning district in which it is located after such move.

**E. TERMINATION UPON DAMAGE OR DESTRUCTION**

1. Any part of a nonconforming structure that is damaged or destroyed to the extent of fifty (50%) percent or more of the assessed value of said structure shall not be restored unless that part conforms to the provisions of this Code.
  
2. If St. Lucie County or a portion thereof is declared a disaster area by the Governor of the State of Florida or the President of the United States, as a result of a hurricane, tornado, flood, or other similar act of God, then the provisions of Section 10.00.03 shall be hereby modified to allow within the declared disaster area the replacement or reconstruction of structures on or in the location of the original foundation, except that the any replacement construction must comply with the applicable provisions of Section 6.05.00 and Section 13.00.00 of this Code, provided, this modification to county regulations to allow the replacement or reconstruction of nonconforming structures shall not effect the application and enforcement of state or federal laws and agency regulations regarding replacement or reconstruction of nonconforming structures.

**10.00.04**

**NONCONFORMING LOTS OF RECORD**

**A. LOTS OF RECORD CREATED PRIOR TO JULY 1, 1984**

1. In any district, principal permitted structures and customary accessory buildings may be erected on any single lot of record existing before July 1, 1984, notwithstanding limitations imposed by other provisions of this Code. Such lot must be in separate ownership and not contiguous to other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area, or width, or frontage or any combination of the three that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area, or width, or frontage of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard dimensions and requirements other than those applying to area, width, and frontage shall be obtained only through action of the Board of Adjustment. If however, the lot has no frontage as defined in Chapter II, then proof of recorded legal ingress and egress acceptable to the County Attorney must be furnished before a building permit will be issued except for nonresidential accessory structures in AR-1, AG-1, AG-2.5 and AG-5 zoning districts.
2. If two (2) or more lots or combinations of lots and portions of lots which are contiguous to other lots were of single ownership and were of record on July 1, 1984, and if all or part of the lots do not meet the requirements established for lot width and area or frontage, the lands involved shall be considered to be an undivided parcel for the purposes of this Code provided however, that lots separated by an ingress/egress, access or roadway easement that was of record on July 1, 1984, but specifically excluding any easement limited to utilities, drainage or other non-access purpose, shall not be considered an undivided parcel for the purpose of this section.

**B. LOTS OF RECORD CREATED BETWEEN JULY 1, 1984 AND JANUARY 9, 1990**

In any district, principal permitted structures and customary accessory buildings may be erected on any single lot of record created in accordance with the requirements of the St. Lucie County Zoning Ordinance between July 1, 1984, and January 9, 1990, notwithstanding limitations imposed by other provisions of this Code.

**10.01.00 VARIANCES**

**10.01.01 GENERAL**

**A. AUTHORITY**

Unless otherwise provided for in this Code, the Board of Adjustment shall have authority to grant variances from the dimensional requirements of this Code, in accordance with the standards and procedures set forth in this section.

**B. PURPOSE**

The purpose of a variance is to provide a mechanism when, owing to special conditions, the literal enforcement of the provisions of this Code would impose upon a landowner unnecessary hardship that can be mitigated without conferring on the applicant any special privilege.

**C. INITIATION**

A written petition for a variance is to be initiated by the owner of, or any person having contractual interest in, the property for which relief is sought.

**10.01.02 STANDARDS FOR GRANTING VARIANCES**

The Board of Adjustment shall not grant a variance unless it shall, in each case, make specific findings of fact based directly upon the particular evidence presented supporting written conclusions that:

- A. The variance requested arises from a condition that is unique and peculiar to the land, structures and buildings involved; that the particular physical surroundings, the shape, or topographical condition of the specific property involved, would result in unnecessary hardship for the owner, lessee, or occupant, as distinguished from a mere inconvenience, if the provisions of this Code are literally enforced; that it is a condition that is not ordinarily found in the same zoning district, and the condition is created by the regulations of this Code, and not by an action or actions of the property owner or the applicant;
- B. The granting of the variance will not impair or injure other property or improvements in the neighborhood in which the subject property is located, nor impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, create a hazard to air navigation, endanger the public safety, or substantially diminish or impair property values within the neighborhood;
- C. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structures; and
- D. The variance desired will not be opposed to the general spirit and intent of this Code or the St. Lucie County Comprehensive Plan

### 10.01.03

### LIMITATIONS ON GRANTING VARIANCES

#### A. Variances shall not be granted that would:

1. Permit a building or structure to have a height in excess of one hundred and twenty (120%) percent of that permitted by Table 1 in Section 7.04.00; or permit a lot width or road frontage less than eighty (80%) percent of that permitted by said Table, except:
  - a. In the case of nonconforming lots of record, provided, however, that a variance to construct a permitted or authorized accessory structure on such a lot shall be governed by the provisions of Section 10.00.04; and
  - b. In the AG-1, AG-2.5 and AG-5 Agricultural Districts, road frontage of less than sixty (60) feet may be permitted on parcels of ten (10) acres or more in total area.
2. Permit the use of land or a structure contrary to the use provisions of Section 3.01.00;
3. Permit a variance from the provisions of Section 4.01.00 that would authorize any building to have a height in excess of one hundred and twenty (120%) percent of the maximum permitted by the particular zone in which it is located or to be in excess of one hundred and twenty five (125) feet, whichever is less.

B. A variance to construct an accessory agricultural structure on agricultural property lacking sufficient frontage shall be governed by the provisions of Section 10.01.07.

C. A variance from the requirements of Section 7.07.00, Stormwater Management, shall be governed by the provisions of Section 10.01.08.

D. A variance from the requirements of Section 7.05.06, Driveways, shall be governed by the provisions of Section 10.01.09.

E. A variance from the requirements of Section 6.05.00, Flood Damage Prevention, shall be governed by the provisions of Section 10.01.10.

F. No variance from the dimensional requirements of Section 7.00.00, other than variances granted for or in conjunction with a Final Development Order as described under Section 11.02.00, shall be valid for a period longer than twelve (12) months unless a building permit is issued. A variance issued for, or in, conjunction with a Final Development Order as described under Section 11.02.00 shall expire upon the termination of that Final Development Order unless the Final Development Order is extended or otherwise determined to be compliant with the provisions of this Code.

### 10.01.04

### PROCEDURES FOR APPLICATION

#### A. APPLICATION

An application for a variance shall be filed with the Community Development Director, accompanied by a non-refundable fee, as established from time to time by the Board of County Commissioners to defray the actual cost of processing the application. The application shall be in such form and shall contain such information and documentation as shall be prescribed from time to time by the Director and shall contain at least the following:

1. Name and address of applicant;
2. Legal description, street address, and lot number and subdivision name, if any, of the property which is the subject of the application;
3. The size of the subject property;
4. The variance sought and the Section of this Code from which a variance is requested. Except for non-residential accessory structures in AG-1, AG-2.5 and AG-5, if the application is for 100% variance from road frontage requirements, proof of recorded legal access shall be furnished with the application;
5. The purpose for the requested variance and a statement of the intended development of property if the variance is granted;
6. A statement of the hardship imposed on the applicant by this Code; a statement setting forth reasons why this hardship is unique to the applicant, and why the same hardship is not imposed on other property in the neighborhood that is similarly situated; a statement of why the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located; a statement of why the variance will not increase traffic, the danger of fire, or impair property values in the neighborhood; a statement of why the proposed variance is the minimum variance that will make possible a reasonable use of the land, building, and structures; and a statement explaining how the proposed variance is consistent with the general spirit and intent of this Code and the St. Lucie County Comprehensive Plan.
7. If the variance is sought to erect or increase the height of any structure, to permit the growth of any tree, or to use property in the Airport Zones established in Section 4.00.00, the application shall be accompanied by a written determination from the Federal Aviation Administration (FAA Form 7460) as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.

**B. FILING AN APPLICATION FOR APPROVAL OF A VARIANCE**

Within twenty (20) days after an application for approval of a variance is submitted, the Community Development Director shall determine whether the application is complete. If the Director determines that the application is not complete, he shall send a written statement specifying the application's deficiencies to the applicant by mail. The Director shall take no further action on the application unless the deficiencies are remedied.

**C. REVIEW OF THE APPLICATION**

1. Review by the Community Development Director

When the Community Development Director determines an application for approval of a variance is complete, he shall review the application, make a recommendation, and submit it to the Board of Adjustment.

2. Review by the Airport Director and the FDOT

- a. If the variance is sought to erect or increase the height of any structure, to permit the growth of any tree, or to use property in the Airport Zones established in Section 4.00.00, the Community Development Director shall determine whether the application for approval of a variance is complete. Once the application is complete, the Director shall furnish a copy of the application to the St. Lucie County Airport Director and to the Florida Department of Transportation Aviation Office, 605 Suwanee Street, MS-46, Tallahassee, Florida, within ten (10) days of the determination of completeness for advice as to the aeronautical effects of the variance.
- b. Upon receipt of the comments of the Airport Director and the FDOT, the Community Development Director shall review the application, make a recommendation, and submit it to the Board of Adjustment. If the Airport Director does not respond to the application within fifteen (15) days and the Department of Transportation does not respond within forty-five (45) days after receipt, the Director shall review the application, make a recommendation, and submit it to the Board of Adjustment.

#### 10.01.05

#### ACTION OF BOARD OF ADJUSTMENT

- A. Upon notification that an application for a variance is complete, the Board of Adjustment shall place the application on the agenda of a regularly scheduled meeting for a public hearing in accordance with Section 11.00.03. In reviewing the application for variance approval, the Board of Adjustment shall use the standards in Section 10.01.02. The Board may require the applicant to meet certain conditions before approval of the variance.
- B. Within a reasonable time of the hearing, the Board of Adjustment shall issue its decision approving, approving with conditions, or denying through resolution the requested variance.
- C. The Board of Adjustment may place reasonable conditions, limitations, and requirements upon the granting of any variance as may be necessary to ensure compliance with the intent of this Code. Such conditions, limitations, or requirements may be placed on the granting of any variance to prevent or minimize adverse effects upon other property in the neighborhood which might otherwise result from the reductions in standards being requested, including but not limited to conditions, limitations, or requirements on the size, intensity of use, bulk, and location of any structure; landscaping; lighting; the provision of adequate ingress and egress, and the duration of the variance. Such conditions, limitations, or requirements shall be set forth expressly in the resolution granting the variance.
- D. Any variance from the provisions of Section 4.00.00, Airport Overlay Zone, will be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as required by Section 333.07(3), Florida Statutes, in accordance with the standards published in Chapter 14-60, FAC, Rules of the Department of Transportation. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit St. Lucie County at its own expense, to install, operate, and maintain the necessary markings and lights.
- E. The decision of the Board of Adjustment shall be mailed to the petitioner and filed with the Office of the Community Development Director in accordance with Section 11.00.04(F).

**10.01.06****EXTENSIONS OF VARIANCE APPROVALS**

The time limitations imposed on any Variance by Section 10.01.03(F) may be extended by the Board of Adjustment not more than one (1) time, and for not more than twelve (12) months, upon application by the applicant and after a public hearing held in accordance with Section 10.01.05.

**10.01.07****APPEALS FROM THE BOARD OF ADJUSTMENT**

Any person aggrieved by a decision of the Board of Adjustment may, within thirty (30) days after the rendition of such decision, appeal to the courts of the State of Florida for relief in accordance with general law.

**10.01.08 - 10.01.12 (RESERVED)**

**10.01.13**

**ADMINISTRATIVE VARIANCES TO CONSTRUCT AN ACCESSORY AGRICULTURAL STRUCTURE**

**A. APPLICATION PROCEDURES**

1. A person desiring to construct an accessory agricultural structure on a parcel lacking frontage shall apply for a variance on a form provided by the Public Works Director.
2. An application fee in accordance with Section 11.12.00.
3. The application shall be in such form and contain such information and documentation as shall be prescribed from time to time by the Public Works Director, but shall contain at least the following:
  - a. Name and address of applicant.
  - b. Legal description of the property which is the subject of the application.
  - c. Size of the subject property.
  - d. Description of the existing agricultural operation.
  - e. Description of proposed accessory structure and proposed use.
  - f. Proof that the parcel is classified as agricultural land for purposes of ad valorem tax assessment.
4. Within a reasonable period of time not to exceed thirty (30) days after receipt of an application or receipt of additional information pursuant to this Section, the Public Works Director shall examine the application or information and notify the applicant of any apparent errors or omissions, and request such additional information as may be necessary for the processing of the application.
5. Within thirty (30) working days after an application has been determined to be complete, the Public Works Director shall either grant the variance or deny the variance, with reasons clearly stated.
6. Any person aggrieved by a decision of the Public Works Director may within thirty (30) days after the rendition of such decision appeal to the Board of Adjustment pursuant to procedures set forth in Section 11.11.00 of this Code.

**B. GENERAL STANDARDS FOR ISSUANCE**

The Public Works Director shall grant the requested variance if all of the following standards are satisfied:

1. The parcel is classified as agricultural land for purposes of ad valorem tax assessment.
2. The proposed structure will be constructed as a part of an existing productive agricultural operation.

3. The proposed structure and use will be accessory to the already existing agricultural structures and uses.

**10.01.14**

**ADMINISTRATIVE VARIANCES TO THE REQUIRED MINIMUM YARD  
SETBACK STANDARDS FOR RECREATIONAL VEHICLE PARKS**

**A. APPLICATION PROCEDURES**

1. A person desiring to decrease any required minimum yard setback in any existing Recreational Vehicle Park on the effective date of this Ordinance (Ordinance 94-007) by no more than fifty (50) percent of the minimum standard shall apply for a variance on a form provided by the Public Works Director.
2. An application fee in accordance with Section 11.12.00.
3. The application shall be in such a form and contain such information and documentation as shall be prescribed from time to time by the Public Works Director, but shall contain at least the following:
  - a. Name and address of applicant.
  - b. Legal description of the property which is subject of the application.
  - c. Size of the subject property.
  - d. A certified boundary survey for the subject property showing the location of the proposed RV, Mobile Home, or Single Family Residence, along with all setback and distance measurements to all adjacent structures, site improvements and utility services.
  - e. In those cases where the application submitted is for a variance from the requirements of Section 7.10.16(Q)(2), proof that the existing structure(s) on the adjacent property(ies) is the cause for this application. The applicant must show that the adjacent structure(s) were constructed without with proper Local Government permits or in violation of those permits and as a result of the provisions of Section 7.10.16(Q)(2) has subsequently been granted existing nonconforming status.
4. Within a reasonable period of time, not to exceed thirty (30) days after receipt of an application or receipt of additional information pursuant to this Section, the Public Works Director shall examine the application or information submitted and notify the applicant of apparent errors or omissions, and request such additional information as may be necessary for the processing of the application.
5. Within thirty (30) working days after an application has been determined to be complete, the Public Works Director shall either grant the variance, grant the variance with conditions or deny the variance with reasons clearly stated.
6. Any person aggrieved by a decision of the Public Works Director may appeal the decision within thirty (30) days after the rendition of such decision to the Board of Adjustment pursuant to procedures set forth in Section 11.11.00 of this code.

## B. GENERAL STANDARDS FOR ISSUANCE

The Public Works Director shall grant the requested variance if all of the applicable following standards are satisfied:

1. Demonstration that the Recreational Vehicle Park was in legal existence upon the effective date of this ordinance (Ordinance 94-007)
2. Demonstration that the existing structure(s) on the adjacent properties have been constructed without, or in violation of, prior permit approvals and that these violations have been granted conforming status consistent with Section 7.10.16(Q)(2) of this Code.
3. Demonstration that the placement of the proposed structure will meet the intent of all separation standards as required for all Recreational Vehicle Parks, Mobile Home parks, any other applicable provision of this Code, or the Standard Building Code and that the requested variance is the minimum necessary to locate the proposed dwelling unit of the property.
4. The literal application of the provisions of Section 7.10.16(Q) will result in an undo hardship on the property owners and would otherwise prohibit the use of the petitioned property as others are used in the surrounding neighborhood.
5. The variance requested will not result in any encroachment into any access/utility easement or other common area.
6. The variance requested does not result in an encroachment of any more than fifty (50) percent into any required yard setback area.
7. The variance requested will not conflict with any other provision of this Code.

## C. CONDITIONS ON VARIANCES

The Public Works Director shall attach such conditions, limitations and requirements to the variance as are necessary to effectuate the purpose of this section.

**10.01.15 - 10.01.16**

**(RESERVED)**

**10.01.17**

**ADMINISTRATIVE VARIANCES FROM REQUIREMENTS OF  
STORMWATER MANAGEMENT**

**A. APPLICATION PROCEDURES**

Upon showing that an increase or decrease in the rate, volume and quality of surface runoff shall not impact adversely the water resources of the County, any person required to obtain a stormwater permit pursuant to Section 7.07.00 may apply for an administrative variance on a form provided by the County Engineer.

1. An application fee as established by resolution of the Board of County Commissioners shall accompany the application for administrative variance.
2. The application shall be in such form and contain such information and documentation as shall be prescribed from time to time by the County Engineer but shall contain at least the following:
  - a. Name and address of applicant.
  - b. Legal description of the property which is the subject of the application.
  - c. All information and documentation that is required for permit application.
  - d. All information and documentation that will justify the variance.
3. Within a reasonable period of time not to exceed thirty (30) calendar days after receipt of an application or receipt of additional information pursuant to this section, the County Engineer shall examine the application or information and notify the applicant of any apparent error or omission, and request such additional information as may be necessary for the processing of the application.
4. Within thirty (30) working days after an application has been determined to be complete, the County Engineer shall either grant the variance or deny the variance, with reasons clearly stated.
5. Any person aggrieved by a decision of the County Engineer may, within thirty (30) calendar days after the rendition of such decision, appeal to the Board of Adjustment pursuant to Section 11.11.00.

**B. GENERAL STANDARDS FOR ISSUANCE**

1. The variance requested arises from a condition that is unique and peculiar to the land, structures, and buildings involved; that the particular physical surroundings, the shape or topographical condition of the specific property involved, would result in unnecessary hardship for the owner, lessee, or occupant, as distinguished from a mere inconvenience, if the provisions of this Code are literally enforced; and the condition is created by the regulations of this Code, and not by an action or actions of the property owner or the applicant.
2. The granting of the variance will not impair or injure other property or improvement in the

neighborhood in which the subject property is located or endangered the public safety.

3. The variance granted is the minimum variance that will make possible the reasonable use of the land, buildings, or structures.
4. The variance desired will not be opposed to the general spirit and intent of this Code or the St. Lucie County Comprehensive Plan.

**10.01.18 - 10.01.20**

**(RESERVED)**

**10.01.21**

**ADMINISTRATIVE VARIANCES FROM REQUIREMENTS OF DRIVEWAY REGULATIONS**

- A. The County Engineer may approve variances from any dimensional requirement pursuant to Section 7.05.06, Driveways, provided that no variance shall permit a dimension less than eighty (80) percent of that required by Section 7.05.06, except that in the case of a lot of record and upon demonstration that no other road frontage or road access exists, a variance permitting one driveway for such lot may be granted.
- B. The County Engineer shall not approve a variance except upon specific written findings of fact based directly upon the particular facts submitted to him showing that:
1. A literal interpretation of the provisions of this article would deprive the applicant of rights commonly enjoyed by similar properties;
  2. The granting of the variance will not be detrimental or injurious to surrounding properties, will not substantially increase traffic congestion and will not endanger the public safety;
  3. The variance is the minimum variance that will make possible the reasonable use of the land, building, and structures; and
  4. The variance requested arises from a condition that is unique and peculiar to the land involved and that is created by this Code and not by the actions of the property owner.
- C. An appeal may be initiated by any person aggrieved by a decision of the County Engineer.
1. A Notice of Appeal must be filed with the Board of County Commissioners and the County Engineer within ten (10) days after rendition of such decision.
  2. The filing of such notice will require the County Engineer to forward to the Board of County Commissioners any and all records concerning the appeal.
  3. The Board of County Commissioners shall consider the appeal at a regularly scheduled meeting within a reasonable time after a notice of appeal is filed. The Board may reverse, affirm or modify the decision subject to the requirements of subsection 2.

**10.01.22 - 10.01.24**

**(RESERVED)**

**10.01.25**

**SPECIAL PROVISIONS WHERE VARIANCE IS SOUGHT TO REQUIREMENTS OF FLOOD DAMAGE PREVENTION**

**A. GENERAL**

1. The Board of Adjustment as established by St. Lucie County shall hear and decide appeals and requests for variances from the requirements of Section 6.05.00, Flood Damage Prevention.
2. The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Public Works Director in the enforcement or administration of Section 6.05.00.
3. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.

**B. APPLICATION PROCEDURES**

1. A person desiring a variance from the requirements of Section 6.05.00, Flood Damage Prevention shall apply for a variance on a form provided by the Public Works Director.
2. An application fee as established by resolution of the Board of County Commissioners shall accompany the application.
3. The application shall be in such form and contain such information and documentation as shall be prescribed from time to time by the Public Works Director, but shall contain at least the following:
  - a. Name and address of applicant.
  - b. Legal description of the property which is the subject of the application.
  - c. Size of the subject property.
  - d. The purpose for the requested variance and a statement of the intended development of property if the variance is granted.
  - e. A statement of the hardship imposed on the applicant by this Code and a statement of why the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located.
4. Within a reasonable period of time not to exceed thirty (30) days after receipt of an application or receipt of additional information pursuant to this Section, the Public Works Director shall examine the application or information and notify the applicant of any apparent errors or omissions, and request such additional information as may be necessary for the processing of the application.
5. Within thirty (30) working days after an application has been determined to be complete by

- the Public Works Director, he shall review the application, make a recommendation, and submit it to the Board of Adjustment.
6. Upon notification that an application for a variance is complete, the Board of Adjustment shall place the application on the agenda of a regularly scheduled meeting for a public hearing in accordance with Section 11.00.03. In reviewing the application for variance approval, the Board of Adjustment shall use the standards in Section 10.01.10(C) below. The Board may require the applicant to meet certain conditions before approval of the variance.
  7. Within a reasonable time of the hearing, the Board of Adjustment shall issue its decision approving, approving with conditions, or denying the variance.
  8. The decision of the Board of Adjustment shall be mailed to the petitioner and filed with the Office of the Public Works Director in accordance with Section 11.00.0(4)(F).
  9. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
  10. Any person aggrieved by the decision of the Board of Adjustment, or any taxpayer may appeal such decision to a court of competent jurisdiction as provided by the Florida Statutes.
  11. The Public Works Director shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

#### C. GENERAL STANDARDS FOR ISSUANCE

In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in Section 6.05.00, and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, in the case of a functionally dependent facility;
6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,
11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

**D. ABILITY TO IMPOSE SPECIAL CONDITIONS**

Upon consideration of the factors listed above and the purposes of Section 6.05.00, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of Section 6.05.00.

**E. VARIANCES WITHIN DESIGNATED FLOODWAYS**

Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

**F. CONDITIONS FOR VARIANCES**

1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
2. Variances shall only be issued upon:
  - a. a showing of good and sufficient cause;
  - b. a determination that failure to grant the variance would result in exceptional hardship; and,
  - c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

**10.01.26 - 10.01.29**

**(RESERVED)**

**10.01.30**

**VARIANCES FROM RIVERINE SHORELINE PROTECTION REGULATIONS**

**A. VARIANCES ALONG THE INDIAN RIVER LAGOON SYSTEM**

The Community Development Director may approve a variance to the minimum fifty (50) foot vegetation buffers required in Section 6.02.02 along the Indian River Lagoon or other river or creek, excluding the St. Lucie River and its tributaries, provided that no such variance shall permit a vegetation buffer of less than forty (40) feet.

**B. VARIANCES ALONG THE ST. LUCIE RIVER SYSTEM**

The Community Development Director may approve a variance of a maximum of ten (10) feet in the boundaries of Zones A and B along the St. Lucie River and its tributaries, as required in Section 6.02.02(B).

**C. INDIAN RIVER LAGOON/ST. LUCIE RIVER SYSTEM VARIANCE REQUESTS IN EXCESS OF TEN (10) FEET.**

A variance of greater than ten (10) feet as permitted by paragraphs 1 and 2 above may only be granted by the Board of County Commissioners. Such a request for a variance may only be initiated by filing a written request with the County Administrator, or designee. Upon receipt of the request and within a reasonable period of time, a public hearing shall be scheduled before the Board. The public hearing shall be subject to the formal notice and advertisement requirements set out in Sections 11.00.03 and 11.00.04. The Community Development Director shall be required to submit a report to the Board on such a request including a recommendation for or against the requested vegetation buffer, based on applicable zoning or site data, the purposes listed in the introduction of this Section, and any other applicable information.

**D. STANDARDS FOR GRANTING VARIANCES**

The Board of County Commissioners shall not grant a variance to permit a vegetation buffer of less than forty (40) feet unless it shall, in each case, make specific findings of fact based directly upon the particular evidence presented supporting written conclusions that:

1. The variance requested arises from a condition that the particular physical surroundings, the shape, or topographical condition of the specific parcel of land involved, would result in unnecessary hardship for the owner or developer, as distinguished from a mere inconvenience, if the provisions of this Section are literally enforced, and the condition is created by the regulations of this Section, and not by an action or actions of the owner, developer or applicant;
2. The granting of the variance will not impair or injure other property or improvements in the neighborhood in which the subject parcel of land is located;
3. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structures; and
4. The variance desired will not be opposed to the general spirit and intent of this ordinance or the St. Lucie County Comprehensive Plan.

**E. ADDITIONAL STANDARDS FOR ST. LUCIE RIVER SYSTEM VARIANCE**

In addition to the standards in paragraph 4 above, a variance along the St. Lucie River or its tributaries shall be granted only when existing conditions on or adjacent to the property are such that granting of the variance will prevent erosion and siltation to a greater extent than not granting the variance.

**F. LIMITATIONS ON VARIANCES**

Variations shall not be granted that would permit any structure within any required yard, unless otherwise approved by the Board of Adjustment pursuant to Section 10.01.00 of this Code.

**10.01.31 - 10.01.34**

**(RESERVED)**

**10.02.00**

**TRANSFERABLE DEVELOPMENT RIGHTS -  
(RESERVED)**