



# PLANNING COMMISSION MEETING AGENDA

Monday, July 10, 2023 at 6:00 PM  
Commission Chambers - 300 Municipal Drive

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Meetings will be televised on Spectrum Channel 640 and YouTube Streamed on the City's Website.

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## 1. CALL TO ORDER

## 2. ROLL CALL

## 3. PUBLIC COMMENT

*Public participation is encouraged. If you are addressing the Planning Commission, step to the podium and state your name and address for the record. Please limit your comments to three (3) minutes and do not include any topic that is on the agenda.*

*Public comment on agenda items will be allowed when they come up.*

*For any quasi-judicial hearings that might be on the agenda, an affected person may become a party to this proceeding and can be entitled to present evidence at the hearing including the sworn testimony of witnesses and relevant exhibits and other documentary evidence and to cross-examine all witnesses by filing a notice of intent to be a party with the Community Development Director, not less than five days prior to the hearing.*

## 4. APPROVAL OF MINUTES

A. Planning Commission Minutes 6/5/2023

## 5. NEW BUSINESS

A. Vote on second Vice Chair

## 6. OLD BUSINESS

## 7. ADMINISTRATIVE/STAFF PRESENTATION

A. Land Use Consistency with Forward Pinellas

B. Shade Structures

C. 2.5 foot setback to allow vegetation control

## **8. PLANNING COMMISSION DISCUSSION**

## **9. NEXT MEETING**

Next meeting is scheduled for Monday, August 7, 2023 at 6:00 p.m.

## **10. INFORMATIONAL MATERIALS**

## **11. ADJOURNMENT**

**One or more Elected or Appointed Officials may be in attendance.**

*Any person who decides to appeal any decision of the Planning Commission with respect to any matter considered at this meeting will need a record of the proceedings and for such purposes may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The law does not require the minutes to be transcribed verbatim; therefore, the applicant must make the necessary arrangements with a private reporter or private reporting firm and bear the resulting expense. In accordance with the Americans with Disability Act and F.S. 286.26; any person with a disability requiring reasonable accommodation to participate in this meeting should call Jenny Rowan, Community Development Director at 727-391-9951, ext. 244 or fax a written request to 727-399-1131.*



**THE CITY OF MADEIRA BEACH, FLORIDA  
LOCAL PLANNING AGENCY / PLANNING COMMISSION**

Madeira Beach City Hall, Patricia Shontz Commission Chambers  
300 Municipal Drive, Madeira Beach, FL 33708  
www.madeirabeachfl.gov | 727.391.9951

**June 5, 2023 - MINUTES**

1. **CALL TO ORDER** 2<sup>nd</sup> Vice Chair Dillon called the meeting to order at 6:00 p.m.

2. **ROLL CALL**

**Members in Attendance:**

Commissioner Meager

Commissioner Ghovae

Commissioner Dillon

Commissioner Connolly

Commissioner LaRue

**Members Absent:**

Chairman Wyckoff

Commissioner Noble

**Staff Representatives:**

Jenny Rowan, Community Development Director

Marci Forbes, Community Development Engineer

Andrew Morris, Long Range Planner

Lisa Scheuermann, Program Coordinator/Board Secretary

3. **PUBLIC COMMENTS**

2<sup>nd</sup> Vice Chair Dillon opened the floor to public comment on any topics not related to the agenda.

No residents came forward.

4. **APPROVAL OF MINUTES**

Commissioner Meagher made a motion to accept the minutes from the April 3, 2023 meeting. April Minutes had to be re-approved due to an error in the date.

Commissioner Connolly seconded the motion, and the motion passed unanimously.

Commissioner Ghovae made a motion to accept the minutes from the May 1, 2023 meeting.

Commissioner Connolly seconded the motion.

The motion passed unanimously.

## 5. NEW BUSINESS

### A. Agenda item C was moved to Agenda item A – Shade Structures.

**Jenny Rowan presented.** BOC workshop on May 24<sup>th</sup> it was brought up whether the Code of Ordinances should allow shade structures in the rear yard such as gazebos, tiki huts, etc. The presentation covered setbacks for permanent structures, but many yards are too small for a shade structure within the setback. Temporary shade structures are allowed.

Discussion among the Commissioners followed. Discussion items included whether the shade structures are meant to be permanent or temporary, where rear setbacks are measured from, if all rear setbacks are measured the same. Commissioner LaRue commented that he can see the need/want for shade but asked the question whether or not they comply with current code. Ms. Forbes stated that they are required to comply with current ordinances. They would be considered a minor structure.

Commissioner Connelly asked if tribal structures are exempt from building codes. Ms. Rowan stated that Tribal structures do have to comply with Planning Codes, while they are exempt from Building Codes. Ms. Frbes continued to explain that the Planning and Zoning Department would need signed and sealed plans that would show resistance to uplift and comply with Florida Zoning Requirements.

Commissioner Connelly asked if people can use retractable electric awnings that are attached to a home or structure. Ms. Rowan stated that these are permissible. The discussion continued, and covered items including the area of vision triangulation within the yard in order to preserve the view of the neighbors.

It was suggested that that the definition is too broad and the details should be workshopped a second time.

The floor was opened to questions/comments.

Jim Rosteck came forward and mentioned that there are many shade structures currently existing, and mentioned that trees and shrubs may obstruct a view so why would structures be different as long as they are within setback requirements.

A resident came forward and spoke about the importance of her Chickee Hut is for her well-being as a disabled person and stated that she thinks they should be allowed.

### B. Vote on First Vice Chair (Former Agenda Item A.)

2<sup>nd</sup> Vice Chair Chuck Dillon was nominated for 1st Vice Chair.

Commissioner Connolly made a motion to elect Commissioner Dillon to 1<sup>st</sup> Vice Chair.

Commissioner Ghovae seconded the motion.

The motion passed unanimously.

**C. Proposal to change the July Planning Commission Meeting to 7/10/2023 instead of 7/3/2023 due to the 4<sup>th</sup> of July Holiday.**

Commissioner Ghovae made a motion to approve the date change.

Commissioner Meagher seconded the motion.

The motion passed unanimously.

**6. ADMINISTRATIVE/STAFF PRESENTATION**

**Jenny Rowan presented Densities and Intensities/Consistency in Land use Power Point.**

The presentation covered the differences between Madeira Beach and Pinellas County consistency regarding the countywide plan and the comprehensive plan.

It was stated that there is a Public Workshop regarding the item on June 17, 2023 from 10:00 AM to 12:00 PM.

Discussion among Commissioners regarding consistency of Pinellas County Land Use Plan with the state. Andrew Morris noted that we send the Comprehensive Plan to DEO for approval and that is the state approval.

Mr. Morris provided the definitions of the different terms used by Pinellas County and Madeira Beach that cover the same areas.

Mr. Morris further explained that there will be no map changes and the purpose of this is to clean up existing code.

The discussion was concluded and the floor was opened to public comment.

Mr. Rostek came forward and said he wants to change the color of the maps as they are confusing.

**7. PLANNING COMMISSION DISCUSSION**

Commissioner Ghovae would like to have city limit signs.

Commissioner Connolly brought up the length of that construction sites can sit vacant after demolition or return to natural state or cover so that sand and debris does not blow on to the cars of properties of residents.

Commissioner Connolly stated that he would like to discuss with City Manager or add to BOC as an agenda item.

The Commission discussed nuisance construction sites, and it was decided to add the subject to the July agenda.

Ms. Rowan noted that the topic must be brought before the BOC prior to being added as an LPA agenda item.

## **8. NEXT MEETING**

Next meeting is scheduled for Monday, July 10, 2023, at 6:00 PM.

## **9. ADJOURNMENT**

2<sup>nd</sup> Vice Chair Dillon adjourned the meeting at 7:47 PM.

Respectfully submitted:

\_\_\_\_\_  
Michael Wyckoff, Chairman

\_\_\_\_\_  
Date

\_\_\_\_\_  
Lisa Scheuermann, Board Secretary

\_\_\_\_\_  
Date



# Memorandum

**Meeting Details:** July 10, 2023, Planning Commission

**Prepared For:** Planning Commission

**From:** Community Development Department

**Subject:** Density and Intensity Consistency with Forward Pinellas

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**Background:** The Madeira Beach Comprehensive Plan and Land Development Regulations (LDRs) in the Madeira Beach Code of Ordinances are inconsistent with the Forward Pinellas Countywide Plan. The city must remedy this inconsistency.

**Discussion:** The City of Madeira Beach previously adopted the alternative temporary lodging use standards available from Forward Pinellas (2007 and 2008). The standards were not clearly defined within the City's Comprehensive Plan and LDRs. The city is required to be consistent with the Forward Pinellas Countywide Plan. To be consistent with the Countywide Plan, the city must make amendments to the Comprehensive Plan and LDRs. The upcoming amendments will include clarification of the alternative temporary lodging use standards, clarification of intensity and density standards without using the alternative temporary lodging use standards, update allowed uses terminology to conform with the Countywide Plan definitions, and clarify the measurement of intensity and density to be consistent with the Forward Pinellas Countywide Plan.

**Recommendation(s):** Staff recommends amending the Madeira Beach Comprehensive Plan and Code of Ordinances to conform to the Forward Pinellas Countywide Plan.

**Attachments:**

- Amendments to Section 82-2 Definitions in the Madeira Beach Code of Ordinances
- Amendments to R-3, C-1, C-2, C-3, and C-4 in the Madeira Beach Code of Ordinances
- Land Use Placemat
- Forward Pinellas Consistency Letter
- Forward Pinellas Countywide Plan Rules
- Forward Pinellas Countywide Plan Map
- Madeira Beach Zoning Map

- Madeira Beach Comprehensive Plan Future Land Use Map

## Chapter 82 GENERAL PROVISIONS

### Sec. 82-1. Purpose and intent.

The primary purpose of the land development regulations is to implement the city comprehensive plan as adopted pursuant to Florida Statutes ch. 16, pt. II, and in accordance with F.A.C. ch. 9J-5. The objectives of the land development regulations are to:

- (1) Protect, promote and improve the public health, safety, comfort, order, appearance, convenience, morals and general welfare of the city.
- (2) Protect the character and maintain the stability of residential, business, recreation and public areas.
- (3) Promote the orderly development of residential, business, recreation and public areas.
- (4) Conserve the value of land, buildings, resources and protect land owners from adverse impacts of adjoining developments.
- (5) Provide for a more uniformly just land use pattern and tax assessment base to aid in the development and redevelopment of the city, to increase traffic safety and ease transportation problems, and to provide more adequately for vehicular parking, parks, parkways, recreation, schools, public buildings and facilities.

(Code 1983, § 20-102)

### Sec. 82-2. Definitions.

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

*Absorption area* means any area designed, or natural, capable of allowing stormwater percolation.

*Abutting* means to physically touch or border upon, to share a common property line, or is directly across a street, access easement, alley or other right-of-way (except those properties separated by an arterial street) from the subject property.

*Accessory building or use* means a building structure or use which is:

- (1) Subordinate to and serves a principal building or use.
- (2) Subordinate in area, extent and purpose to principal building or use.
- (3) Contributes to the comfort, convenience or necessities of the principal building or use.
- (4) Is located on the same lot as the principal building or use.

*Addition (to an existing building)* means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common loadbearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter loadbearing walls is new construction.

*Adjoining* means the same as "Abutting."

*Adult arcade* means a place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images, including motion pictures, films, video cassettes, slides or other photographic reproductions to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

*Adult bookstore* means:

- (1) An establishment having as a substantial or significant portion of its stock in trade books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities, or specified anatomical areas, or an establishment with a segment or section devoted to the sale, rental or display of such material.
- (2) It is an affirmative defense to an alleged violation of operating an adult bookstore without a permit if the adult material is accessible only by employees and either the gross income from the sale and/or rental of adult material compromises less than ten percent of the gross income from the sale; and/or rental of goods and/or services at the establishment, or the individual items of adult material offered for sale and/or rental compromises less than ten percent of the individual items publicly displayed at the establishment as stock in trade in any of the following categories: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations, or recordings or other audio matter. Any adult use activity other than the sale or rental of adult material shall preclude the establishment's qualifying solely as an adult bookstore and shall mandate its classification as other than an adult bookstore.

*Adult booth* means a separate enclosure inside an adult entertainment establishment, accessible to any person, regardless of whether a fee is charged for access. The term "adult booth" includes, but is not limited to, a "peep show" booth, adult arcade booth or other booth used to view adult material. The term "adult booth" does not include a foyer through which any person can enter or exit the establishment, nor a restroom.

*Adult dancing* means a commercial establishment that permits, suffers or allows dancers to display or expose specified anatomical areas. Additionally, any establishment on whose premises an employee, who need not be the same employee, displays or exposes specified anatomical areas on more than one day in any 30-day period shall be deemed an adult dancing establishment and shall be required to obtain a license under this Code.

*Adult entertainment establishment* means adult arcade, adult bookstore, adult booth, adult dancing establishment, adult massage establishment, adult motel, adult motion picture theater, special adult cabarets, physical cultural establishments or adult photographic studios including any business establishment whose primary business stock in trade is dependent upon the activities relating to specified sexual activities or specified anatomical areas, or an adult dancing establishment, or any other establishment exhibiting or relating to specified sexual activities or specified anatomical areas. Any commercial establishment that displays a sign or engages in any other form of advertising capable of leading a reasonable person to believe that such establishment offers, presents, permits or engages in any form of adult entertainment shall be deemed an adult entertainment establishment under the appropriate classification. For the purposes of the land development regulations, the term "adult use" is synonymous with the term "adult entertainment establishment."

*Adult massage establishment* means a site or premises, or portion thereof, upon which any person, who is an employee, manipulates or massages the superficial tissues of the body of another person, but does not include the following:

- (1) Licensed health care facilities;
- (2) Licensed physicians or nurses engaged in the practice of their professions;
- (3) Educational or athletic facilities if the massage is a normal and usual practice in such facilities; or



- (4) Establishments exempted under Florida Statutes § 480.034.

*Adult material* means any one or more of the following regardless of whether it is new or used:

- (1) Books, magazines, periodicals or other printed matter, paintings, drawings or other publications or graphic media or photographs, films, motion pictures, video cassettes or disks, slides or other visual representations, or recordings or other audio matter, which have as their primary or dominant theme matter depicting, illustrating, describing or relating to specified sexual activities or specified anatomical areas; or
- (2) Instruments, novelties, devices or paraphernalia which are designed for use in connection with specified sexual activities.

*Adult motel* means any motel or hotel, boardinghouse, rooming house or other lodging used predominantly for transient customers which includes the words "adult" in any name it uses or otherwise advertises, and actually permits the presentation of film material, video or other visual representations, which has as its preliminary or dominant theme matters depicting, illustrating or relating to specified sexual activities or specified anatomical areas for observations of patrons thereof.

*Adult photographic or modeling studio* means any business establishment which offers or advertises as its primary business stock and trade, the use of its premises for the purpose of photographing or exhibiting specified sexual activities or specified anatomical areas or the modeling of apparel that exhibits specified anatomical areas.

*Adult theater* means an enclosed building or an enclosed space within a building, or an open-air area used for presenting either filmed or live plays, dances, or other performances, either by individuals or groups, distinguished or characterized by an emphasis on material depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein. An establishment which has adult booths or an adult arcade is considered to be an adult theater.

*Adult use* means and includes the terms as described under the definition of "adult entertainment establishment."

*Adversely impact* means to destroy or damage or contribute to the destruction or damage of something.

*Alley* means a public right-of-way 15 feet or less in width and which affords only a secondary means of access to abutting property.

*Alteration* means to change, rearrange, enlarge, extend or reduce any structure or part thereof on the same site.

*Ancillary use* means a use which is either: Subordinate to and serves a principal building or use; subordinate in area, extent, and purpose to the principal building or use served; contributes to the comfort, convenience, or necessities of the users or occupants of the principal building or use; and is located on the same lot as the principal building or use. Unless otherwise specified, no ancillary use shall exceed 25 percent of the gross floor area of the principal building or use.

*Antenna* means any exterior apparatus designed for telephonic, radio, or television communications, through the sending or receiving of electromagnetic waves.

*Appeal* means a request for a review of the building and zoning official's interpretation of any provision of the land development regulations or a request for a variance.

*Aquatic preserves* means publicly owned submerged lands which are covered by brackish or salt water and which are recognized by law or regulations of having exceptionally high biological, aesthetic, educational or scientific value.

*Area of special flood hazard* means the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

*Art work* means drawings, pictures, symbols, paintings or sculpture which in no way identify a product or business and which are not displayed in conjunction with a commercial, for profit or nonprofit enterprise.

*Arterial* means a street officially defined as such by the state department of transportation's functional classification.

*Artificial light* means any source of light emanating from a manmade device, including, but not limited to, incandescent, mercury vapor, metal halide, neon, sodium, spotlights, street lights, construction or security lights.

*Automatic controller* means a mechanical or electronic timer, capable of operating valve stations to set the days and length of time of a water application.

*Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year.

*Base flood elevation (BFE)* means the elevation, measured in feet above mean sea level, as shown on the flood insurance rate map (FIRM).

*Basement* means that portion of a building having its floor subgrade (below ground level) on all sides.

*Beach access point* means any path which may be through or over the dune used by the general public or private property owners for the purpose of gaining access to the beach.

*Board of adjustment* means the board of adjustment of the city.

*Board of commissioners* means the board of commissioners as legally constituted for the city.

*Boat, charter* means a boat for hire which carries not more than ten paying passengers.

*Boat, party* means a boat for hire which carries more than ten paying passengers.

*Breakaway walls* means any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building material which is not part of the structural support of the building and which are so designated as to break away, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by floodwaters.

*Buildable area* means the area of a site in which development is permitted without variance.

*Building* means an enclosed structure with walls and a roof.

*Building permit* means a permit which authorizes the construction of a new building structure or related building system or the expansion of floor area or the increase in the number of dwelling units contained in an existing building or change of use.

*Building value* = market value of structure only. Land and exterior improvements are excluded, e.g., swimming pool, pool enclosure, landscaping, paving, etc. Market value = assessed value or properly-depreciated appraised building value. The assessed value may be adjusted upward to reflect the market more accurately. Replacement cost can only be used if properly depreciated. Certified appraisals must be based on the comparable sales method. The land value must be deducted and it must be equal to or greater than that established by the county assessor.

*Business entity* means any and all persons, natural or artificial, including any individual, firm, corporation or association operating or proposing to operate for commercial or pecuniary gain. "Operated for commercial or pecuniary gain" shall not depend upon actual profit or loss. Also, "operated for commercial or pecuniary gain" shall be presumed where the establishment has an occupational license. Business entity includes any enterprise or venture in which a person sells, buys, exchanges, barter, deals or represents the dealing in any thing or article of value or renders services for compensation.

*Camouflage techniques* means a tower and/or antenna designed to unobtrusively blend into existing surroundings, be disguised so as to not have the appearance of a communication facility, or be designed or located

in such a manner that the tower or antenna is not easily discernible from the ground. Examples include the form and shape of a tree, bell tower, steeple, clock tower, light standard, and other techniques which serve to diminish the visible impact of the tower or antenna.

*Cannabis* means any plant or part of a plant of the genus *cannabis* whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.

*Cannabis farm* means any property used in whole or in part for the growing or cultivation of cannabis plants, whether or not such growing or cultivation is lawful under federal or state law.

*Carport, private* means an accessory building with two or more sides open, designed or used for the storage of motor vehicles owned and used by the occupants of the primary building.

*Certificate of concurrency* means the official document issued by the city upon finding that the application for final development permit will not result in the reduction of level of service standards set forth in the city comprehensive plan for public facilities and services.

*Certification of compliance/noncompliance* means a notice issued by the building and zoning official indicating to an applicant for an occupational license that the location proposed for an adult use complies or does not comply with the locational requirements of the land development regulations.

*Child care facility* means any children's center, day nursery or family day care home as defined in Laws of Fla. ch. 61-2681.

*Church* means a premise or site which is used primarily or exclusively for religious worship and related activities. The term "church" shall also include the term synagogue, temple, mosque, cathedral, church building and any other facility or premises where individuals of a particular religion gather to worship and for any other related religious purpose.

*Clearing* means the removal of vegetation, rocks, structures, debris and other obstructions resting on or protruding through the existing ground surface.

*Clinic* means a facility wherein professional services concerning personal health of humans are administered by medical doctors, chiropractors, optometrists, dentists, or any such professional which may lawfully practice in the state, provided that the persons treated are not lodged therein overnight.

*Club* means an establishment which is owned or operated by a corporation, association, person or persons for social, literary, political, educational, fraternal or charitable purposes, but which is not operated for profit or to render a service which is customarily conducted as a business. *Coastal barrier islands* means the geological features which are completely surround by marine waters that front upon the open waters of the Gulf of Mexico, and are composed of quartz sands, clays, limestone, oolites, rock, coral, coquina, sediment, or other material, including spoil disposal, which features lie above the line of mean high water. Mainland areas which were separated from the mainland by artificial channelization for the purpose of assisting marine commerce shall not be considered coastal barrier islands.

*Coastal building zone* means the land area from the seasonal high water line landward to a line 1,500 feet landward from the coastal construction control line as established pursuant to Florida Statutes § 161.053, and, for those areas fronting on the Gulf of Mexico and not included under Florida Statutes § 161.053, the land area seaward of the most landward velocity zone (V-zone) as established by the Federal Emergency Management Agency as shown on flood insurance rate maps. The coastal building zone on coastal barrier islands shall be the land area from the seasonal high water line to a line 5,000 feet landward from the coastal construction control line established pursuant to Florida Statutes § 161.053, or the entire island, whichever is less.

*Coastal construction control line* means the line as established by the state pursuant to Florida Statutes § 161.053.

*Coastal high hazard area (CHHA)* means the area subject to high velocity waters, including but not limited to hurricane wave wash or tsunamis. The area is designated by the Federal Emergency Management Agency (FEMA) as Zone V1-V30. The coastal high hazard area incorporates all areas seaward of the coastal construction control line established by state law and the velocity flood hazard area as established by the Federal Emergency Management Agency (FEMA). This includes areas where public facilities have been damaged or undermined by coastal storms, and inlets which are not structurally controlled.

*Commercial/Business Service Use* means an occupation or service involving the sale, storage, repair, service or rental of motor vehicles, water craft, residential machinery or equipment, examples of which include automobile, boat, and household or yard equipment sales, service or repair, and like uses; the production, assembly or dismantling of which shall be clearly secondary and incidental to the primary use characteristics of the Commercial/Business Service Use.

*Commercial Recreation Use* means a private or quasi-public recreation facility designed for participant or spectator activities for a charge, including but not limited to marina, miniature golf, sports stadium, performance venues, and indoor recreation/entertainment uses such as billiard halls, bowling alleys, movie theatres, and video game arcades.

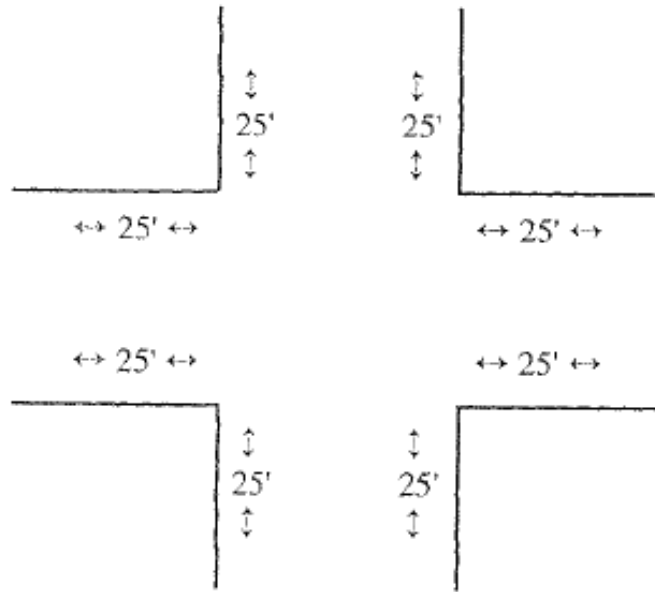
*Commercial equipment* means vehicles, trailers, step and box vans, and all machinery, materials or furnishings owned or used for commercial purposes will be considered commercial equipment. Personal vehicles, up to and including one ton pick-up truck or passenger or utility van, used by an individual for transportation to and from home or job sites will not be considered commercial equipment regardless of any commercial names, insignias or markings on the vehicle. Machinery, materials or furnishings owned or used for commercial purposes clearly visible on these vehicles will be considered commercial equipment for the purposes of this Code.

*Comprehensive plan* means the city comprehensive plans as adopted by Ordinance No. 738 on December 5, 1989 by city commission pursuant to Florida Statutes ch. 163, part 2, as such plan may be amended from time to time.

*Congregate care facility* means a residential facility which may be comprised of individual dwelling units with or without kitchen facilities. These facilities may offer central dining, personal and therapeutic care and other facilities necessary to meet special living needs of the residents. These include adult congregate living facilities and similar retirement or life-care facilities. These facilities, where required, shall be licensed by the state department of children and family services, or be operated pursuant to state law. As a continuing care facility it shall not be located within the coastal high hazard area, hurricane evacuation zone level "A" or floodway.

*Contiguous* means parcels touching along a boundary or directly across roadway with a local or collector functional classification or other right-of-way from each other. For the purpose of calculating density averaging, "contiguous" means parcels touching along a boundary or directly across any roadway or other right-of-way from each other.

*Cross visibility area* means the area of property located at the corner formed by the intersection of two or more public streets with two sides of a triangular area being 25 feet in length along the abutting public street, measured from their point of intersection, and the third side being a line connecting the ends of the other two sides. In areas where this scenario cannot be achieved, the distance will be determined by the city manager or his designee.



*Day care center* means and includes any day nursery, nursery school, kindergarten or other facility as defined by state law, which, with or without compensation, cares for five or more children 17 years of age or under, not related to the operator by blood, marriage or adoption, away from the child's home.

*Density* means a ratio of dwelling units per acre of land. No portion of dedicated public right-of-way may be used to calculate density. No portion of submerged land may be used to calculate density.

*Density/intensity averaging* means the aggregation of the otherwise permitted density and/or intensity of a parcel or parcels of land in a non-uniform or consolidated manner on a portion of such contiguous parcel(s) in accordance with article V of chapter 86, Administration, of this Code.

*Detention* means the temporary collection and storage of surface water for subsequent controlled dissipation at a rate which is less than the rate of flow.

*Development* means any material manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations. The following activities or uses shall be taken to involve "development," as defined in this section:

- (1) A reconstruction, alteration of the size, or change in the external appearance of a structure on land.
- (2) A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or an increase in the number of businesses, manufacturing establishments, offices or dwelling units in a structure or on land.
- (3) Alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, including any "coastal construction" as defined in Florida Statutes § 161.021.
- (4) Commencement of drilling, except to obtain soil samples, mining, or excavation on a parcel of land.
- (5) Demolition of a structure.
- (6) Clearing of land as an adjunct of construction.
- (7) Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

*Development agreement* means an agreement, as authorized by the Florida Local Government Development Agreement Act (set forth in Florida Statutes §§ 163.3220—163.3243) and subject to the requirements of article IV of chapter 86, Administration, of this Code.

*Development permit* means any approved final site plan, building permit, zoning clearance, rezoning, special exception, variance, conditional use or any other official action of the city having the effect of permitting the development of land, except that for the purposes of the land development regulations, tree permits and grubbing permits are not to be considered development permits.

*Diameter at breast height (DBH)* means the standard measurement of a single-stemmed tree at 4½ feet above grade.

*District* means a section or sections of the city for which zoning regulations governing the use of buildings and premises, the height of the buildings, the size of yards and the intensity of use are uniform.

*Dock, commercial* means a revenue producing structure on piling over water or structure that is defined as a commercial dock under state law, which is designed or used to provide a berth for and access to one or more private, charter, commercial or party boats.

*Dock, residential* means an accessory structure to a residential use which is built on pilings over water and is designed or used to provide moorage for one or more boats.

*Drainage system* means the system through which water flows from the land. It includes all watercourses, waterbodies and wetlands.

*Dripline* means an artificial line along the ground which conforms to the perimeter of the crown of a tree as projected vertically to the ground.

*Drive-in restaurant* means any food or beverage dispensing operation at retail to the general public where such public may be served while remaining in automobiles or other motor vehicles parked on the premises, or where prepared meals may be obtained at a drive-in window.

*Drive-in window* means a window or other opening in the wall of a principal or accessory building through which goods or services are provided directly to customers who are in their motor vehicles and by means eliminates the need for such customers to exit their motor vehicles.

*Dune* means the amount or ridge of loose sediments lying landward of the beach and deposited by any natural or artificial mechanism.

*Dwelling unit* means a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

*Duplex* means two dwelling units contained in one structure on a single lot or parcel and attached by common vertical walls.

*Multifamily* means three or more dwelling units contained in one structure on a single lot or parcel and attached by common vertical or horizontal walls.

*Single-family detached* means a dwelling unit in a single structure not attached to any other dwelling by any means, designed for or occupied exclusively by one family.

*Tourist:*

- A. *Condo-hotel* means a hotel, motel, tourist or seasonal accommodation room or group of rooms forming a separate, habitable unit used or which could be used for living and sleeping by one family with independent kitchen facilities. Each unit shall be owned by an individual, corporation, or any other legal entity having membership into an association comprised of all owners within the same development. No unit in a condo-hotel shall be used as a timeshare or fractional ownership unit or be converted to a permanent, non-tourist dwelling unit.

Each condo-hotel shall:

1. Contain a front desk, lobby, internally oriented and easily accessible to members of the public;
2. Have the appropriate license for a hotel and all such licenses must be kept up-to-date annually;
3. Have sufficient signage viewable by the general public advertising such structure as a condo-hotel, with units available for daily, weekly or monthly rentals;
4. Provide a reservation system or agency for rental of units; and
5. Upon request of the city, provide access to all rental records, tax receipts or any other documents necessary to verify conformance with the provisions established herein.

Each unit shall:

1. Have the appropriate license for hotel unit and all such licenses must be kept up-to-date annually;
2. Be required to obtain a business tax receipt for each unit from the city;
3. Be subject to all applicable tourist tax collection requirements;
4. Utilize the reservation system or agency;
5. Not be used for homesteading purposes;
6. Not be issued a home occupational license;
7. Not be utilized as an address for the purposes of establishing residency or registering to vote; and
8. Be available to the owner for use no more than 90 days within a calendar year. The unit shall be available for lease to parties other than the owner in intervals of 30 days or less for the remainder of the calendar year

Only one unit in a condo-hotel structure may be used for the year-round occupancy by a person or family serving as the on-site manager(s). This unit must be owned by the condo association or management company and shall not be used for homestead purposes. This manager unit shall be exempt from the requirement of leasing 30 days or less in the calendar year.

- B. *Motel or hotel* means a room or a group of rooms forming a separate, habitable unit used or which could be used for living and sleeping purposes by one family, with or without independent kitchen facilities, occupied or intended to be occupied by transients on a rental or leased basis.

Each motel or hotel shall:

1. Contain a front desk and/or lobby with a reservation system, and easily accessible to members of the public;
2. Have the appropriate license for a motel or hotel and all such licenses must be kept up-to-date annually; and
3. Have sufficient signage viewable by the general public advertising such structure as a motel or hotel, with units available for daily, weekly or monthly rentals.

Each unit shall:

1. Be subject to all applicable tourist tax collection requirements;
2. Not be used for homesteading purposes;
3. Not be issued a home occupational license; and

4. Not be utilized as an address for the purposes of establishing residency or registering to vote.

Only one unit in the motel or hotel structure may be used for the year-round occupancy by a person or family serving as the on-site manager(s). The manager unit may be used to establish residency. If the unit is owner-occupied, this unit may be used for homestead purposes. This manager unit shall be exempt from the requirement being available for daily, weekly or monthly rental.

*Townhouse* means a building designed for or occupied exclusively by one family and attached to two or more other buildings of similar design and separated by one or more party walls. The attached townhouses as defined constitute a building group.

*Triplex* means a multifamily dwelling with three units contained in one structure on a single lot or parcel and attached by common vertical walls.

*Elevated building* means a nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (post and piers), shear walls, or breakaway walls.

*Emitter* means the drip irrigation fittings that deliver water slowly from the system to the soil.

*Employee* means a person who works in the service of another person (the employer) under an express or implied contract of hire, under which the employer has the right to control the details of work performance.

*Erosion* means the damage caused by unrestricted surface waters which shall include the movement of silt, soils or foreign material.

*Essential services* means public utility facilities either underground or overhead and related to the transmission or distribution system of water, sanitary or storm sewage, telephone, gas, electricity, and public safety, including poles, wires, mains, hydrants, drains, pipes, conduits, law enforcement or fire call boxes, traffic signals and other similar equipment necessary for the furnishing of service, but not including the buildings.

*Establishment or commencement of business* means and includes any of the following:

- (1) The opening or commencement of any adult entertainment establishment as a new business;
- (2) The conversion of any existing business, whether or not an adult entertainment establishment; or
- (3) The relocation of any adult entertainment establishment.

For the purposes of determining the date of commencement of business, evidence in the form of a certificate of occupancy and an occupational license will be required. Any decision regarding a given date of commencement may be appealed pursuant to the provisions of section 90-10.

*Existing construction* means any structure for which the start of construction commenced before (the effective date of the first floodplain management code, ordinance, or standard based upon specific technical base flood elevation data which establishes the area of special flood hazard) or (specific date).

*Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community (before the effective date of the first floodplain management code, ordinance, or standard based upon specific technical base flood elevation data which establishes the area of special flood hazard) or (specific date).

*Expansion to an existing manufactured home park or subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).



*Eutrophication* means the enrichment of bodies of water with nutrients resulting in luxurious organic growth and depletion of dissolved oxygen.

*Family* means an individual, or two or more persons, related by blood or marriage, or a group of not more than three persons who need not be related by blood or marriage, living together as a housekeeping unit in a dwelling.

*FAA* means the Federal Aviation Administration.

*FCC* means the Federal Communications Commission.

*Final development order* means the last approval necessary to carry out the development requested which will result in an immediate and increased impact upon public facilities.

*Flood hazard boundary map (FHBM)* means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as zone A.

*Flood insurance study* means the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary floodway map and the water surface elevation of the base flood.

*Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

*Flood elevation determination* means a determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

*Flood insurance rate map (FIRM)* means an official map of a community, on which the administrator has delineated both the special hazard areas and the risk premium zone applicable to the community.

*Flood light* means a reflector type light fixture which is attached directly to a building or post and which is unshielded.

*Flood prone area* means any land area susceptible to being inundated by water from any source.

*Floodplain* means the lateral extent of inundation by an event of given statistical frequency, such as a 100-year floodplain, as designated in the county stormwater management plan (SWMP).

*Floodplain management regulations* means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of law enforcement powers. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

*Floodproofing* means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

*Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one-tenth of a foot.

*Floor area, gross* means the sum of all enclosed areas of floors of a building, measured from the outside faces of the exterior walls, or from the centerline of a wall separating two buildings, including halls, lobbies, arcades, stairways, elevator shafts and balconies, but not including interior parking spaces, open terraces, patios, atriums, entryways, loading space for motor vehicles, and any space where floor to ceiling height is less than six feet.

*Floor area ratio (FAR)* means a ratio of square footage of gross floor area divided by the square footage of land area. The square footage of land area for purposes of determining the FAR shall not include public road rights-of-way and shall not include submerged land.

*Frontage, street* means all the property on one side of a street between two streets which intersect such street (crossing or termination), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between a street which intersects such street and the dead end of the street.

*Functionally dependent facility* means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

*Garage, private* means an accessory building or an enclosed area in the main building designed or used for the storage of motor-driven vehicles owned and used by the occupants of the building.

*Garage, public* means a building or portion thereof, other than a private garage, designed or used for equipping, servicing, repairing, hiring or selling or storing of motor-driven vehicles, but not including the storage of wrecked or junked vehicles.

*Grade* means a reference plane representing the average of finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or between the building and a point six feet (1,829 mm) from the building, whichever is closer to the building.

*Grading or land balancing* means the moving of earth or materials for the purpose of development or redevelopment or the temporary or permanent alteration of existing topography of the land.

*Ground cover* means plants, other than turf grass, normally reaching an average maximum height of not more than 24 inches in maturity.

*Ground-level barrier* means any natural or artificial structure rising above the ground which prevents beachfront lighting from shining directly onto the beach-dune system.

*Habitable space* means a space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

*Hedges* means any installation or placement of plants, structural elements, feature art, ornaments or objects that together form a row, boundary or screen that extends more than three feet before a break (open space) of at least three feet horizontally and six feet vertically. Hedges can be installed in conjunction with or in lieu of fences, except those fences required by the Florida Building Code, and must meet the same height restrictions as fences and walls except in the rear yard where the natural plant material of the hedge may be allowed to grow to natural height.

*Height, building* means the vertical distance from grade to the highest finished roof surface in the case of flat roofs or to a point at the average height of the highest roof having a pitch. When a building is located within a special flood hazard area having a designated base flood elevation on the flood insurance rate map (FIRM), the height may be measured from the base flood elevation plus required freeboard to the highest point of the building.

*Height, wireless communication antennas/towers* means the distance measured from existing grade to the highest point on the tower structure, even if the highest point of the tower or structure is an antenna.

*Historic structure* means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs which have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior; or
  - b. Directly by the Secretary of the Interior in states without approved programs.

*Home occupation* means an occupation conducted as an accessory use in a dwelling unit in a manner which is clearly incidental and accessory to the residential use and requiring no changes to the outside of the structure or its outward appearance.

*Hotel* means a building containing five or more sleeping accommodations available to the public for compensation and in which meals may or may not be provided. All ancillary or accessory uses such as dining rooms, restaurants or cafes shall be operated within the same building or buildings and principal access to all facilities is through an inside lobby or office supervised by a person in charge at all hours. Hotel facilities are classified as a form of a tourist dwelling facility.

*Household animals* means animals which are customarily kept for personal use or enjoyment which are not exhibited to the public nor raised for commercial purposes. Household animals shall include domestic dogs, domestic cats, white mice and domestic rabbits, frogs, small birds, small reptiles and fish.

*Hurricane evacuation zone* means the hurricane evacuation zone established by the county emergency services agency. Evacuation Levels A, B, C, D, and E, as identified in the most recent hurricane evacuation study, require the evacuation of successively more zones inland from the coast during a storm event.

*Impervious surface* means a surface that has been compacted or covered with a layer of material so that it is highly resistant to or prevents infiltration by stormwater. It includes surfaces such as limerock, or clay, as well as most conventionally surfaced streets, structures, roofs, sidewalks, parking lots, and other similar surfaces.

*Impervious surface ratio (ISR)* means the relationship between the total impervious surface area on a site and the gross land area. The impervious surface ratio is calculated by dividing the square footage of the area of all impervious surfaces on the site by the square footage of the gross land area. The square footage of the gross land area for purposes of determining the ISR shall not include public road right-of-way and shall not include submerged land.

*Improved land* means the land that has been altered or improved from its natural state including but not limited to grading, paving, drainage, installation of structures, etc., that ultimately increased the value of, or altered the original integrity of such land.

*Infiltration rate* means the rate of water entry into the soil expressed as a depth of water per unit of time (inches per hour).

*Institutional Uses* means those facilities and services of a public, private, or quasi-public nature, including educational, medical, governmental, civic, and religious uses, such as schools, hospitals, courthouses, community centers, and churches.

*Irrigation system* means a permanent artificial watering system designed to transport and distribute water to plants.

*Landscaping* means and shall consist of any of the following combinations of grass or ground cover and shrubs, vines, hedges, trees or palms. Other materials such as rocks, pebbles, sand and decorative fence, but excluding concrete, asphalt paving or pebbles placed on an impervious surface, may be used to satisfy the landscaping requirements west of Gulf Boulevard.

*Law enforcement officer* means any person who is elected, appointed, or employed full-time by the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.

*Lawn grass* means all species normally grown as permanent lawns native to this area of the state. Grass may be sodded, plugged, sprigged or seeded.

*Level of service* means an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of a facility.

*Licensee* means any person whose application for any business enterprise has been granted and who owns, possesses, operates and controls the establishment.

*Loading space* means space located outside of any street right-of-way or easement and designed to accommodate the temporary parking of vehicles used for bulk pickups and deliveries.

*Lot* means land bounded by lines legally established for the purposes of property division. A lot shall have frontage on an improved public street or on an officially approved private street. For zoning purposes, a lot may consist of:

- (1) A combination of complete lots of record.
- (2) A combination of complete lots of record and portions of lots of record.
- (3) Portions of lots of record, provided that such lots or combinations of lots are of sufficient size to meet the requirements of this chapter for the district in which the lots are located.
- (4) Single lots of record.
- (5) Parcels of land defined by metes and bounds description where such parcels are in conformity with the land development regulations.

*Lot, corner* means a lot located at the intersection of two or more streets.

*Lot coverage* means the percentage of the lot area covered or occupied by the base of the buildings, including attached or unattached accessory buildings.

*Lot depth* means the distance measured in the mean direction of the side lines of the lot from the midpoint of the front lot line to the midpoint of the opposite mean rear line of the lot.

*Lot, interior* means a lot other than a corner lot, and abutting one street. Alleys shall not be considered as streets.

*Lot, through* means a lot other than a corner lot and with frontage on more than one street.

*Lot line* means a line that marks the boundary of a lot.

- (1) *Interior:* Any lot line that is not a street lot line; a lot line separating a lot from another lot.
- (2) *Street:* Any lot line separating a lot from a street right-of-way or general access easement. Where a lot line is located within such street right-of-way or easement, the right-of-way or easement boundary adjacent to the lot line shall be construed to be considered the street lot line.

*Lot of record* means a lot which is part of a subdivision, or a parcel of land described by metes and bounds, the plat or description of which has been recorded by deed with the office of the county clerk of the circuit court. In addition, such plat or description shall provide for a lot which meets the minimum size dimensions for lots in the

district for which it is located at the time of recording, or was recorded prior to the effective date of the land development regulations.

*Lot width* means the width of the lot at the minimum front building setback line.

*Low profile luminaire* means a light fixture set on a base which raises the source of the light no higher than 48 inches off the ground, and designed in such a way that light is directed downward from the hooded light source.

*Lowest floor* means the lowest habitable floor of a building which must be located at or above the 100-year flood elevation (base flood level).

*Mangrove* means any or all of the following species of aquatic woody plants:

Red Mangrove — *Rhizophora mangle*.

Black Mangrove — *Avicennia nitida* or *avicennia geminans*.

White Mangrove — *Laguncularia racemosa*.

Buttonwood or button-mangrove — *Conocarpus erecta*.

*Mangrove stand* means an association of mangrove trees which are noted for development within the intertidal zone of marine shorelines and which contain one or more of the following species:

Red Mangrove - *Rhizophora mangle*.

Black Mangrove - *Avicennia nitida*.

White Mangrove - *Laguncularia racemosa*.

Buttonwood - *Conocarpus erecta*.

*Manufactured home* means a building, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

*Marina* means a facility for storing, berthing, securing and launching of private pleasure craft which may also include the sale of fuel and incidental supplies and minor repairs.

*Mean high water* means the high water mark established by the U.S. Coast and Geodetic Survey in its latest coastal survey of the city.

*Mean sea level (MSL)* means the average height of the sea for all stages of the tide. This is used as a reference for establishing various elevations within the floodplain. For purposes of the land development regulations, the term is synonymous with the National Geodetic Vertical Datum (NGVD).

*Medical marijuana dispensary* means a facility that is operated by an organization or business holding all necessary licenses and permits from which marijuana, cannabis, cannabis-based products, or cannabis plants are delivered, purchased, possessed, or dispensed for medical purposes and operated in accordance with all local, federal and state laws. Physicians authorized by state law to order low-THC cannabis, as defined in Florida Statutes, for patients' medical use are not included in the definition of medical marijuana dispensary.

*Medical use* means the prescriptive use of any form of cannabis to treat a qualifying medical condition and the symptoms associated with that condition or to alleviate the side effects of a qualifying medical treatment.

*Mixed Use means a combination of uses on a single property.*

*Mobile home* means a structure, transportable in one or more sections, which structure is eight feet or more in width and over 32 feet in length, and which structure is built on an integral chassis and designed to be used as a

dwelling unit when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. This term shall include manufactured housing as defined by state law.

*Mobile home park* means a lot or parcel of land which contains mobile home sites and accessory open areas, recreation or community facilities for the residents.

*Mobile home site* means a space or plot of ground within a mobile home park, designated for the accommodation of not more than one mobile home.

*Motel* means a building in which lodging is available for rent to the public, which is open to transient guests, in which a majority of the rental units have direct entrances from the outside, and in which parking spaces are oriented to the rental units in such a manner as to facilitate direct access from units to the automobiles of the renters. Motels are classified as a form of a tourist dwelling facility.

*National Geodetic Vertical Datum (NGVD)* means a vertical control as corrected in 1929, used as a reference for establishing varying elevations within the floodplain.

*Mulch* means nonliving organic and synthetic materials customarily used in landscape design to retard erosion and retain moisture.

*Native* means trees and other vegetation that is indigenous to Central or North Florida.

*New construction* means any structure for which the "start of construction" commenced after January 1, 1975. The term also includes any subsequent improvements to such structure.

*New manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

*Nonconforming structure, lot, or use* means lawful land use, lots, or structures existing at the time of the passage of the land development regulations which does not conform to the provisions, requirements and regulations of the land development regulations.

*Non-medical marijuana sales* mean the purchase, sale, transfer or delivery of marijuana, cannabis, cannabis-based products or cannabis plants when such sale, transfer or delivery is not associated with any medical purpose or use, whether or not such purchase, sale, transfer or delivery is lawful under federal or state law.

*Nonresidential Use – Those uses as provided for under the respective categories, other than residential or residential equivalent use.*

*Occupiable room* means a room or enclosed space designed for human occupancy in which individuals congregate for amusement, educational or similar purposes, or in which occupants are engaged at labor; and which is equipped with means of egress, light, and ventilation facilities meeting the requirements of this Code.

*Office Use means an occupation or service providing primarily an administrative, professional or clerical service and not involving the sale of merchandise; examples of which include medical, legal, real estate, design, and financial services, and like uses. No "Office Use" shall include any Personal Service/Office Support Use, Retail Commercial Use, or Commercial/Business Service Use.*

*Off-street vehicular use area* means any area located outside of road right-of-way or easement and designed for parking, service, loading, circulation, storage or display of any type of vehicle, excluding parking garages.

*Open space* means the land and/or water areas between and around buildings and structures, including required recreation areas, stormwater detention areas, preservation areas, landscape islands and areas with permeable blocks. Retention areas are considered open space if they serve as a water feature and are used as a design element within the overall site. This shall not include parking areas.

*Open storage* means the storage outside of a building of material supplies, merchandise equipment, commercial vehicles and like items, but excluding junk.

*Outdoor lighting/outdoor lighting fixtures* means any light emitting device which causes any illumination beyond the exterior walls of any structure or building.

*Personal Service/Office Support Use* means an occupation or service attending primarily to one's personal care or apparel; examples of which include hair and beauty care, clothing repair or alteration, dry cleaning/laundry service (collection and distribution only), and like personal service uses; animal grooming; and office equipment or supplies, and like office support uses. Any assembly, sale of merchandise or conveyance of a product in support of a personal service or office support use shall be clearly secondary and incidental to the primary use characteristics of the Personal Service/Office Support Use.

*Pervious open space* means the area on a lot or parcel not covered by a building or impervious surface.

*Pervious paving materials* means a porous asphaltic or concrete surface and a high-void aggregate base which allows for rapid infiltration and temporary storage of rain on, or runoff delivered to, paved surfaces.

*Physical culture establishment* means any business establishment which offers or advertises, massage, body rubs or physical contact with specified anatomical areas, whether or not licensed. Business establishments which routinely provide medical services by state licensed practitioners, and electrolysis treatment by licensed operators of electrolysis equipment shall be excluded from the definition of adult physical culture establishments.

*Planning commission* means the city planning commission, the legally constituted membership of the planning commission of the city as defined in chapter 2, article II, division 2 of this Code.

*Pole lighting* means a lighting fixture set on a base or pole which raises the source of the light higher than 48 inches off the ground.

*Portable storage units (PSU)* are containers, which are intended to be used for the offsite storage of personal property, and are on the property solely for loading and unloading. Portable containers designated for depositing personal goods to be donated to a nonprofit charitable organization are not included in the definition of a PSU.

*Private performance* means the display or exposure of any specified anatomical area by an employee of an adult entertainment establishment to a person other than another employee while the person is in an area not accessible during such display to all other persons in the establishment, or while the person is in an area in which the person is totally or partially screened or partitioned during such display from the view of all persons outside the area.

*Private pleasure craft* means a vessel privately owned or leased primarily for aquatic recreational purposes which includes a transport trailer. Private pleasure craft shall not include commercial, official or scientific vessels.

*Protective barrier* means a physical structure not less than three feet in height, including access to a protected area, composed of wood or other suitable materials.

*Public Educational Facility* means elementary schools, special education facilities, alternative education facilities, middle schools, high schools, and area vocational-technical schools of the Pinellas County School District.

*Rain sensor equipment* means a low voltage electrical component placed in the circuitry of an automatic lawn irrigation system which is designed to turn off a sprinkler controller when it rains enough to meet the needs of the landscape.

*Recreation/Open Space Uses* means uses providing recreation facilities, sporting facilities, and open space, such as a park, public recreation facility, public beach/water access, and public or private golf course/clubhouse.

*Recreational vehicles* means a vehicular-type portable structure without a permanent foundation, which can be towed, hauled or driven, and which is primarily designed as temporary living accommodations for recreation,

camping and travel use, including but not limited to, travel trailers, motor homes, camping trailers, boat trailers, truck campers, recreational vans and self-propelled motor homes.

*Remove* or *removal* mean the actual removal or causing the effective removal through damaging, poisoning or other direct or indirect actions resulting in death to the tree.

*Residential designed manufactured homes* means manufactured homes as defined by state law which meet residential design standards contained in this Code.

*Residential Equivalent Use* means a residential-like accommodation other than a dwelling unit, including bed and breakfast, group home, congregate care, nursing home and comparable assisted living facilities. No such use shall be required or eligible to employ the residential equivalent standards for density/intensity for any household that qualifies as a dwelling unit. This use shall not include any type of use authorized by Chapter 419, Florida Statutes, Community Residential Homes, which is entitled to be treated as a dwelling unit.

*Residential Use* means a dwelling unit including, single-family, multifamily, and mobile home dwelling unit. This use shall include any type of use authorized by Chapter 419, Florida Statutes, Community Residential Homes, which is entitled to be treated as a residential dwelling unit.

*Restaurant* means a building or lot where meals are prepared and sold on the premises from within a completely enclosed building and where at least 20 seats are provided for customers inside the building or a building or lot where meals are prepared and sold on the premises from within a completely enclosed building and which has an unenclosed area or patio provided for the consumption of food on the premises which unenclosed area or patio seating is supplemental to the interior seating provided in this definition.

*Retail Commercial Use* means an occupation or service providing primarily for the sale of consumer goods, products, merchandise or services from within an enclosed building; examples of which include grocery, pharmacy, apparel, jewelry, electronics, sporting goods, specialty shops, building supplies, convenience goods, restaurant, indoor recreation/entertainment uses (such as billiard halls, bowling alleys, movie theaters, and video game parlors) and like uses. Any exterior storage or facilities in connection with such use shall be clearly secondary and incidental to the primary use characteristics of the Retail Commercial Use.

*Sand dunes* means accumulations of sand in ridges or mounds landward of the beach.

*Satellite dish antenna* means a device used to receive satellite broadcast signals, usually a parabolic dish-shaped antenna, one meter or less in diameter. This definition is meant to include but not limited to, what are commonly referred to as a satellite earth station, TAROs (television reception only), and satellite microwave antennas.

*School* means a premise or site upon which there is a nursery school, kindergarten, elementary school, junior high school, middle school, senior high school, or exceptional learning center. However, the term "school" does not include a premise or site upon which there is an institution devoted solely to vocational or professional education or training or an institution of higher education, including, but not limited to, a community college, junior college, four-year college or university.

*Seawall* means any artificial shoreline protection device approved by applicable regulatory agencies.

*Sediment* means mineral or organic matter deposited by water, air, or ice.

*Sedimentation facility* means any structure or area which is designed to hold runoff water until suspended sediments have settled.

*Service station* means an establishment where gasoline or diesel fuel is supplied and dispensed at retail and where, in addition, the following services only may be rendered and sales made:



- (1) Minor motor vehicle repair.
- (2) Sales of beverages, packaged food, tobacco products and similar convenience goods for customers, as accessory and incidental to principal uses.
- (3) Provision of road maps and other travel information.
- (4) Provision of restroom facilities.
- (5) Warranty maintenance and safety inspections.
- (6) Car washing facility, as accessory and incidental to the permitted use.

Uses permissible at a service station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in service stations.

*Setback* means the minimum required distance from the property lines to the outermost vertical component of a building wall (including stairs, balconies, elevators, shafts, etc., but not including eaves). On waterfront lots the outside edge of the seawall cap is considered to be the rear property line. However, when there is no seawall cap, the coastal construction setback line as determined by the Florida Department of Environmental Regulation and the Corps of Engineers shall be considered the rear property line.

*Shrubs* means a low, woody plant with several stems; a bush.

*Sign* means any device, fixture, placard or structure that uses any color, form, graphics, illumination, architectural style or design or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

#### SIGN TYPES

*Abandoned sign.* Any sign or sign structure which bears no sign or copy or displays information which incorrectly identifies the principal activity conducted on the site for a period of three consecutive months.

*Advertiser.* Any person who is the lessee or owner of the sign, an agent of such person or anyone who has beneficial use of the sign.

*Advertising.* Any form of public announcement intended to aid, directly or indirectly, in the sale, use, or promotion of a product, commodity, service, activity, or entertainment.

*A-Frame (sandwich board).* Any unsecured sign, double or single faced, which is portable and may be readily moved from place to place.

*Alter.* This term shall include but not be limited to the addition of a sign surface area, the changing or relocation of site source, or the relocation of an outdoor advertising display from one position to another. Alter includes any and all structural changes in the sign, excluding changeable copy.

*Animated sign.* Any sign which includes action, motion, the optical illusion of action or motion or color changes of all or any part of the sign facing, requiring electrical energy or set in motion by movement of the atmosphere or a sign made up of a series of sections that turn and stop to show two or more pictures or messages in the copy area. A sign having externally moving parts or messages or operating so as to give the viewer the illusion of moving parts or messages. This does not include signs whose informational content can be changed or altered on a fixed display. Animated signs shall not include electronic reader boards.

*Art work.* Drawings, pictures, symbols, paintings or sculpture which in no way identify a product or business and which are not displayed in conjunction with a commercial, for profit or a nonprofit enterprise.

*Banner.* Any fabric, plastic, foil or similar material that is mounted to a pole or building at one or more edges.

*Beach/bay signs.* Signs that are intended for viewing from the Gulf Beach, Gulf water or Boca Ciega Bay.

*Beacon.* A stationary or revolving light which flashes or projects, single color or multi-colored illumination.

*Signs on a bench sign/bus shelter.* A bench or bus shelter upon which a sign is drawn, painted, printed, or otherwise affixed.

*Billboards.* Any off-site sign composed of a continuous, and uninterrupted surface (including cut-outs) which measures 72 square feet or more in aggregate area.

*Building marker.* Any sign, tablet or plaque of commemorative or historical nature indicating the name of building and date or incidental information about its construction, where such sign is cut into a masonry surface or made of bronze or other permanent material.

*Building sign.* Any sign attached to any part of a building as contrasted to a freestanding sign.

*Bulletin board.* Sign of permanent character, but with removable letters, words, numerals or symbols.

*Business establishment.* Any individual person, nonprofit organization, partnership, corporation, other organization or legal entity holding a valid local business tax receipt and occupying distinct and separate physical space.

*Canopy sign.* Any sign that is part of an awning, canopy or other fabric, plastic or structural protective cover over a door entrance, window or outdoor service area. A marquee is not a canopy.

*Changeable copy sign.* A sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign in which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered not a changeable copy sign for purposes of the land development regulations.

*Construction sign.* Any sign erected and located upon a site where building construction or remodeling is in progress.

*Directional sign.* Any sign which exclusively contains information providing direction or location of any object, place, or area including but not limited to, those signs indicating avenues of ingress/egress.

*Double-faced sign.* A sign which has two display surfaces backed against the same background, one face of which is designed to be seen from one direction and the other from the opposite direction, every point on each face or in contact with the same background.

*Electronic reader board.* A type of sign whose alphabetic, pictographic, or symbolic informational content can be changed or altered on a fixed display screen composed of electrically illuminated segments.

*Erect.* To build, construct, attach, hang, place, suspend or affix, and shall also include the painting of signs.

*Flag.* Any fabric, banner or bunting containing distinct colors, patterns or designs.

*Freestanding sign.* Any sign supported by structures or supports that are placed on or anchored in the ground and that are not attached to any building or area.

*Government or public purpose sign.* A sign serving a public or civic purpose which is installed by, or under direction of, a governmental entity. The term does not include signs containing advertising except to the extent allowed by the land development regulations.

*Ground level.* The finish grade of a parcel of land exclusive of any filling, berming, mounding or excavating solely for the purpose of locating a sign. Ground level on marina docks or floating structures shall be the finish grade of the landward portion of the adjoining parcel.

*Ground sign.* An outdoor sign supported by uprights or braces in or upon the ground. The bottom coping shall be not more than three feet above ground or street level which space may be filled with platform decorative trim or light construction.

*Identification signs.* Any sign which indicates no more than the name, address, company logo and occupation or function of an establishment or premise.

*Illuminated sign.* Any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes, internally or externally, as part of the sign proper or may be illuminated from an exterior source designed or utilized primarily for such illumination.

*Integral roof sign.* Any sign erected or constructed as a part of a normal roof structure of any design, such that no part of the sign extends above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

*Maintenance.* The replacing, repairing or repainting of a portion of a sign structure, periodically changing changeable copy or renewing copy which has been made unusable by ordinary wear or weather or accident.

*Mansard.* A roof with two slopes on each of four sides. The mansard sign shall be attached as outlined in wall signs.

*Marquee sign.* Any sign attached to, or made a part of a marquee.

*Nonconforming sign.* Any sign that does not conform to the requirements of the land development regulations.

*Off-site sign.* Any sign that advertises goods, services, person, activity or condition not obtainable on the premises where the signs are located.

*On-premises sign.* Any sign which identifies a use, person, business or advertises a product for sale or service to be rendered on the zone lot where the sign is located.

*Pennant.* Any plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string usually in a series.

*Pole sign.* An outdoor sign supported by poles or uprights. The bottom coping shall be not less than eight feet above ground or street level.

*Porch.* An exterior appendage to a building forming a covered approach to a doorway.

*Portable sign* means any sign not permanently attached to the ground or other permanent structure, designed to be transported including, but not limited to, signs designed to be transported by means of wheels, balloons used as signs, umbrellas used for advertising, and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless such vehicle is used in the normal day-to-day operations of the business.

*Projecting signs.* Any sign affixed to a building or wall in such a manner that its leading edge stands more than six inches beyond the surface of the building or wall.

*Revolving sign.* Signs with visible moving, revolving, or rotating parts or visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic, or mechanical means, except for traditional barber poles.

*Sign face.* The part of the sign that is or can be used to identify, display, advertise, communicate information, or for visual representation which attracts or intends to attract the attention of the public for any purpose.

*Sign height.* The vertical distance measured from ground level at the base of the sign to the highest point of the sign.

*Sign structure.* Any structure which is designed specifically for the purpose of supporting the sign, has supported or is capable of supporting a sign. This definition shall include decorative covers, braces, wires, supports or components attached to or placed around the sign structure.

*Snipe sign.* Any sign which is attached in any way to a utility pole, tree, fence post or other similar object, located on public or private property. Any sign designed to provide warning to the public shall not be construed to be a snipe sign.

*Twirling sign.* Signs, commonly referred to as wind signs, consisting of one or more banners, flags, pennants, ribbons, spinners, streamers or captive balloons, or other objects or material fastened in such a manner as to move upon being subjected to pressure by wind.

*Vehicle sign.* A sign attached to or placed on a vehicle, including automobiles, trucks, boats, campers, and trailers that are parked on or otherwise utilizing a public right-of-way, public property or on private property so as to be intended to be viewed from a vehicular right-of-way for the basic purposes of providing advertisement of products or services or directing people to a business or activity. This definition is not to be construed to include those signs that identify a firm or its principal products on a vehicle or such advertising devices as may be attached to and within the normal unaltered lines of the vehicle of a licensed transit carrier, when and during that period of time such vehicle is regularly and customarily used to traverse the public highways during the normal course of business.

*Wall sign.* A sign which is painted on, fastened to, or erected against the wall of a building with its face in a parallel plane to the plane of the building facade or wall.

*Warning sign.* Signs located on a property posting such property for warning or prohibitions on parking, trespassing, hunting, fishing, swimming, or other activity, provided such signs do not carry any commercial message or identification.

*Window sign.* A sign located on a window or within a building or other enclosed structure, which is visible from the exterior through a window or other opening.

*Site specific plant* means a selection of plant material that is particularly well suited to withstand the physical growing conditions that are normal for that location.

*Soil texture* means the classification of soil based on the percentage of sand, silt, and clay in the soil.

*Special Area Plan* means a plan adopted by a local government under the provisions of Section 4.2.7.6 of the Rules Concerning the Administration of the Countywide Future Land Use Plan, as amended through July 21, 2014, which establishes and governs the density, intensity, use, and other standards for a defined area within the local government's jurisdiction.

*Special adult cabarets* means any bar, dance hall, restaurant or other place of business which features dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers, or waiters or waitresses that engage in "specified sexual activities" or display "specified anatomical area", or any such business establishment, the advertising for, or a sign or signs identifying which, use the words, "adult," "topless," "nude," "bottomless," or other words of similar import.

*Special exception use* means a use which may be allowed within a zoning district subject to the provisions of the land development regulations and in accordance with the procedures as set forth in the land development regulations.

*Special flood hazard area* means all land located within the floodplain of a community subject to a one percent or greater chance of flooding in any given year.

*Specified anatomical areas* means:

- (1) Less than completely and opaquely covered:
  - a. Human genitals or pubic region;
  - b. Cleavage nates of the human buttocks;

- c. That portion of the human female breast below the point immediately above the top of the areola; this definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided the areola is not so exposed.

- (2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

*Specified criminal act means:*

- (1) An offense under Florida Statutes ch. 794, (sexual battery);
- (2) An offense under Florida Statutes ch. 796, (prostitution);
- (3) An offense under Florida Statutes ch. 800, (lewdness; indecent exposure);
- (4) An offense under Florida Statutes ch.826, (bigamy; incest); or
- (5) An offense under Florida Statutes ch. 847, (obscene literature; profanity); or
- (6) An offense under an analogous statute of a state other than this state, or under an analogous ordinance of another county or municipality.

*Specified sexual activities means:*

- (1) Human genitals in a state of sexual stimulation or arousal or tumescence;
- (2) Acts of anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellation, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sapphism, sexual intercourse, sodomy, urolagnia or zoerasty; and any other acts of human masturbation, sexual intercourse or sodomy, whether actual or simulated;
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast; or
- (4) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (3) of this definition.

*Start of construction*, for new construction or substantial improvement it means the date the building permit was issued, provided the actual commencement of construction, repair, reconstruction or improvement is within 180 days of the permit date. An extension, upon an approved written application, may be granted for 90 days.

*Stormwater retention* means that portion of surface water drainage system used for the storage or treatment of stormwater runoff and design reviewed and constructed in accordance with the land development regulations.

*Story* means the portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. A complete horizontal section of building having one continuous or practically continuous floor. This term does not include the floor of a garage used solely for the parking of vehicles and entry to habitable living space.

*Straddle dance* (also known as lap dance, or face dance) means the use by an employee, whether clothed or not, of any part of his/her body to massage, rub, stroke, knead, caress or fondle the genital or pubic area of a patron, while on the premises, or the placing of the genital or pubic area of an employee in contact with the face of a patron, while on the premises.

*Street* means all property accepted or intended by the city for public street purposes or officially approved for private street purposes.

*Storage/Warehouse/Distribution - Light* means a use devoted primarily to the storage or distribution of goods, materials or equipment. Such use shall be located within an enclosed building and any exterior storage or

distribution area shall be incidental to and not exceed twenty (20) percent of the area of the building to which it is accessory.

*Structural alterations* means any change, except the repair or replacement in supporting members of a building, such as bearing walls, columns, beams or girders, or the rearrangement of any interior partitions.

*Structure* means anything constructed or erected, the use of which requires permanent location on the land or attachment to something having permanent location on the land. Structures include buildings, walls, screened enclosures, fences, advertising signs, billboards, swimming pools and exterior mechanical equipment such as air-conditioning compressors.

- (1) *Major structure*: Houses, mobile homes, apartment buildings, condominiums, motels, hotels, restaurants, towers, other types of residential, commercial, or public buildings, and other construction.
- (2) *Minor structure*: Pile-supported, elevated dune and beach walkover structures; beach access ramps and walkways; stairways; pile-supported, elevated viewing platforms, gazebos, and boardwalks; lifeguard support stands; public and private bathhouses; sidewalks, driveways, parking areas, shuffleboard courts, tennis courts, handball courts, racquetball courts, and other uncovered paved areas; earth retaining walls; and sand fences, privacy fences, ornamental walls, ornamental garden structures, aviaries, and other ornamental construction. It shall be a characteristic of minor structures that they are considered to be expendable under design wind, wave, and storm forces.
- (3) *Nonhabitable major structure*: Swimming pools; parking garages; pipelines; piers; canals, lakes, ditches, drainage structures, and other water retention structures; water and sewage treatment plants; electrical power plants, and all related structures or facilities, transmission lines, distribution lines, transformer pads, vaults, and substations; roads, bridges, streets and highways; and underground storage tanks.
- (4) *Coastal or shore protection structure*: Shore-hardening structures, such as seawalls, bulkheads, revetments, rubble mound structures, groins, breakwaters, and aggregates of materials other than beach sand used for shoreline protection; beach and dune restoration; and other structures which are intended to prevent erosion or protect other structures from wave and hydrodynamic forces.

*Submerged land* means the land area situated below the mean high water line of a standing body of water, including ocean, gulf, bay, estuary, lake, pond, river or stream. For the purpose of this definition drainage retention/detention areas to be created as a function of development and wetlands shall not be considered submerged land.

*Substantial damage* means the damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*Substantial improvement* means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the fair market value of the structure, before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either any project for improvement of the structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official, and which are the minimum necessary to assure living conditions, or any alterations of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

*Substantially improved existing manufactured home parks or subdivisions* means where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

*Subsurface drainage* means any approved method used as a vehicle to convey groundwater.

*Swale* means a low place in a tract of land.

*Temporary lodging unit* means an individual room, rooms or suite within a temporary lodging use designed to be occupied as a single unit for temporary occupancy.

*Temporary lodging use* means a facility containing one or more temporary lodging units, the occupancy of which occurs, or is offered or advertised as being available, for a term of less than one month, more than three times in any consecutive 12-month period. In determining whether a property is used as a temporary lodging use, such determination shall be made without regard to the form of ownership of the property or unit, or whether the occupant has a direct or indirect ownership interest in the property or unit; and without regard to whether the right of occupancy arises from a rental agreement, other agreement, or the payment of consideration. This term includes tourist condo-hotel and motel/hotel as elsewhere defined in this Code.

*Transportation/Utility Uses* means uses including transportation facilities and utilities infrastructure, such as an airport, seaport, marina, electric power generation plant, electric power substation, and telephone switching station.

*Trees* means self-supporting, woody plants, which normally grow to a minimum height of 15 feet, have trunks which can be maintained with over five feet of clear wood and have an average mature crown spread of at least 15 feet.

*Turf* means continuous plant coverage consisting of grass species suited to growth in the county.

*Turtle nesting season* means the period from May 1 through October 31 of each year.

*Unimproved land* means the land that has not been altered or improved from its natural state.

*Unity of title* refers to a document recorded in the office of the clerk of the circuit court of Pinellas County stipulating that a lot, lots, or parcel of land shall be held under single ownership, shall not be eligible for further subdivision and shall not be transferred, conveyed, sold or divided in any unit other than in its entirety.

*Use* means the specific activity or function for which land, a building or a structure is designated, arranged, occupied or maintained.

- (1) Accessory use on the same lot or in the same structure with, and of a nature and extent customarily incidental and subordinate to the principal use of the lot or structure.
- (2) The primary use and chief purpose of a lot or structure.

*User* means any independent entity which is marketing a service to retail customers in the city. For the purposes of determining the number of users co-locating, no two users shall have any common ownership ties.

*Vacation Rental Use* means a residential dwelling unit used as a temporary lodging use, as defined by Section 509.242(1)(c), Florida Statutes, subject to regulation by the local government with Jurisdiction.

*Variance* means a modification of some particular requirement of the zoning ordinance which may be granted by the special magistrate in order to alleviate a unique and unnecessary hardship which may result from literal enforcement of the provisions of the land development regulations with respect to the parcel involved.

*Vegetation, native* means any plant species with a geographic distribution indigenous to all or part, of the state.

*Water or community waters* means any and all water on or beneath the surface of the ground or in the atmosphere. It includes the water in any watercourse, waterbody or drainage system. It also includes diffused surface water and water percolating, standing or flowing beneath the surface of the ground, as well as coastal waters.

*Water surface elevation* means the projected heights in relation to mean sea level reached by floods of various magnitudes and frequencies in the floodplains of coastal or riverline areas. These may be expressed by curvilinear lines on FHBMs or FIRMs and reflected as a border delineating the special flood hazard areas.

*Waterbody* means any natural or artificial pond, lake, reservoir or other area which ordinarily or intermittently contains water and which has a discernible shoreline.

*Watercourse* means any natural or artificial stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, street, roadway, swale or wash in which water flows in a definite channel, bed or banks.

*Watershed area* means an area allowing or generating storm or irrigation water runoff.

*Wetland* means land that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

*Wireless communication antenna* means any exterior apparatus designed for telephonic, radio or television communications through the sending or receiving of electromagnetic waves.

*Wireless communication antenna array* means a configuration of antennas necessary for broadcast and reception of radio frequency from a particular site.

*Wireless communication tower* means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes, but is not limited to radio and television transmission towers, microwave towers, common carrier towers, and cellular telephone towers.

*Working Waterfront* means a property that provides access for water-dependent commercial activities, or provides public access to the water. Working waterfronts require direct access to or a location on, over, or adjacent to a body of water. The term includes water-dependent facilities that are open to the public and offer public access by vessels to a body of water or that are support facilities for recreational, commercial, research, or governmental vessels. These facilities include docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over water.

*Xeriscape* means a landscaping method that maximizes the conservation of water by the use of site-appropriate plants and an efficient watering system. The principles of xeriscape include planning and design, appropriate choice of plants, soil analysis which may include the use of solid waste compost, practical use of turf, efficient irrigation, appropriate use of mulches, and proper maintenance.

*Yard* means an open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except by trees or shrubbery or as otherwise provided in the land development regulations.

*Yard, front* means an open unoccupied space across the full width of the lot, extending from the front building line, including open porches, to the front line of the lot.

*Yard, side* means an open unoccupied space on the same lot with a building, between the building line and the side line of the lot extending through from the front building line to the rear yard, or to the rear line of the lot where no rear yard is required.

*Yard, rear* means an open unoccupied space extending across the full width of the lot and measured between the rear line of the lot and the rear building line of the main building.

*Yard, waterfront* means an open unoccupied space on waterfront property with depth measured perpendicular to the property line or waterside lot line for nonseawalled lots. Waterfront property is hereby defined as property abutting open water, bays, bayous and manmade canals.



## ARTICLE V. DISTRICTS

### DIVISION 4. R-3, MEDIUM DENSITY MULTIFAMILY RESIDENTIAL

#### Sec. 110-226. Definition; purpose and intent.

The R-3, medium density multifamily residential district provides for medium density development for ~~both permanent and tourist~~ residential, vacation rental, and temporary lodging facilities at locations where public facilities are adequate to support such intensity. The R-3, medium density multifamily residential district correlates with the resort facilities medium (RFM) future land use category of the City of Madeira Beach Comprehensive Plan, and Resort (R) plan category in the Countywide Plan.

(Code 1983, § 20-404; Ord. No. 1138, § 4, 12-9-08; Ord. No. 2022-14 , § 1, 5-11-22)

Cross reference(s)—Definitions generally, § 1-2.

#### Sec. 110-227. Permitted uses.

The permitted uses in the R-3, medium density multifamily residential district are as follows:

- (1) Single-family.
- (2) Duplex.
- (3) Triplex.
- (4) Multifamily.
- (5) Vacation Rental.
- ~~(5)(6) Tourist dwelling units. Temporary Lodging.~~
- ~~(6) (7)~~ Restaurants, excluding drive-in restaurants (provided that the provisions of subsections Section 110-236(f) are met).
- ~~(7) (8)~~ Publicly owned or operated parks and recreation areas.

(Code 1983, § 20-404)

#### Sec. 110-228. Accessory uses.

The accessory uses in the R-3, medium density multifamily residential district are as follows:

- (1) Home occupation.
- (2) Private garages and carports.
- (3) Swimming pools or cabanas used as bath houses.

- (4) Residential docks.
- (5) Essential services.
- (6) Wireless communication antennas as regulated by article VI, division 12, subdivisions I, II and IV of this chapter.

(7) Retail commercial and personal service uses only ancillary to a permitted use.

(Code 1983, § 20-404)

### **Sec. 110-229. Special exception uses.**

Upon application for a special exception to the special magistrate and favorable action thereon, the following uses may be permitted in the R-3, medium density multifamily residential district:

- (1) Retail commercial and personal service uses as a stand-alone use (provided that the provisions of subsections Section 110-236(f) are met) ~~only ancillary to a permitted use.~~
- (2) Public service facilities.
- (3) Commercial recreation ~~and entertainment facilities.~~

(Code 1983, § 20-404; Ord. No. 2017-03 , § 4, 3-7-17)

### **Sec. 110-230. Minimum building site area requirements.**

The minimum building site area requirements in the R-3, medium density multifamily residential district are as follows:

- (1) Lot size:
  - a. Single-family: 4,000 square feet.
  - b. Duplex, triplex: 3,000 square feet per dwelling unit.
  - c. Multifamily: 2,420 square feet per dwelling unit.
  - d. Restaurants and retail commercial: 5,000 square feet.
  - e. Public service facilities: Shall not exceed a maximum area of three acres. Like uses or contiguous like uses in excess of this threshold shall require the parcel to be amended to the P-SP zoning district and the appropriate land use category.
- (2) Lot width:
  - a. Single-family, duplex, triplex: 40 feet.
  - b. Multifamily and ~~hotel~~ temporary lodging: 60 feet.
  - c. Restaurants: 60 feet.
- (3) Lot depth: All permitted uses 80 feet.
- (4) The density is a maximum of 18 residential or vacation rental dwelling units or 50 temporary lodging units per acre. Alternative Temporary Lodging Use Standards are allowed as detailed in subsection 110-236(e).

(Code 1983, § 20-404; Ord. No. 1043, § 1, 6-14-05; Ord. No. 1138, § 4, 12-9-08; Ord. No. 2022-14 , § 2, 5-11-22)

### Sec. 110-231. Setback requirements.

The following minimum setbacks shall apply in the R-3, medium density multifamily residential district:

- (1) Front yard:
  - a. Single-family, duplex and triplex: 20 feet, measured from right-of-way to structure.
  - b. Multifamily, ~~hotel temporary lodging,~~ and ~~retail commercial restaurants:~~ 25 feet.
- (2) Rear yard: 25 feet, unless otherwise provided in the land development regulations, and then the more restrictive requirement shall apply.
- (3) Waterfront yard: For lots with a waterfront yard on the Gulf of Mexico, the setback shall be landward of to the county coastal construction control line.
- (4) Side yard setbacks:
  - a. Single-family, duplex and triplex dwellings:
    1. For lots less than 50 feet in width, the minimum side yard setback shall be five feet.
    2. For lots 50 feet or greater in width, the minimum total side yard setback shall be 15 feet with a minimum of seven feet on either side.
  - b. Multifamily, ~~hotels temporary lodging,~~ and ~~retail commercial restaurants:~~ The minimum side yard setback shall be ten feet provided that the provisions of section 110-236 are met.

(Code 1983, § 20-404; Ord. No. 2022-14 , § 3, 5-11-22)

### Sec. 110-232. Maximum building height.

No building in the R-3, medium density multifamily residential district shall exceed 44 feet in height.

(Code 1983, § 20-404; Ord. No. 2021-23 , § 1, 11-10-21; Ord. No. 2022-14 , § 4, 5-11-22)

### Sec. 110-233. Maximum lot coverage.

The maximum lot coverage in the R-3, medium density multifamily residential district is as follows:

- ~~(1) Residential use: Floor area ratio (FAR) 1.0. The maximum area of a lot or parcel to be covered by structures shall be 40 percent.~~
- ~~(2) Multifamily, hotel, and related uses: The density shall be a maximum of 18 residential dwelling units or temporary lodging units as shown in the table below. A combination of both residential and tourist dwelling units may be permissible provided that the provisions of subsection 110-236(b) are met.~~

<del>Land Area of the Development Site</del>	<del>Units/Acre</del>	<del>FAR</del>	<del>ISR</del>
<del>Less than one acre</del>	<del>45</del>	<del>1.0</del>	<del>0.85</del>
<del>One to three acres</del>	<del>60</del>	<del>1.5</del>	<del>0.85</del>
<del>Greater than three acres</del>	<del>75</del>	<del>2.0</del>	<del>0.85</del>

~~(3) (1) Other commercial uses/nonresidential:~~ Floor area ratio (FAR) 0.55.

~~(4) (2) Public service facilities:~~ Floor area ratio (FAR) 0.65.

~~(5)(3)~~ Public owned parks and recreation facilities: Floor area ratio (FAR) 0.25.

(Code 1983, § 20-404; Ord. No. 1138, § 4, 12-9-08; Ord. No. 2022-14 , § 5, 5-11-22)

### **Sec. 110-234. Impervious surface ratio (ISR).**

The impervious surface ratio (ISR) in the R-3, medium density multifamily residential district for all uses is 0.85.

(Code 1983, § 20-404; Ord. No. 2022-14 , § 6, 5-11-22)

### **Sec. 110-235. Buffering requirements.**

Buffering requirements in the R-3, medium density multifamily residential district are as follows:

- (1) Parking lots/garages for ~~tourist dwellings~~ temporary lodging and nonresidential uses shall be designed to minimize their impacts to any adjacent residential uses as established in the land development regulations.
- (2) During the development process, existing curb cuts shall be reoriented, if necessary, to minimize the negative impact on adjacent properties.
- (3) All development within this category will meet or exceed the buffering/landscape requirements as outlined in chapter 106, article II.

(Code 1983, § 20-404)

### **Sec. 110-236. Special requirements.**

- (a) No structure in the R-3, medium density multifamily residential district shall be constructed that is greater than 250 feet in width. If two structures are proposed on the same lot or parcel, the buildings shall be separated by a minimum of ten feet.
- (b) Mixed uses in a single development shall not exceed, in combination, the respective number of units per acre and floor area ratio permitted, when allocated in their respective proportion to the gross land area of the property.
- (c) Institutional, other than public educational facilities shall not exceed a maximum area of five acres. Transportation and/or utility uses shall not exceed a maximum area of three acres.
- (d) When a proposed multifamily temporary lodging or ~~non-residential~~ nonresidential use in the R-3, medium density multifamily residential district abuts a single-family, duplex, or triplex, an additional five-foot setback is required along the length of the entire shared lot line. This additional setback will be utilized to provide additional landscaped screening.
- (e) In the RFM future land use category, Alternative Temporary Lodging Use Standards allows 60 temporary lodging units per acre and a FAR of 2.0. A Development Agreement is required by the City's land development regulations and Forward Pinellas' Countywide Rules to use the Alternative Temporary Lodging Use Standard. The Development Agreement must follow all required standards in Forward Pinellas Countywide Rules to use the Alternative Temporary Lodging Use Standards.
- (f) Stand-alone restaurant or retail commercial use must have frontage on Gulf Boulevard.

(Code 1983, § 20-404; Ord. No. 1138, § 4, 12-9-08; Ord. No. 2022-14 , § 7, 5-11-22)

**Secs. 110-237—110-255. Reserved.**

***DIVISION 5. C-1, TOURIST COMMERCIAL***

**Sec. 110-256. Definition; purpose and intent.**

The C-1, tourist commercial district provides for various tourist and commercial facilities of medium intensity which conveniently supply the needs of the neighborhood as well as the city. The C-1, tourist commercial district correlates with the commercial general (CG) future land use category of the City of Madeira Beach Comprehensive Plan and Retail and Services (R&S) plan category in the Countywide Plan. Services are rendered and commodities are sold which are needed daily and purchased at frequent intervals. The purpose of this district is to recognize the unique commercial, marine, tourist and historic value of this area. It is the intent of the comprehensive land use plan to retain the nautical theme and important character of the waterfront area and of John's Pass Village.

(Code 1983, § 20-404; Ord. No. 1138, § 5, 12-9-08; Ord. No. 2022-08 , § 1, 7-13-22)

Cross reference(s)—Definitions generally, § 1-2.

**Sec. 110-257. Permitted uses.**

The permitted uses in the C-1, tourist commercial district are as follows:

- (1) ~~Dwelling units~~ Residential and vacation rental located ~~on the second floor~~ above first floor ~~commercial or office units~~ nonresidential use within this district.
- (2) ~~Business offices and financial uses~~ Personal service, office, and office support, ~~not including~~ excluding drive-through windows.
- (3) ~~Retail and personal services~~ Retail commercial, business service, and commercial, excluding drive-through windows.
- (4) Restaurants, excluding drive-through windows.
- (5) ~~Tourist dwelling units~~ Temporary lodging.

(Code 1983, § 20-404; Ord. No. 2022-08 , § 2, 7-13-22)

**Sec. 110-258. Accessory uses.**

The accessory uses in the C-1, tourist commercial district are as follows:

- (1) Swimming pools or cabanas used as bath houses.
- (2) Essential services.
- (3) Nonresidential signs.
- (4) Off-street parking and loading.

(Code 1983, § 20-404)

### Sec. 110-259. Special exception uses.

Upon application for a special exception to the special magistrate and favorable action thereon, the following uses may be permitted in the C-1, tourist commercial district:

- (1) Institutional as a religious use such as cChurches, synagogues or other houses of worship.
- (2) Private social, recreational or fraternal clubs and organizations.
- (3) Publicly owned or operated parks or recreation areas.
- (4) ~~Commercial, recreation or entertainment facilities.~~ Commercial recreation.
- (5) Auditoriums.
- (6) Stand-alone parking lots and parking garages as a principal use.

(Code 1983, § 20-404; Ord. No. 2017-03 , § 5, 3-7-17; Ord. No. 2019-18 , § 1, 9-10-19)

### Sec. 110-260. Minimum building site area requirements.

The minimum building site area requirements in the C-1, tourist commercial district are as follows:

- (1) Lot size:
  - a. Retail commercial and other commercial uses: 4,000 square feet.
  - b. Residential d Dwelling units above first floor commercial: 3,000 square feet per dwelling unit.
- (2) Lot width: All permitted uses 40 feet.
- (3) Lot depth: All permitted uses 80 feet.
- (4) Maximum: The density ~~shall be is~~ a maximum of 15 residential or vacation rental dwelling units per acre or a maximum of ~~60~~ 40 temporary lodging units per acre. ~~A combination of both residential dwelling units and temporary lodging units may be permissible provided that the provisions of subsections 110-265(e) and (f) are met.~~ Alternative Temporary Lodging Use Standards are allowed as detailed in subsection 110-326(f).

(Code 1983, § 20-404; Ord. No. 1138, § 5, 12-9-08)

### Sec. 110-261. Setback requirements.

The following minimum setbacks shall apply in the C-1, tourist commercial district:

- (1) Front yard: None. (See the special requirement in subsection 110-265(b).)
- (2) Rear yard: 25 feet.
- (3) Side yard: All permitted uses ten feet—one side only. (See the special requirements in ~~sub~~section 110-265~~(e)~~.)

(Code 1983, § 20-404)

**Sec. 110-262. Maximum building height.**

For all uses in the C-1, tourist commercial district the maximum building height shall be 34 feet.

(Code 1983, § 20-404; Ord. No. 2021-23 , § 1, 11-10-21; Ord. No. 2022-08 , § 3, 7-13-22)

**Sec. 110-263. Maximum lot coverage.**

The maximum lot coverage in the C-1, tourist commercial district is as follows:

- (1) ~~Nonresidential/e~~ Commercial uses: Floor area ratio (FAR) 0.55.
- (2) Public owned parks and recreation facilities: Floor area ratio (FAR) 0.25.
- ~~(3) Temporary lodging uses: Floor area ratio (FAR) 1.2, provided that the provision of subsections 110-265(d) are met.~~

(Code 1983, § 20-404; Ord. No. 1138, § 5, 12-9-08; Ord. No. 2022-08 , § 4, 7-13-22)

**Sec. 110-264. Impervious surface ratio (ISR).**

The impervious surface ratio (ISR) in the C-1, tourist commercial district for all uses is 0.85.

(Code 1983, § 20-404; Ord. No. 2022-08 , § 5, 7-13-22)

**Sec. 110-265. Special requirements.**

- (a) The C-1, tourist commercial district does not permit the storage of commercial vehicles.
- (b) All properties located within the C-1, tourist commercial district abutting Gulf Boulevard will be required to provide a setback on Gulf Boulevard of 25 feet.
- (c) No single commercial structure in the C-1, tourist commercial district may be wider than 120 feet, paralleling to the right-of-way without providing a visual appearance of multiple buildings in increments of 40 feet.
- (d) Mixed uses in a single development shall not exceed, in combination, the respective number of units per acre and floor area ratio permitted, when allocated in their respective proportion to the gross land area of the property.
- (e) Mechanical units shall be on the roof and not visible or shielded from public right-of-way.
- (f) Walls constructed or renovated on the property lines must comply with the current Florida Building Codes including occupancy ratings and current fire codes.
- (g) In the CG future land use category, Alternative Temporary Lodging Use Standards allows 60 temporary lodging units per acre and a FAR of 1.2. A Development Agreement is required by the City's land development regulations and Forward Pinellas' Countywide Rules to use the Alternative Temporary Lodging Use Standard. The Development Agreement must follow all required standards in Forward Pinellas Countywide Rules to use the Alternative Temporary Lodging Use Standards.

(Code 1983, § 20-404; Ord. No. 1138, § 5, 12-9-08; Ord. No. 2022-08 , § 6, 7-13-22)

**Secs. 110-266—110-285. Reserved.**

PART II - CODE OF ORDINANCES  
Chapter 110 - ZONING  
ARTICLE V. - DISTRICTS  
DIVISION 6. C-2, JOHN'S PASS MARINE COMMERCIAL

## *DIVISION 6. C-2, JOHN'S PASS MARINE COMMERCIAL*

### **Sec. 110-286. Definition; purpose and intent.**

The purpose of the C-2, John's Pass marine commercial district is to recognize the unique commercial, marine, tourist and historic value of this area. The C-2, John's Pass marine commercial district correlates with the commercial general (CG) future land use category of the City of Madeira Beach Comprehensive Plan and the Retail and Services (R&S) plan category of the Countywide Plan. It is the intent of the comprehensive land use plan to retain the nautical theme and important character of the waterfront area and of John's Pass Village.

(Code 1983, § 20-404; Ord. No. 1138, § 6, 12-9-08; Ord. No. 2022-09 , § 1, 5-11-22)

Cross reference(s)—Definitions generally, § 1-2.

### **Sec. 110-287. Principal permitted uses.**

The permitted uses in the C-2, John's Pass marine commercial district are as follows:

- (1) Retail Commercial, commercial recreation, office and personal service ~~uses~~.
- (2) Commercial fishing activities.
- (3) Charter and party boat operations.
- (4) Restaurants and retail commercial, excluding drive-in windows.
- (5) Commercial docks.

(Code 1983, § 20-404)

### **Sec. 110-288. Accessory uses.**

The accessory uses in the C-2, John's Pass marine commercial district are as follows:

- (1) Off-street parking.
- (2) Nonresidential signs.
- (3) Essential services.
- (4) Other customary accessory uses ancillary to the principal uses.

(Code 1983, § 20-404)

### **Sec. 110-289. Special exception uses.**

There are no special exception uses permitted in the C-2, John's Pass marine commercial district.

(Code 1983, § 20-404)



**Sec. 110-290. Minimum building site area requirements.**

The minimum building site area requirements in the C-2, John's Pass marine commercial district are as follows:

- (1) Lot size: All uses within this district is 2,000 square feet.
- (2) Lot width: 40 feet.
- (3) Lot depth: 50 feet.

(Code 1983, § 20-404)

**Sec. 110-291. Setback requirements.**

The following minimum setbacks shall apply in the C-2, John's Pass marine commercial district:

- (1) Front yard: 20 feet, measured from right-of-way to the structure.
- (2) Rear yard or waterfront yard: None, however access to the "tie-backs" supporting seawalls shall be provided for maintenance.
- (3) Side yard: five feet on one side.

(Code 1983, § 20-404; Ord. No. 2022-09 , § 2, 5-11-22)

**Sec. 110-292. Maximum building height.**

For all uses in the C-2, John's Pass marine commercial district the maximum building height shall be 34 feet.

(Code 1983, § 20-404; Ord. No. 2021-23 , § 1, 11-10-21; Ord. No. 2022-09 , § 3, 5-11-22)

**Sec. 110-293. Maximum lot coverage.**

The maximum lot coverage in the C-2, John's Pass marine commercial district is as follows:

Nonresidential/commercial uses: Floor area ratio (FAR) 0.55.

(Code 1983, § 20-404; Ord. No. 1138, § 6, 12-9-08)

**Sec. 110-294. Impervious surface ratio (ISR).**

The impervious surface ratio (ISR) in the C-2, John's Pass marine commercial district for all uses is 0.85.

(Code 1983, § 20-404; Ord. No. 2022-09 , § 4, 5-11-22)

**Sec. 110-295. Special requirements.**

~~(a) — No structure in the C-2, John's Pass marine commercial district may be wider than 60 feet in width parallel to the front yard right of way without a minimum of a ten-foot separation between structures. Overall structure width shall also take into consideration adjacent properties in the 60-foot measurement.~~

(ba) Due to the unique character of the C-2, John's Pass marine commercial district, a nautical theme should be emphasized within all renovations or new construction.

- (~~eb~~) Mechanical units must be located on the roof and not visible or shielded from public right-of-way.
- (~~ec~~) Walls constructed or renovated on the property lines must comply with the current Florida Building Codes including occupancy ratings and current fire codes.

(Code 1983, § 20-404; Ord. No. 2022-09 , § 5, 5-11-22)

**Secs. 110-296—110-315. Reserved.**

## *DIVISION 7. C-3, RETAIL COMMERCIAL*

**Sec. 110-316. Definition; purpose and intent.**

The C-3, retail commercial district provides service to both permanent and transient residents where a full range of urban services and a high degree of accessibility is required. The C-3, retail commercial district correlates with the commercial general (CG) future land use category and the residential office retail (R/O/R) future land use category of the City of Madeira Beach Comprehensive Plan and Retail and Services (R&S) plan category in the Countywide Plan.

(Code 1983, § 20-404; Ord. No. 1138, § 7, 12-9-08; Ord. No. 2022-10 , § 1, 5-11-22)

Cross reference(s)—Definitions generally, § 1-2.

**Sec. 110-317. Permitted uses.**

The permitted uses in the C-3, retail commercial district are as follows:

- (1) Retail commercial, commercial, and personal service uses.
- (2) ~~Business or Office, office support, and business service, and financial service uses.~~
- (3) Multifamily residential and vacation rental, dwellings.
- (4) ~~Tourist dwelling units. Temporary lodging.~~
- (5) Restaurants.
- (6) Adult entertainment establishments (article VI, division 13 of this chapter).

(Code 1983, § 20-404)

**Sec. 110-318. Accessory uses.**

The accessory uses in the C-3, retail commercial district are as follows:

- (1) Off-street parking and loading/unloading.
- (2) Nonresidential signs.
- (3) Essential services.
- (4) Other accessory uses customarily permitted.

(5) Boat slips associated with a permitted business use, not for rental or commercial marine activities.  
(Code 1983, § 20-404)

### Sec. 110-319. Special exception uses.

Upon application for a special exception to the special magistrate and favorable action thereon, the following uses may be permitted in the C-3, retail commercial district:

- (1) Service stations.
- (2) Commercial recreation ~~and entertainment facilities~~ provided that such facilities shall not be permissible when the underlying future land use category is R/O/R.
- (3) ~~Institutional as religious use such as c~~Churches, synagogues or other houses of worship.
- (4) Public service facilities.
- (5) Drive-in or drive-through retail ~~commercial~~, personal service, ~~business~~ and ~~financial~~ business services.
- (6) Private fraternal, social and recreational clubs.
- (7) Outdoor storage areas, provided that the outdoor storage use is an accessory, is limited to areas in the CG land use category, and does not exceed 20 percent of the area of the building which is the principal use on the site.
- (8) Single-family or duplex.
- (9) Private schools.
- (10) Exhibition of reptiles by permit.
- ~~(11) Medical marijuana dispensaries.~~

(Code 1983, § 20-404; Ord. No. 1138, § 7, 12-9-08; Ord. No. 2015-03, § 1, 2-24-15)

### Sec. 110-320. Minimum building site area requirements.

The minimum building site area requirements in the C-3, retail commercial district are as follows:

- (1) Lot size:
  - a. For all uses except multifamily ~~/and temporary lodging /tourist dwelling~~ units: 4,000 square feet.
  - b. Duplex and triplex units: 3,000 square feet per dwelling unit.
  - c. ~~Multi-family~~ Multifamily dwelling units and above: 2,420 square feet per dwelling unit.
  - d. Public service facilities: Shall not exceed a maximum area of five acres. Like uses or contiguous like uses in excess of this threshold shall require the parcel to be amended to the P-SP zoning district and the appropriate land use category.
- (2) Lot width:
  - a. All permitted uses except multifamily and temporary lodging ~~/tourist dwelling~~ units: 40 feet.
  - b. Multifamily and temporary lodging ~~/tourist dwelling~~ units: 60 feet.
- (3) Lot depth: All permitted uses: 80 feet.

- (4) Within the CG future land use category in the Comprehensive plan, the density ~~shall be is~~ a maximum of 15 residential or vacation rental dwelling units or ~~60~~ 40 temporary lodging units per acre. ~~A combination of both residential dwelling units and temporary lodging units may be permissible provided that the provisions of subsections 110-326 are met. Alternative Temporary Lodging Use Standards are allowed as detailed in subsection 110-326(f).~~
- (5) Within the R/O/R future land use category, the density ~~shall be is~~ a maximum of 18 residential or vacation rental dwelling units or ~~45~~ 40 temporary lodging units per acre. ~~A combination of both residential dwelling units and temporary lodging units may be permissible provided that the provisions of subsections 110-326(d) are met. Alternative Temporary Lodging Use Standards are allowed as detailed in subsection 110-326(g).~~

(Code 1983, § 20-404; Ord. No. 1043, § 2, 6-14-05; Ord. No. 1138, § 7, 12-9-08; Ord. No. 2022-10, § 2, 5-11-22)

### Sec. 110-323. Maximum lot coverage.

The maximum lot coverage in the C-3, retail commercial district is as follows:

- ~~(1) Residential use: Floor area ratio (FAR) 0.80. The maximum area of a lot or parcel to be covered by structures shall be is 40 percent.~~
- ~~(2) Temporary lodging units: Floor area ratio (FAR) as set forth in the following table, provided that the requirements of subsection 110-326(d) are met:~~

<del>Land use category</del>	<del>FAR</del>
<del>Commercial general</del>	<del>1.2</del>
<del>Residential/office/retail</del>	<del>1.0</del>

- ~~(3)(1) Commercial general and public service facilities: Floor area ratio (FAR) 0.55; Residential/office/retail: Floor area ratio (FAR) 0.55. Nonresidential/commercial use: Floor area ratio (FAR) 0.55.~~

(Code 1983, § 20-404; Ord. No. 1138, § 7, 12-9-08; Ord. No. 2022-10, § 4, 5-11-22)

### Sec. 110-324. Impervious surface ratio (ISR).

- (a) The impervious surface ratio (ISR) in the C-3, retail commercial district for all uses, other than temporary lodging units, is 0.70.
- (b) The impervious surface ratio (ISR) for temporary lodging units is 0.85.

(Code 1983, § 20-404; Ord. No. 1138, § 7, 12-9-08)

### Sec. 110-325. Buffering requirements.

- (a) Parking lots/garages for ~~tourist dwellings~~ temporary lodging and nonresidential uses in the C-3, retail commercial district shall be designed to minimize their impacts to any adjacent residential uses as established in the land development regulations.
- (b) During the development process, existing curb cuts in the C-3, retail commercial district shall be reoriented, if necessary, to minimize the negative impact on adjacent properties.

- (c) All development within the C-3, retail commercial district in this category will meet or exceed the buffering/landscape requirements as outlined in chapter 106, article II.

(Code 1983, § 20-404)

### **Sec. 110-326. Special requirements.**

- (a) In the C-3, retail commercial district residential dwelling units, vacation rentals, and temporary lodging units are permitted ~~on the second floor~~ above first-floor commercial or office units ~~within this district~~.
- (b) No structure in the C-3, retail commercial district may be wider than 150 feet parallel to the front yard right-of-way. If two structures are proposed on the same lot or parcel, the buildings shall be separated. ~~There shall be by a minimum of a ten-foot feet. Separation between structures.~~
- (c) When a proposed ~~non-residential~~ nonresidential use in the C-3, retail commercial district abuts a residential use an additional five-foot setback is required along the length of the entire shared lot line. This additional setback will be utilized to provide additional landscaped screening.
- (d) Mixed uses in a single development shall not exceed, in combination, the respective number of units per acre and floor area ratio permitted, when allocated in their respective proportion to the gross land area of the property.
- (e) Institutional, other than public educational facilities shall not exceed a maximum area of five acres. Transportation and/or utility uses shall not exceed a maximum area of three acres.
- (f) In the CG future land use category, Alternative Temporary Lodging Use Standards allows 60 temporary lodging units per acre and a FAR of 1.2. A Development Agreement is required by the City's land development regulations and Forward Pinellas' Countywide Rules to use the Alternative Temporary Lodging Use Standard. The Development Agreement must follow all required standards in Forward Pinellas Countywide Rules to use the Alternative Temporary Lodging Use Standards.
- (g) In the R/O/R future land use category, Alternative Temporary Lodging Use Standards allows 60 temporary lodging units per acre and a FAR of 1.2. A Development Agreement is required by the City's land development regulations and Forward Pinellas' Countywide Rules to use the Alternative Temporary Lodging Use Standard. The Development Agreement must follow all required standards in Forward Pinellas Countywide Rules to use the Alternative Temporary Lodging Use Standards.

(Code 1983, § 20-404; Ord. No. 1138, § 7, 12-9-08; Ord. No. 2022-10 , § 5, 5-11-22)

### **Secs. 110-327—110-345. Reserved.**

## *DIVISION 8. C-4, MARINE COMMERCIAL*

### **Sec. 110-346. Definition; purpose and intent.**

The purpose of the C-4, marine commercial district is to provide for those commercial uses which are directly related to commercial and marine uses and associated services. The C-4, marine commercial district correlates with the commercial general (CG) future land use category and the residential office retail (R/O/R) future land use of the City of Madeira Beach Comprehensive Plan and Retail and Services (R&S) plan category in the Countywide Plan.

(Code 1983, § 20-404; Ord. No. 1138, § 8, 12-9-08; Ord. No. 2022-11 , § 1, 5-11-22)

Cross reference(s)—Definitions generally, § 1-2.

### Sec. 110-347. Permitted uses.

The permitted uses in the C-4, marine commercial district are as follows:

- (1) Marina and commercial docks.
- (2) Boat repair and sales.
- (3) ~~Restaurants.~~ Retail Commercial.
- (4) ~~Tourist dwelling units.~~ Temporary lodging units.
- (5) Retail Commercial/Business Service Use, offices and personal service ~~uses.~~
- (6) Commercial fishing activities.
- (7) Charter and party boat operations.
- (8) Adult entertainment establishments (article VI, division 13 of this chapter).
- (9) Residential and vacation rental d~~well~~ing units located ~~on the second floor~~ above first floor commercial or office units within this district.

(Code 1983, § 20-404; Ord. No. 1138, § 8, 12-9-08)

### Sec. 110-348. Accessory uses.

The accessory uses in the C-4, marine commercial district are as follows:

- (1) Off-street parking.
- (2) Marine and boat storage.
- (3) Essential services.
- (4) Other accessory uses, customarily incidental to the permitted use.
- (5) Wireless communication antennas as regulated by article VI, division 12, subdivisions I, II and IV of this chapter.
- (6) Wireless communication towers shall be allowed, through special permit granted by the board of commissioners, as an alternative to prohibiting towers and only in the event substantial proof is submitted by an applicant which demonstrates that no existing tower, structure, or building can accommodate the applicant's proposed antenna. Wireless communication towers must further comply with the provisions of article VI, division 12, subdivisions I, II and IV of this chapter.

(Code 1983, § 20-404)

### Sec. 110-349. Special exception uses.

Upon application for a special exception to the special magistrate and favorable action thereon, the following uses may be permitted in the C-4, marine commercial district:

- (1) Service stations.
- (2) Commercial ~~recreation~~ and entertainment facilities.

- (3) Public administration and service facilities.
- (4) Drive-in or drive-through retail commercial, personal service, and business service, and financial services.
- (5) Institutional as religious use such as cchurches, synagogues and other houses of worship.
- (6) Outdoor storage areas provided that the outdoor storage use is an accessory, is limited to areas in the CG land use category, and does not exceed 20 percent of the area of the building which is the principal use on the site.

(Code 1983, § 20-404; Ord. No. 1138, § 8, 12-9-08)

### **Sec. 110-350. Minimum building site area requirements.**

The minimum building site area requirements in the C-4, marine commercial district are as follows:

- (1) Lot size:
  - a. All permitted uses except tourist dwelling temporary lodging units: 4,000 square feet.
  - b. Residential dwellings above first floor commercial: 3,000 square feet per unit.
  - c. Public service facilities: Shall not exceed a maximum area of five acres. Like uses or contiguous like uses in excess of this threshold shall require the parcel to be amended to the P-SP zoning district and the appropriate land use category.
- (2) Lot width:
  - a. All permitted uses except tourist dwellings temporary lodging: 40 feet.
  - b. Tourist dwellings Temporary lodging: 60 feet.
- (3) Lot depth: All permitted uses 80 feet.
- (4) Within the CG future land use category, the density shall be is a maximum of 15 residential or vacation rental dwelling units or 60 40 temporary lodging units. A combination of both residential and tourist dwelling units may be permissible provided that the provisions of subsections 110-355(c) and (e) are met. Alternative Temporary Lodging Use Standards are allowed as detailed in subsection 110-326(g).

(Code 1983, § 20-404; Ord. No. 1043, § 3, 6-14-05; Ord. No. 1138, § 8, 12-9-08)

### **Sec. 110-351. Building setback requirements.**

The following minimum setbacks shall apply in the C-4, marine commercial district:

- (1) Front yard: 25 feet.
- (2) Rear yard: 18 feet.
- (3) Side yard:
  - a. Minimum of ten feet except as provided in the land development regulations.
  - b. Tourist dwelling Temporary lodging units:
    1. For lots between 60 and 80 feet in width, the minimum side yard setback shall be ten feet.

2. For lot widths greater than 80 feet, the minimum side yard setback shall be as follows: A total of 33 percent of the lot width shall be reserved for side yard setbacks. In no event shall one side be less than the following:
  - i. Lots less than 120 feet: ten feet.
  - ii. Lots less than 240 feet: 15 feet.
  - iii. Lots 240 feet or greater: 20 feet.

(Code 1983, § 20-404)

### **Sec. 110-352. Maximum building height.**

For all uses in the C-4, marine commercial district the maximum building height shall be 34 feet.

(Code 1983, § 20-404; Ord. No. 2021-23 , § 1, 11-10-21; Ord. No. 2022-11 , § 2, 5-11-22)

### **Sec. 110-353. Maximum lot coverage.**

The maximum lot coverage in the C-4, marine commercial district is as follows:

- (1) Commercial ~~general~~ uses: Floor area ratio (FAR) 0.55; ~~temporary lodging uses in the CG land use category FAR is 1.2, provided that the requirements of subsection 110-356(c) are met.~~
- (2) Public service facilities:
  - a. Institutional: Floor area ratio (FAR) 0.55.
  - b. Transportation/utility: Floor area ratio (FAR) 0.55.

(Code 1983, § 20-404; Ord. No. 1138, § 8, 12-9-08; Ord. No. 2022-11 , § 3, 5-11-22)

### **Sec. 110-354. Impervious surface ratio (ISR).**

The impervious surface ratio (ISR) in the C-4, marine commercial district for all uses is 0.85.

(Ord. No. 2022-11 , § 4, 5-11-22)

Editor's note(s)—Ord. No 2022-11 , § 4, adopted May 11, 2022, renumbered the former § 110-354 as § 110-355 and enacted a new § 110-354 as set out herein. The historical notation has been retained with the amended provisions for reference purposes.

### **Sec. 110-355. Buffering requirements.**

- (a) Parking lots/garages for ~~tourist dwellings~~ temporary lodging and nonresidential uses in the C-4, marine commercial district shall be designed to minimize their impacts to any adjacent residential uses as established in the land development regulations.
- (b) During the development process, existing curb cuts in the C-4, marine commercial district shall be reoriented, if necessary, to minimize the negative impact on adjacent properties.
- (c) All development within the C-4, marine commercial district in this category will meet or exceed the buffering/landscape requirements as outlined in chapter 106, article II.

(Code 1983, § 20-404; Ord. No. 2022-11 , § 5, 5-11-22)



Editor's note(s)—Ord. No 2022-11 , § 5, adopted May 11, 2022, renumbered the former § 110-354 as § 110-355 as set out herein. See also the editor's note at § 110-354.

## **Sec. 110-356. Special requirements.**

- (a) In the C-4, marine commercial district residential and vacation rental dwelling units, and temporary lodging units are permitted above ground floor commercial or office units within this district.
- (b) No structure in the C-4, marine commercial district may be wider than 150 feet parallel to the front yard right-of-way. If two structures are proposed on the same lot or parcel, the buildings shall be separated by a minimum of ten feet or equal to 50 percent of the height of the tallest building on the same parcel, whichever is more restrictive.
- (c) Mixed uses in a single development shall not exceed, in combination, the respective number of units per acre and floor area ratio permitted, when allocated in their respective proportion to the gross land area of the property.
- (d) Institutional, other than public educational facilities shall not exceed a maximum area of five acres. Transportation and/or utility uses shall not exceed a maximum area of three acres.
- (e) In the CG future land use category, Alternative Temporary Lodging Use Standards allows 60 temporary lodging units per acre and a FAR of 1.2. A Development Agreement is required by the City's land development regulations and Forward Pinellas' Countywide Rules to use the Alternative Temporary Lodging Use Standard. The Development Agreement must follow all required standards in Forward Pinellas Countywide Rules to use the Alternative Temporary Lodging Use Standards.
- (f) In the R/O/R future land use category, Alternative Temporary Lodging Use Standards allows 60 temporary lodging units per acre and a FAR of 1.2. A Development Agreement is required by the City's land development regulations and Forward Pinellas' Countywide Rules to use the Alternative Temporary Lodging Use Standard. The Development Agreement must follow all required standards in Forward Pinellas Countywide Rules to use the Alternative Temporary Lodging Use Standards.

(Code 1983, § 20-404; Ord. No. 1138, § 8, 12-9-08; Ord. No. 1173, § 1, 9-28-10; Ord. No. 2022-11 , § 6, 5-11-22)

Editor's note(s)—Ord. No 2022-11 , § 6, adopted May 11, 2022, renumbered the former § 110-355 as § 110-356 as set out herein. See also the editor's note at § 110-355.

## Chapter 82 GENERAL PROVISIONS

### Sec. 82-1. Purpose and intent.

The primary purpose of the land development regulations is to implement the city comprehensive plan as adopted pursuant to Florida Statutes ch. 16, pt. II, and in accordance with F.A.C. ch. 9J-5. The objectives of the land development regulations are to:

- (1) Protect, promote and improve the public health, safety, comfort, order, appearance, convenience, morals and general welfare of the city.
- (2) Protect the character and maintain the stability of residential, business, recreation and public areas.
- (3) Promote the orderly development of residential, business, recreation and public areas.
- (4) Conserve the value of land, buildings, resources and protect land owners from adverse impacts of adjoining developments.
- (5) Provide for a more uniformly just land use pattern and tax assessment base to aid in the development and redevelopment of the city, to increase traffic safety and ease transportation problems, and to provide more adequately for vehicular parking, parks, parkways, recreation, schools, public buildings and facilities.

(Code 1983, § 20-102)

### Sec. 82-2. Definitions.

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

*Absorption area* means any area designed, or natural, capable of allowing stormwater percolation.

*Abutting* means to physically touch or border upon, to share a common property line, or is directly across a street, access easement, alley or other right-of-way (except those properties separated by an arterial street) from the subject property.

*Accessory building or use* means a building structure or use which is:

- (1) Subordinate to and serves a principal building or use.
- (2) Subordinate in area, extent and purpose to principal building or use.
- (3) Contributes to the comfort, convenience or necessities of the principal building or use.
- (4) Is located on the same lot as the principal building or use.

*Addition (to an existing building)* means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common loadbearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter loadbearing walls is new construction.

*Adjoining* means the same as "Abutting."

*Adult arcade* means a place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images, including motion pictures, films, video cassettes, slides or other photographic reproductions to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

*Adult bookstore* means:

- (1) An establishment having as a substantial or significant portion of its stock in trade books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities, or specified anatomical areas, or an establishment with a segment or section devoted to the sale, rental or display of such material.
- (2) It is an affirmative defense to an alleged violation of operating an adult bookstore without a permit if the adult material is accessible only by employees and either the gross income from the sale and/or rental of adult material compromises less than ten percent of the gross income from the sale; and/or rental of goods and/or services at the establishment, or the individual items of adult material offered for sale and/or rental compromises less than ten percent of the individual items publicly displayed at the establishment as stock in trade in any of the following categories: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations, or recordings or other audio matter. Any adult use activity other than the sale or rental of adult material shall preclude the establishment's qualifying solely as an adult bookstore and shall mandate its classification as other than an adult bookstore.

*Adult booth* means a separate enclosure inside an adult entertainment establishment, accessible to any person, regardless of whether a fee is charged for access. The term "adult booth" includes, but is not limited to, a "peep show" booth, adult arcade booth or other booth used to view adult material. The term "adult booth" does not include a foyer through which any person can enter or exit the establishment, nor a restroom.

*Adult dancing* means a commercial establishment that permits, suffers or allows dancers to display or expose specified anatomical areas. Additionally, any establishment on whose premises an employee, who need not be the same employee, displays or exposes specified anatomical areas on more than one day in any 30-day period shall be deemed an adult dancing establishment and shall be required to obtain a license under this Code.

*Adult entertainment establishment* means adult arcade, adult bookstore, adult booth, adult dancing establishment, adult massage establishment, adult motel, adult motion picture theater, special adult cabarets, physical cultural establishments or adult photographic studios including any business establishment whose primary business stock in trade is dependent upon the activities relating to specified sexual activities or specified anatomical areas, or an adult dancing establishment, or any other establishment exhibiting or relating to specified sexual activities or specified anatomical areas. Any commercial establishment that displays a sign or engages in any other form of advertising capable of leading a reasonable person to believe that such establishment offers, presents, permits or engages in any form of adult entertainment shall be deemed an adult entertainment establishment under the appropriate classification. For the purposes of the land development regulations, the term "adult use" is synonymous with the term "adult entertainment establishment."

*Adult massage establishment* means a site or premises, or portion thereof, upon which any person, who is an employee, manipulates or massages the superficial tissues of the body of another person, but does not include the following:

- (1) Licensed health care facilities;
- (2) Licensed physicians or nurses engaged in the practice of their professions;
- (3) Educational or athletic facilities if the massage is a normal and usual practice in such facilities; or

- (4) Establishments exempted under Florida Statutes § 480.034.

*Adult material* means any one or more of the following regardless of whether it is new or used:

- (1) Books, magazines, periodicals or other printed matter, paintings, drawings or other publications or graphic media or photographs, films, motion pictures, video cassettes or disks, slides or other visual representations, or recordings or other audio matter, which have as their primary or dominant theme matter depicting, illustrating, describing or relating to specified sexual activities or specified anatomical areas; or
- (2) Instruments, novelties, devices or paraphernalia which are designed for use in connection with specified sexual activities.

*Adult motel* means any motel or hotel, boardinghouse, rooming house or other lodging used predominantly for transient customers which includes the words "adult" in any name it uses or otherwise advertises, and actually permits the presentation of film material, video or other visual representations, which has as its preliminary or dominant theme matters depicting, illustrating or relating to specified sexual activities or specified anatomical areas for observations of patrons thereof.

*Adult photographic or modeling studio* means any business establishment which offers or advertises as its primary business stock and trade, the use of its premises for the purpose of photographing or exhibiting specified sexual activities or specified anatomical areas or the modeling of apparel that exhibits specified anatomical areas.

*Adult theater* means an enclosed building or an enclosed space within a building, or an open-air area used for presenting either filmed or live plays, dances, or other performances, either by individuals or groups, distinguished or characterized by an emphasis on material depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein. An establishment which has adult booths or an adult arcade is considered to be an adult theater.

*Adult use* means and includes the terms as described under the definition of "adult entertainment establishment."

*Adversely impact* means to destroy or damage or contribute to the destruction or damage of something.

*Alley* means a public right-of-way 15 feet or less in width and which affords only a secondary means of access to abutting property.

*Alteration* means to change, rearrange, enlarge, extend or reduce any structure or part thereof on the same site.

*Ancillary use* means a use which is either: Subordinate to and serves a principal building or use; subordinate in area, extent, and purpose to the principal building or use served; contributes to the comfort, convenience, or necessities of the users or occupants of the principal building or use; and is located on the same lot as the principal building or use. Unless otherwise specified, no ancillary use shall exceed 25 percent of the gross floor area of the principal building or use.

*Antenna* means any exterior apparatus designed for telephonic, radio, or television communications, through the sending or receiving of electromagnetic waves.

*Appeal* means a request for a review of the building and zoning official's interpretation of any provision of the land development regulations or a request for a variance.

*Aquatic preserves* means publicly owned submerged lands which are covered by brackish or salt water and which are recognized by law or regulations of having exceptionally high biological, aesthetic, educational or scientific value.

*Area of special flood hazard* means the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

*Art work* means drawings, pictures, symbols, paintings or sculpture which in no way identify a product or business and which are not displayed in conjunction with a commercial, for profit or nonprofit enterprise.

*Arterial* means a street officially defined as such by the state department of transportation's functional classification.

*Artificial light* means any source of light emanating from a manmade device, including, but not limited to, incandescent, mercury vapor, metal halide, neon, sodium, spotlights, street lights, construction or security lights.

*Automatic controller* means a mechanical or electronic timer, capable of operating valve stations to set the days and length of time of a water application.

*Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year.

*Base flood elevation (BFE)* means the elevation, measured in feet above mean sea level, as shown on the flood insurance rate map (FIRM).

*Basement* means that portion of a building having its floor subgrade (below ground level) on all sides.

*Beach access point* means any path which may be through or over the dune used by the general public or private property owners for the purpose of gaining access to the beach.

*Board of adjustment* means the board of adjustment of the city.

*Board of commissioners* means the board of commissioners as legally constituted for the city.

*Boat, charter* means a boat for hire which carries not more than ten paying passengers.

*Boat, party* means a boat for hire which carries more than ten paying passengers.

*Breakaway walls* means any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building material which is not part of the structural support of the building and which are so designated as to break away, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by floodwaters.

*Buildable area* means the area of a site in which development is permitted without variance.

*Building* means an enclosed structure with walls and a roof.

*Building permit* means a permit which authorizes the construction of a new building structure or related building system or the expansion of floor area or the increase in the number of dwelling units contained in an existing building or change of use.

*Building value* = market value of structure only. Land and exterior improvements are excluded, e.g., swimming pool, pool enclosure, landscaping, paving, etc. Market value = assessed value or properly-depreciated appraised building value. The assessed value may be adjusted upward to reflect the market more accurately. Replacement cost can only be used if properly depreciated. Certified appraisals must be based on the comparable sales method. The land value must be deducted and it must be equal to or greater than that established by the county assessor.

*Business entity* means any and all persons, natural or artificial, including any individual, firm, corporation or association operating or proposing to operate for commercial or pecuniary gain. "Operated for commercial or pecuniary gain" shall not depend upon actual profit or loss. Also, "operated for commercial or pecuniary gain" shall be presumed where the establishment has an occupational license. Business entity includes any enterprise or venture in which a person sells, buys, exchanges, barter, deals or represents the dealing in any thing or article of value or renders services for compensation.

*Camouflage techniques* means a tower and/or antenna designed to unobtrusively blend into existing surroundings, be disguised so as to not have the appearance of a communication facility, or be designed or located

in such a manner that the tower or antenna is not easily discernible from the ground. Examples include the form and shape of a tree, bell tower, steeple, clock tower, light standard, and other techniques which serve to diminish the visible impact of the tower or antenna.

*Cannabis* means any plant or part of a plant of the genus *cannabis* whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.

*Cannabis farm* means any property used in whole or in part for the growing or cultivation of cannabis plants, whether or not such growing or cultivation is lawful under federal or state law.

*Carport, private* means an accessory building with two or more sides open, designed or used for the storage of motor vehicles owned and used by the occupants of the primary building.

*Certificate of concurrency* means the official document issued by the city upon finding that the application for final development permit will not result in the reduction of level of service standards set forth in the city comprehensive plan for public facilities and services.

*Certification of compliance/noncompliance* means a notice issued by the building and zoning official indicating to an applicant for an occupational license that the location proposed for an adult use complies or does not comply with the locational requirements of the land development regulations.

*Child care facility* means any children's center, day nursery or family day care home as defined in Laws of Fla. ch. 61-2681.

*Church* means a premise or site which is used primarily or exclusively for religious worship and related activities. The term "church" shall also include the term synagogue, temple, mosque, cathedral, church building and any other facility or premises where individuals of a particular religion gather to worship and for any other related religious purpose.

*Clearing* means the removal of vegetation, rocks, structures, debris and other obstructions resting on or protruding through the existing ground surface.

*Clinic* means a facility wherein professional services concerning personal health of humans are administered by medical doctors, chiropractors, optometrists, dentists, or any such professional which may lawfully practice in the state, provided that the persons treated are not lodged therein overnight.

*Club* means an establishment which is owned or operated by a corporation, association, person or persons for social, literary, political, educational, fraternal or charitable purposes, but which is not operated for profit or to render a service which is customarily conducted as a business. *Coastal barrier islands* means the geological features which are completely surround by marine waters that front upon the open waters of the Gulf of Mexico, and are composed of quartz sands, clays, limestone, oolites, rock, coral, coquina, sediment, or other material, including spoil disposal, which features lie above the line of mean high water. Mainland areas which were separated from the mainland by artificial channelization for the purpose of assisting marine commerce shall not be considered coastal barrier islands.

*Coastal building zone* means the land area from the seasonal high water line landward to a line 1,500 feet landward from the coastal construction control line as established pursuant to Florida Statutes § 161.053, and, for those areas fronting on the Gulf of Mexico and not included under Florida Statutes § 161.053, the land area seaward of the most landward velocity zone (V-zone) as established by the Federal Emergency Management Agency as shown on flood insurance rate maps. The coastal building zone on coastal barrier islands shall be the land area from the seasonal high water line to a line 5,000 feet landward from the coastal construction control line established pursuant to Florida Statutes § 161.053, or the entire island, whichever is less.

*Coastal construction control line* means the line as established by the state pursuant to Florida Statutes § 161.053.

*Coastal high hazard area (CHHA)* means the area subject to high velocity waters, including but not limited to hurricane wave wash or tsunamis. The area is designated by the Federal Emergency Management Agency (FEMA) as Zone V1-V30. The coastal high hazard area incorporates all areas seaward of the coastal construction control line established by state law and the velocity flood hazard area as established by the Federal Emergency Management Agency (FEMA). This includes areas where public facilities have been damaged or undermined by coastal storms, and inlets which are not structurally controlled.

*Commercial/Business Service Use* means an occupation or service involving the sale, storage, repair, service or rental of motor vehicles, water craft, residential machinery or equipment, examples of which include automobile, boat, and household or yard equipment sales, service or repair, and like uses; the production, assembly or dismantling of which shall be clearly secondary and incidental to the primary use characteristics of the Commercial/Business Service Use.

*Commercial Recreation Use* means a private or quasi-public recreation facility designed for participant or spectator activities for a charge, including but not limited to marina, miniature golf, sports stadium, performance venues, and indoor recreation/entertainment uses such as billiard halls, bowling alleys, movie theatres, and video game arcades.

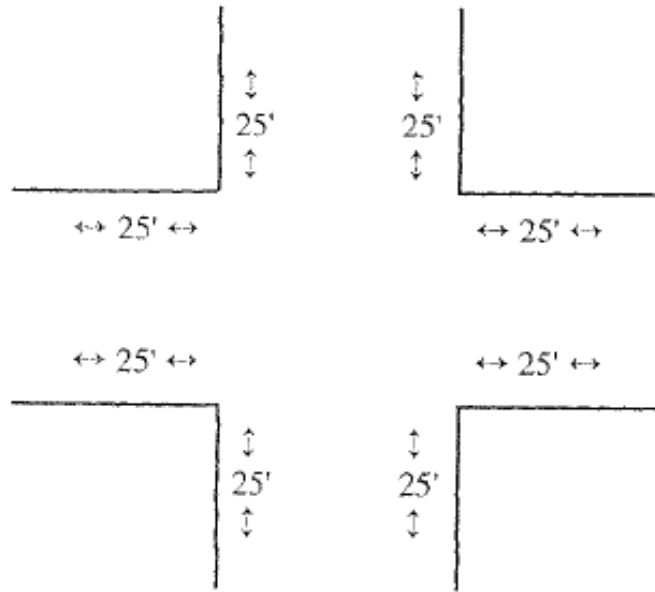
*Commercial equipment* means vehicles, trailers, step and box vans, and all machinery, materials or furnishings owned or used for commercial purposes will be considered commercial equipment. Personal vehicles, up to and including one ton pick-up truck or passenger or utility van, used by an individual for transportation to and from home or job sites will not be considered commercial equipment regardless of any commercial names, insignias or markings on the vehicle. Machinery, materials or furnishings owned or used for commercial purposes clearly visible on these vehicles will be considered commercial equipment for the purposes of this Code.

*Comprehensive plan* means the city comprehensive plans as adopted by Ordinance No. 738 on December 5, 1989 by city commission pursuant to Florida Statutes ch. 163, part 2, as such plan may be amended from time to time.

*Congregate care facility* means a residential facility which may be comprised of individual dwelling units with or without kitchen facilities. These facilities may offer central dining, personal and therapeutic care and other facilities necessary to meet special living needs of the residents. These include adult congregate living facilities and similar retirement or life-care facilities. These facilities, where required, shall be licensed by the state department of children and family services, or be operated pursuant to state law. As a continuing care facility it shall not be located within the coastal high hazard area, hurricane evacuation zone level "A" or floodway.

*Contiguous* means parcels touching along a boundary or directly across roadway with a local or collector functional classification or other right-of-way from each other. For the purpose of calculating density averaging, "contiguous" means parcels touching along a boundary or directly across any roadway or other right-of-way from each other.

*Cross visibility area* means the area of property located at the corner formed by the intersection of two or more public streets with two sides of a triangular area being 25 feet in length along the abutting public street, measured from their point of intersection, and the third side being a line connecting the ends of the other two sides. In areas where this scenario cannot be achieved, the distance will be determined by the city manager or his designee.



*Day care center* means and includes any day nursery, nursery school, kindergarten or other facility as defined by state law, which, with or without compensation, cares for five or more children 17 years of age or under, not related to the operator by blood, marriage or adoption, away from the child's home.

*Density* means a ratio of dwelling units per acre of land. No portion of dedicated public right-of-way may be used to calculate density. No portion of submerged land may be used to calculate density.

*Density/intensity averaging* means the aggregation of the otherwise permitted density and/or intensity of a parcel or parcels of land in a non-uniform or consolidated manner on a portion of such contiguous parcel(s) in accordance with article V of chapter 86, Administration, of this Code.

*Detention* means the temporary collection and storage of surface water for subsequent controlled dissipation at a rate which is less than the rate of flow.

*Development* means any material manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations. The following activities or uses shall be taken to involve "development," as defined in this section:

- (1) A reconstruction, alteration of the size, or change in the external appearance of a structure on land.
- (2) A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or an increase in the number of businesses, manufacturing establishments, offices or dwelling units in a structure or on land.
- (3) Alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, including any "coastal construction" as defined in Florida Statutes § 161.021.
- (4) Commencement of drilling, except to obtain soil samples, mining, or excavation on a parcel of land.
- (5) Demolition of a structure.
- (6) Clearing of land as an adjunct of construction.
- (7) Deposit of refuse, solid or liquid waste, or fill on a parcel of land.



*Development agreement* means an agreement, as authorized by the Florida Local Government Development Agreement Act (set forth in Florida Statutes §§ 163.3220—163.3243) and subject to the requirements of article IV of chapter 86, Administration, of this Code.

*Development permit* means any approved final site plan, building permit, zoning clearance, rezoning, special exception, variance, conditional use or any other official action of the city having the effect of permitting the development of land, except that for the purposes of the land development regulations, tree permits and grubbing permits are not to be considered development permits.

*Diameter at breast height (DBH)* means the standard measurement of a single-stemmed tree at 4½ feet above grade.

*District* means a section or sections of the city for which zoning regulations governing the use of buildings and premises, the height of the buildings, the size of yards and the intensity of use are uniform.

*Dock, commercial* means a revenue producing structure on piling over water or structure that is defined as a commercial dock under state law, which is designed or used to provide a berth for and access to one or more private, charter, commercial or party boats.

*Dock, residential* means an accessory structure to a residential use which is built on pilings over water and is designed or used to provide moorage for one or more boats.

*Drainage system* means the system through which water flows from the land. It includes all watercourses, waterbodies and wetlands.

*Dripline* means an artificial line along the ground which conforms to the perimeter of the crown of a tree as projected vertically to the ground.

*Drive-in restaurant* means any food or beverage dispensing operation at retail to the general public where such public may be served while remaining in automobiles or other motor vehicles parked on the premises, or where prepared meals may be obtained at a drive-in window.

*Drive-in window* means a window or other opening in the wall of a principal or accessory building through which goods or services are provided directly to customers who are in their motor vehicles and by means eliminates the need for such customers to exit their motor vehicles.

*Dune* means the amount or ridge of loose sediments lying landward of the beach and deposited by any natural or artificial mechanism.

*Dwelling unit* means a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

*Duplex* means two dwelling units contained in one structure on a single lot or parcel and attached by common vertical walls.

*Multifamily* means three or more dwelling units contained in one structure on a single lot or parcel and attached by common vertical or horizontal walls.

*Single-family detached* means a dwelling unit in a single structure not attached to any other dwelling by any means, designed for or occupied exclusively by one family.

*Tourist:*

- A. *Condo-hotel* means a hotel, motel, tourist or seasonal accommodation room or group of rooms forming a separate, habitable unit used or which could be used for living and sleeping by one family with independent kitchen facilities. Each unit shall be owned by an individual, corporation, or any other legal entity having membership into an association comprised of all owners within the same development. No unit in a condo-hotel shall be used as a timeshare or fractional ownership unit or be converted to a permanent, non-tourist dwelling unit.

Each condo-hotel shall:

1. Contain a front desk, lobby, internally oriented and easily accessible to members of the public;
2. Have the appropriate license for a hotel and all such licenses must be kept up-to-date annually;
3. Have sufficient signage viewable by the general public advertising such structure as a condo-hotel, with units available for daily, weekly or monthly rentals;
4. Provide a reservation system or agency for rental of units; and
5. Upon request of the city, provide access to all rental records, tax receipts or any other documents necessary to verify conformance with the provisions established herein.

Each unit shall:

1. Have the appropriate license for hotel unit and all such licenses must be kept up-to-date annually;
2. Be required to obtain a business tax receipt for each unit from the city;
3. Be subject to all applicable tourist tax collection requirements;
4. Utilize the reservation system or agency;
5. Not be used for homesteading purposes;
6. Not be issued a home occupational license;
7. Not be utilized as an address for the purposes of establishing residency or registering to vote; and
8. Be available to the owner for use no more than 90 days within a calendar year. The unit shall be available for lease to parties other than the owner in intervals of 30 days or less for the remainder of the calendar year

Only one unit in a condo-hotel structure may be used for the year-round occupancy by a person or family serving as the on-site manager(s). This unit must be owned by the condo association or management company and shall not be used for homestead purposes. This manager unit shall be exempt from the requirement of leasing 30 days or less in the calendar year.

- B. *Motel or hotel* means a room or a group of rooms forming a separate, habitable unit used or which could be used for living and sleeping purposes by one family, with or without independent kitchen facilities, occupied or intended to be occupied by transients on a rental or leased basis.

Each motel or hotel shall:

1. Contain a front desk and/or lobby with a reservation system, and easily accessible to members of the public;
2. Have the appropriate license for a motel or hotel and all such licenses must be kept up-to-date annually; and
3. Have sufficient signage viewable by the general public advertising such structure as a motel or hotel, with units available for daily, weekly or monthly rentals.

Each unit shall:

1. Be subject to all applicable tourist tax collection requirements;
2. Not be used for homesteading purposes;
3. Not be issued a home occupational license; and

4. Not be utilized as an address for the purposes of establishing residency or registering to vote.

Only one unit in the motel or hotel structure may be used for the year-round occupancy by a person or family serving as the on-site manager(s). The manager unit may be used to establish residency. If the unit is owner-occupied, this unit may be used for homestead purposes. This manager unit shall be exempt from the requirement being available for daily, weekly or monthly rental.

*Townhouse* means a building designed for or occupied exclusively by one family and attached to two or more other buildings of similar design and separated by one or more party walls. The attached townhouses as defined constitute a building group.

*Triplex* means a multifamily dwelling with three units contained in one structure on a single lot or parcel and attached by common vertical walls.

*Elevated building* means a nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (post and piers), shear walls, or breakaway walls.

*Emitter* means the drip irrigation fittings that deliver water slowly from the system to the soil.

*Employee* means a person who works in the service of another person (the employer) under an express or implied contract of hire, under which the employer has the right to control the details of work performance.

*Erosion* means the damage caused by unrestricted surface waters which shall include the movement of silt, soils or foreign material.

*Essential services* means public utility facilities either underground or overhead and related to the transmission or distribution system of water, sanitary or storm sewage, telephone, gas, electricity, and public safety, including poles, wires, mains, hydrants, drains, pipes, conduits, law enforcement or fire call boxes, traffic signals and other similar equipment necessary for the furnishing of service, but not including the buildings.

*Establishment or commencement of business* means and includes any of the following:

- (1) The opening or commencement of any adult entertainment establishment as a new business;
- (2) The conversion of any existing business, whether or not an adult entertainment establishment; or
- (3) The relocation of any adult entertainment establishment.

For the purposes of determining the date of commencement of business, evidence in the form of a certificate of occupancy and an occupational license will be required. Any decision regarding a given date of commencement may be appealed pursuant to the provisions of section 90-10.

*Existing construction* means any structure for which the start of construction commenced before (the effective date of the first floodplain management code, ordinance, or standard based upon specific technical base flood elevation data which establishes the area of special flood hazard) or (specific date).

*Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community (before the effective date of the first floodplain management code, ordinance, or standard based upon specific technical base flood elevation data which establishes the area of special flood hazard) or (specific date).

*Expansion to an existing manufactured home park or subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

*Eutrophication* means the enrichment of bodies of water with nutrients resulting in luxurious organic growth and depletion of dissolved oxygen.

*Family* means an individual, or two or more persons, related by blood or marriage, or a group of not more than three persons who need not be related by blood or marriage, living together as a housekeeping unit in a dwelling.

*FAA* means the Federal Aviation Administration.

*FCC* means the Federal Communications Commission.

*Final development order* means the last approval necessary to carry out the development requested which will result in an immediate and increased impact upon public facilities.

*Flood hazard boundary map (FHBM)* means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as zone A.

*Flood insurance study* means the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary floodway map and the water surface elevation of the base flood.

*Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

*Flood elevation determination* means a determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

*Flood insurance rate map (FIRM)* means an official map of a community, on which the administrator has delineated both the special hazard areas and the risk premium zone applicable to the community.

*Flood light* means a reflector type light fixture which is attached directly to a building or post and which is unshielded.

*Flood prone area* means any land area susceptible to being inundated by water from any source.

*Floodplain* means the lateral extent of inundation by an event of given statistical frequency, such as a 100-year floodplain, as designated in the county stormwater management plan (SWMP).

*Floodplain management regulations* means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of law enforcement powers. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

*Floodproofing* means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

*Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one-tenth of a foot.

*Floor area, gross* means the sum of all enclosed areas of floors of a building, measured from the outside faces of the exterior walls, or from the centerline of a wall separating two buildings, including halls, lobbies, arcades, stairways, elevator shafts and balconies, but not including interior parking spaces, open terraces, patios, atriums, entryways, loading space for motor vehicles, and any space where floor to ceiling height is less than six feet.

*Floor area ratio (FAR)* means a ratio of square footage of gross floor area divided by the square footage of land area. The square footage of land area for purposes of determining the FAR shall not include public road rights-of-way and shall not include submerged land.

*Frontage, street* means all the property on one side of a street between two streets which intersect such street (crossing or termination), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between a street which intersects such street and the dead end of the street.

*Functionally dependent facility* means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

*Garage, private* means an accessory building or an enclosed area in the main building designed or used for the storage of motor-driven vehicles owned and used by the occupants of the building.

*Garage, public* means a building or portion thereof, other than a private garage, designed or used for equipping, servicing, repairing, hiring or selling or storing of motor-driven vehicles, but not including the storage of wrecked or junked vehicles.

*Grade* means a reference plane representing the average of finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or between the building and a point six feet (1,829 mm) from the building, whichever is closer to the building.

*Grading or land balancing* means the moving of earth or materials for the purpose of development or redevelopment or the temporary or permanent alteration of existing topography of the land.

*Ground cover* means plants, other than turf grass, normally reaching an average maximum height of not more than 24 inches in maturity.

*Ground-level barrier* means any natural or artificial structure rising above the ground which prevents beachfront lighting from shining directly onto the beach-dune system.

*Habitable space* means a space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

*Hedges* means any installation or placement of plants, structural elements, feature art, ornaments or objects that together form a row, boundary or screen that extends more than three feet before a break (open space) of at least three feet horizontally and six feet vertically. Hedges can be installed in conjunction with or in lieu of fences, except those fences required by the Florida Building Code, and must meet the same height restrictions as fences and walls except in the rear yard where the natural plant material of the hedge may be allowed to grow to natural height.

*Height, building* means the vertical distance from grade to the highest finished roof surface in the case of flat roofs or to a point at the average height of the highest roof having a pitch. When a building is located within a special flood hazard area having a designated base flood elevation on the flood insurance rate map (FIRM), the height may be measured from the base flood elevation plus required freeboard to the highest point of the building.

*Height, wireless communication antennas/towers* means the distance measured from existing grade to the highest point on the tower structure, even if the highest point of the tower or structure is an antenna.

*Historic structure* means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs which have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior; or
  - b. Directly by the Secretary of the Interior in states without approved programs.

*Home occupation* means an occupation conducted as an accessory use in a dwelling unit in a manner which is clearly incidental and accessory to the residential use and requiring no changes to the outside of the structure or its outward appearance.

*Hotel* means a building containing five or more sleeping accommodations available to the public for compensation and in which meals may or may not be provided. All ancillary or accessory uses such as dining rooms, restaurants or cafes shall be operated within the same building or buildings and principal access to all facilities is through an inside lobby or office supervised by a person in charge at all hours. Hotel facilities are classified as a form of a tourist dwelling facility.

*Household animals* means animals which are customarily kept for personal use or enjoyment which are not exhibited to the public nor raised for commercial purposes. Household animals shall include domestic dogs, domestic cats, white mice and domestic rabbits, frogs, small birds, small reptiles and fish.

*Hurricane evacuation zone* means the hurricane evacuation zone established by the county emergency services agency. Evacuation Levels A, B, C, D, and E, as identified in the most recent hurricane evacuation study, require the evacuation of successively more zones inland from the coast during a storm event.

*Impervious surface* means a surface that has been compacted or covered with a layer of material so that it is highly resistant to or prevents infiltration by stormwater. It includes surfaces such as limerock, or clay, as well as most conventionally surfaced streets, structures, roofs, sidewalks, parking lots, and other similar surfaces.

*Impervious surface ratio (ISR)* means the relationship between the total impervious surface area on a site and the gross land area. The impervious surface ratio is calculated by dividing the square footage of the area of all impervious surfaces on the site by the square footage of the gross land area. The square footage of the gross land area for purposes of determining the ISR shall not include public road right-of-way and shall not include submerged land.

*Improved land* means the land that has been altered or improved from its natural state including but not limited to grading, paving, drainage, installation of structures, etc., that ultimately increased the value of, or altered the original integrity of such land.

*Infiltration rate* means the rate of water entry into the soil expressed as a depth of water per unit of time (inches per hour).

*Institutional Uses* means those facilities and services of a public, private, or quasi-public nature, including educational, medical, governmental, civic, and religious uses, such as schools, hospitals, courthouses, community centers, and churches.

*Irrigation system* means a permanent artificial watering system designed to transport and distribute water to plants.

*Landscaping* means and shall consist of any of the following combinations of grass or ground cover and shrubs, vines, hedges, trees or palms. Other materials such as rocks, pebbles, sand and decorative fence, but excluding concrete, asphalt paving or pebbles placed on an impervious surface, may be used to satisfy the landscaping requirements west of Gulf Boulevard.

*Law enforcement officer* means any person who is elected, appointed, or employed full-time by the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.

*Lawn grass* means all species normally grown as permanent lawns native to this area of the state. Grass may be sodded, plugged, sprigged or seeded.

*Level of service* means an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of a facility.

*Licensee* means any person whose application for any business enterprise has been granted and who owns, possesses, operates and controls the establishment.

*Loading space* means space located outside of any street right-of-way or easement and designed to accommodate the temporary parking of vehicles used for bulk pickups and deliveries.

*Lot* means land bounded by lines legally established for the purposes of property division. A lot shall have frontage on an improved public street or on an officially approved private street. For zoning purposes, a lot may consist of:

- (1) A combination of complete lots of record.
- (2) A combination of complete lots of record and portions of lots of record.
- (3) Portions of lots of record, provided that such lots or combinations of lots are of sufficient size to meet the requirements of this chapter for the district in which the lots are located.
- (4) Single lots of record.
- (5) Parcels of land defined by metes and bounds description where such parcels are in conformity with the land development regulations.

*Lot, corner* means a lot located at the intersection of two or more streets.

*Lot coverage* means the percentage of the lot area covered or occupied by the base of the buildings, including attached or unattached accessory buildings.

*Lot depth* means the distance measured in the mean direction of the side lines of the lot from the midpoint of the front lot line to the midpoint of the opposite mean rear line of the lot.

*Lot, interior* means a lot other than a corner lot, and abutting one street. Alleys shall not be considered as streets.

*Lot, through* means a lot other than a corner lot and with frontage on more than one street.

*Lot line* means a line that marks the boundary of a lot.

- (1) *Interior:* Any lot line that is not a street lot line; a lot line separating a lot from another lot.
- (2) *Street:* Any lot line separating a lot from a street right-of-way or general access easement. Where a lot line is located within such street right-of-way or easement, the right-of-way or easement boundary adjacent to the lot line shall be construed to be considered the street lot line.

*Lot of record* means a lot which is part of a subdivision, or a parcel of land described by metes and bounds, the plat or description of which has been recorded by deed with the office of the county clerk of the circuit court. In addition, such plat or description shall provide for a lot which meets the minimum size dimensions for lots in the

district for which it is located at the time of recording, or was recorded prior to the effective date of the land development regulations.

*Lot width* means the width of the lot at the minimum front building setback line.

*Low profile luminaire* means a light fixture set on a base which raises the source of the light no higher than 48 inches off the ground, and designed in such a way that light is directed downward from the hooded light source.

*Lowest floor* means the lowest habitable floor of a building which must be located at or above the 100-year flood elevation (base flood level).

*Mangrove* means any or all of the following species of aquatic woody plants:

Red Mangrove — *Rhizophora mangle*.

Black Mangrove — *Avicennia nitida* or *avicennia geminans*.

White Mangrove — *Laguncularia racemosa*.

Buttonwood or button-mangrove — *Conocarpus erecta*.

*Mangrove stand* means an association of mangrove trees which are noted for development within the intertidal zone of marine shorelines and which contain one or more of the following species:

Red Mangrove - *Rhizophora mangle*.

Black Mangrove - *Avicennia nitida*.

White Mangrove - *Laguncularia racemosa*.

Buttonwood - *Conocarpus erecta*.

*Manufactured home* means a building, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

*Marina* means a facility for storing, berthing, securing and launching of private pleasure craft which may also include the sale of fuel and incidental supplies and minor repairs.

*Mean high water* means the high water mark established by the U.S. Coast and Geodetic Survey in its latest coastal survey of the city.

*Mean sea level (MSL)* means the average height of the sea for all stages of the tide. This is used as a reference for establishing various elevations within the floodplain. For purposes of the land development regulations, the term is synonymous with the National Geodetic Vertical Datum (NGVD).

*Medical marijuana dispensary* means a facility that is operated by an organization or business holding all necessary licenses and permits from which marijuana, cannabis, cannabis-based products, or cannabis plants are delivered, purchased, possessed, or dispensed for medical purposes and operated in accordance with all local, federal and state laws. Physicians authorized by state law to order low-THC cannabis, as defined in Florida Statutes, for patients' medical use are not included in the definition of medical marijuana dispensary.

*Medical use* means the prescriptive use of any form of cannabis to treat a qualifying medical condition and the symptoms associated with that condition or to alleviate the side effects of a qualifying medical treatment.

*Mixed Use means a combination of uses on a single property.*

*Mobile home* means a structure, transportable in one or more sections, which structure is eight feet or more in width and over 32 feet in length, and which structure is built on an integral chassis and designed to be used as a



dwelling unit when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. This term shall include manufactured housing as defined by state law.

*Mobile home park* means a lot or parcel of land which contains mobile home sites and accessory open areas, recreation or community facilities for the residents.

*Mobile home site* means a space or plot of ground within a mobile home park, designated for the accommodation of not more than one mobile home.

*Motel* means a building in which lodging is available for rent to the public, which is open to transient guests, in which a majority of the rental units have direct entrances from the outside, and in which parking spaces are oriented to the rental units in such a manner as to facilitate direct access from units to the automobiles of the renters. Motels are classified as a form of a tourist dwelling facility.

*National Geodetic Vertical Datum (NGVD)* means a vertical control as corrected in 1929, used as a reference for establishing varying elevations within the floodplain.

*Mulch* means nonliving organic and synthetic materials customarily used in landscape design to retard erosion and retain moisture.

*Native* means trees and other vegetation that is indigenous to Central or North Florida.

*New construction* means any structure for which the "start of construction" commenced after January 1, 1975. The term also includes any subsequent improvements to such structure.

*New manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

*Nonconforming structure, lot, or use* means lawful land use, lots, or structures existing at the time of the passage of the land development regulations which does not conform to the provisions, requirements and regulations of the land development regulations.

*Non-medical marijuana sales* mean the purchase, sale, transfer or delivery of marijuana, cannabis, cannabis-based products or cannabis plants when such sale, transfer or delivery is not associated with any medical purpose or use, whether or not such purchase, sale, transfer or delivery is lawful under federal or state law.

*Nonresidential Use – Those uses as provided for under the respective categories, other than residential or residential equivalent use.*

*Occupiable room* means a room or enclosed space designed for human occupancy in which individuals congregate for amusement, educational or similar purposes, or in which occupants are engaged at labor; and which is equipped with means of egress, light, and ventilation facilities meeting the requirements of this Code.

*Office Use means an occupation or service providing primarily an administrative, professional or clerical service and not involving the sale of merchandise; examples of which include medical, legal, real estate, design, and financial services, and like uses. No "Office Use" shall include any Personal Service/Office Support Use, Retail Commercial Use, or Commercial/Business Service Use.*

*Off-street vehicular use area* means any area located outside of road right-of-way or easement and designed for parking, service, loading, circulation, storage or display of any type of vehicle, excluding parking garages.

*Open space* means the land and/or water areas between and around buildings and structures, including required recreation areas, stormwater detention areas, preservation areas, landscape islands and areas with permeable blocks. Retention areas are considered open space if they serve as a water feature and are used as a design element within the overall site. This shall not include parking areas.

*Open storage* means the storage outside of a building of material supplies, merchandise equipment, commercial vehicles and like items, but excluding junk.

*Outdoor lighting/outdoor lighting fixtures* means any light emitting device which causes any illumination beyond the exterior walls of any structure or building.

*Personal Service/Office Support Use* means an occupation or service attending primarily to one's personal care or apparel; examples of which include hair and beauty care, clothing repair or alteration, dry cleaning/laundry service (collection and distribution only), and like personal service uses; animal grooming; and office equipment or supplies, and like office support uses. Any assembly, sale of merchandise or conveyance of a product in support of a personal service or office support use shall be clearly secondary and incidental to the primary use characteristics of the Personal Service/Office Support Use.

*Pervious open space* means the area on a lot or parcel not covered by a building or impervious surface.

*Pervious paving materials* means a porous asphaltic or concrete surface and a high-void aggregate base which allows for rapid infiltration and temporary storage of rain on, or runoff delivered to, paved surfaces.

*Physical culture establishment* means any business establishment which offers or advertises, massage, body rubs or physical contact with specified anatomical areas, whether or not licensed. Business establishments which routinely provide medical services by state licensed practitioners, and electrolysis treatment by licensed operators of electrolysis equipment shall be excluded from the definition of adult physical culture establishments.

*Planning commission* means the city planning commission, the legally constituted membership of the planning commission of the city as defined in chapter 2, article II, division 2 of this Code.

*Pole lighting* means a lighting fixture set on a base or pole which raises the source of the light higher than 48 inches off the ground.

*Portable storage units (PSU)* are containers, which are intended to be used for the offsite storage of personal property, and are on the property solely for loading and unloading. Portable containers designated for depositing personal goods to be donated to a nonprofit charitable organization are not included in the definition of a PSU.

*Private performance* means the display or exposure of any specified anatomical area by an employee of an adult entertainment establishment to a person other than another employee while the person is in an area not accessible during such display to all other persons in the establishment, or while the person is in an area in which the person is totally or partially screened or partitioned during such display from the view of all persons outside the area.

*Private pleasure craft* means a vessel privately owned or leased primarily for aquatic recreational purposes which includes a transport trailer. Private pleasure craft shall not include commercial, official or scientific vessels.

*Protective barrier* means a physical structure not less than three feet in height, including access to a protected area, composed of wood or other suitable materials.

*Public Educational Facility* means elementary schools, special education facilities, alternative education facilities, middle schools, high schools, and area vocational-technical schools of the Pinellas County School District.

*Rain sensor equipment* means a low voltage electrical component placed in the circuitry of an automatic lawn irrigation system which is designed to turn off a sprinkler controller when it rains enough to meet the needs of the landscape.

*Recreation/Open Space Uses* means uses providing recreation facilities, sporting facilities, and open space, such as a park, public recreation facility, public beach/water access, and public or private golf course/clubhouse.

*Recreational vehicles* means a vehicular-type portable structure without a permanent foundation, which can be towed, hauled or driven, and which is primarily designed as temporary living accommodations for recreation,

camping and travel use, including but not limited to, travel trailers, motor homes, camping trailers, boat trailers, truck campers, recreational vans and self-propelled motor homes.

*Remove* or *removal* mean the actual removal or causing the effective removal through damaging, poisoning or other direct or indirect actions resulting in death to the tree.

*Residential designed manufactured homes* means manufactured homes as defined by state law which meet residential design standards contained in this Code.

*Residential Equivalent Use* means a residential-like accommodation other than a dwelling unit, including bed and breakfast, group home, congregate care, nursing home and comparable assisted living facilities. No such use shall be required or eligible to employ the residential equivalent standards for density/intensity for any household that qualifies as a dwelling unit. This use shall not include any type of use authorized by Chapter 419, Florida Statutes, Community Residential Homes, which is entitled to be treated as a dwelling unit.

*Residential Use* means a dwelling unit including, single-family, multifamily, and mobile home dwelling unit. This use shall include any type of use authorized by Chapter 419, Florida Statutes, Community Residential Homes, which is entitled to be treated as a residential dwelling unit.

*Restaurant* means a building or lot where meals are prepared and sold on the premises from within a completely enclosed building and where at least 20 seats are provided for customers inside the building or a building or lot where meals are prepared and sold on the premises from within a completely enclosed building and which has an unenclosed area or patio provided for the consumption of food on the premises which unenclosed area or patio seating is supplemental to the interior seating provided in this definition.

*Retail Commercial Use* means an occupation or service providing primarily for the sale of consumer goods, products, merchandise or services from within an enclosed building; examples of which include grocery, pharmacy, apparel, jewelry, electronics, sporting goods, specialty shops, building supplies, convenience goods, restaurant, indoor recreation/entertainment uses (such as billiard halls, bowling alleys, movie theaters, and video game parlors) and like uses. Any exterior storage or facilities in connection with such use shall be clearly secondary and incidental to the primary use characteristics of the Retail Commercial Use.

*Sand dunes* means accumulations of sand in ridges or mounds landward of the beach.

*Satellite dish antenna* means a device used to receive satellite broadcast signals, usually a parabolic dish-shaped antenna, one meter or less in diameter. This definition is meant to include but not limited to, what are commonly referred to as a satellite earth station, TAROs (television reception only), and satellite microwave antennas.

*School* means a premise or site upon which there is a nursery school, kindergarten, elementary school, junior high school, middle school, senior high school, or exceptional learning center. However, the term "school" does not include a premise or site upon which there is an institution devoted solely to vocational or professional education or training or an institution of higher education, including, but not limited to, a community college, junior college, four-year college or university.

*Seawall* means any artificial shoreline protection device approved by applicable regulatory agencies.

*Sediment* means mineral or organic matter deposited by water, air, or ice.

*Sedimentation facility* means any structure or area which is designed to hold runoff water until suspended sediments have settled.

*Service station* means an establishment where gasoline or diesel fuel is supplied and dispensed at retail and where, in addition, the following services only may be rendered and sales made:

- (1) Minor motor vehicle repair.
- (2) Sales of beverages, packaged food, tobacco products and similar convenience goods for customers, as accessory and incidental to principal uses.
- (3) Provision of road maps and other travel information.
- (4) Provision of restroom facilities.
- (5) Warranty maintenance and safety inspections.
- (6) Car washing facility, as accessory and incidental to the permitted use.

Uses permissible at a service station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in service stations.

*Setback* means the minimum required distance from the property lines to the outermost vertical component of a building wall (including stairs, balconies, elevators, shafts, etc., but not including eaves). On waterfront lots the outside edge of the seawall cap is considered to be the rear property line. However, when there is no seawall cap, the coastal construction setback line as determined by the Florida Department of Environmental Regulation and the Corps of Engineers shall be considered the rear property line.

*Shrubs* means a low, woody plant with several stems; a bush.

*Sign* means any device, fixture, placard or structure that uses any color, form, graphics, illumination, architectural style or design or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

#### SIGN TYPES

*Abandoned sign.* Any sign or sign structure which bears no sign or copy or displays information which incorrectly identifies the principal activity conducted on the site for a period of three consecutive months.

*Advertiser.* Any person who is the lessee or owner of the sign, an agent of such person or anyone who has beneficial use of the sign.

*Advertising.* Any form of public announcement intended to aid, directly or indirectly, in the sale, use, or promotion of a product, commodity, service, activity, or entertainment.

*A-Frame (sandwich board).* Any unsecured sign, double or single faced, which is portable and may be readily moved from place to place.

*Alter.* This term shall include but not be limited to the addition of a sign surface area, the changing or relocation of site source, or the relocation of an outdoor advertising display from one position to another. Alter includes any and all structural changes in the sign, excluding changeable copy.

*Animated sign.* Any sign which includes action, motion, the optical illusion of action or motion or color changes of all or any part of the sign facing, requiring electrical energy or set in motion by movement of the atmosphere or a sign made up of a series of sections that turn and stop to show two or more pictures or messages in the copy area. A sign having externally moving parts or messages or operating so as to give the viewer the illusion of moving parts or messages. This does not include signs whose informational content can be changed or altered on a fixed display. Animated signs shall not include electronic reader boards.

*Art work.* Drawings, pictures, symbols, paintings or sculpture which in no way identify a product or business and which are not displayed in conjunction with a commercial, for profit or a nonprofit enterprise.

*Banner.* Any fabric, plastic, foil or similar material that is mounted to a pole or building at one or more edges.

*Beach/bay signs.* Signs that are intended for viewing from the Gulf Beach, Gulf water or Boca Ciega Bay.

*Beacon.* A stationary or revolving light which flashes or projects, single color or multi-colored illumination.

*Signs on a bench sign/bus shelter.* A bench or bus shelter upon which a sign is drawn, painted, printed, or otherwise affixed.

*Billboards.* Any off-site sign composed of a continuous, and uninterrupted surface (including cut-outs) which measures 72 square feet or more in aggregate area.

*Building marker.* Any sign, tablet or plaque of commemorative or historical nature indicating the name of building and date or incidental information about its construction, where such sign is cut into a masonry surface or made of bronze or other permanent material.

*Building sign.* Any sign attached to any part of a building as contrasted to a freestanding sign.

*Bulletin board.* Sign of permanent character, but with removable letters, words, numerals or symbols.

*Business establishment.* Any individual person, nonprofit organization, partnership, corporation, other organization or legal entity holding a valid local business tax receipt and occupying distinct and separate physical space.

*Canopy sign.* Any sign that is part of an awning, canopy or other fabric, plastic or structural protective cover over a door entrance, window or outdoor service area. A marquee is not a canopy.

*Changeable copy sign.* A sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign in which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered not a changeable copy sign for purposes of the land development regulations.

*Construction sign.* Any sign erected and located upon a site where building construction or remodeling is in progress.

*Directional sign.* Any sign which exclusively contains information providing direction or location of any object, place, or area including but not limited to, those signs indicating avenues of ingress/egress.

*Double-faced sign.* A sign which has two display surfaces backed against the same background, one face of which is designed to be seen from one direction and the other from the opposite direction, every point on each face or in contact with the same background.

*Electronic reader board.* A type of sign whose alphabetic, pictographic, or symbolic informational content can be changed or altered on a fixed display screen composed of electrically illuminated segments.

*Erect.* To build, construct, attach, hang, place, suspend or affix, and shall also include the painting of signs.

*Flag.* Any fabric, banner or bunting containing distinct colors, patterns or designs.

*Freestanding sign.* Any sign supported by structures or supports that are placed on or anchored in the ground and that are not attached to any building or area.

*Government or public purpose sign.* A sign serving a public or civic purpose which is installed by, or under direction of, a governmental entity. The term does not include signs containing advertising except to the extent allowed by the land development regulations.

*Ground level.* The finish grade of a parcel of land exclusive of any filling, berming, mounding or excavating solely for the purpose of locating a sign. Ground level on marina docks or floating structures shall be the finish grade of the landward portion of the adjoining parcel.

*Ground sign.* An outdoor sign supported by uprights or braces in or upon the ground. The bottom coping shall be not more than three feet above ground or street level which space may be filled with platform decorative trim or light construction.

*Identification signs.* Any sign which indicates no more than the name, address, company logo and occupation or function of an establishment or premise.

*Illuminated sign.* Any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes, internally or externally, as part of the sign proper or may be illuminated from an exterior source designed or utilized primarily for such illumination.

*Integral roof sign.* Any sign erected or constructed as a part of a normal roof structure of any design, such that no part of the sign extends above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

*Maintenance.* The replacing, repairing or repainting of a portion of a sign structure, periodically changing changeable copy or renewing copy which has been made unusable by ordinary wear or weather or accident.

*Mansard.* A roof with two slopes on each of four sides. The mansard sign shall be attached as outlined in wall signs.

*Marquee sign.* Any sign attached to, or made a part of a marquee.

*Nonconforming sign.* Any sign that does not conform to the requirements of the land development regulations.

*Off-site sign.* Any sign that advertises goods, services, person, activity or condition not obtainable on the premises where the signs are located.

*On-premises sign.* Any sign which identifies a use, person, business or advertises a product for sale or service to be rendered on the zone lot where the sign is located.

*Pennant.* Any plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string usually in a series.

*Pole sign.* An outdoor sign supported by poles or uprights. The bottom coping shall be not less than eight feet above ground or street level.

*Porch.* An exterior appendage to a building forming a covered approach to a doorway.

*Portable sign* means any sign not permanently attached to the ground or other permanent structure, designed to be transported including, but not limited to, signs designed to be transported by means of wheels, balloons used as signs, umbrellas used for advertising, and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless such vehicle is used in the normal day-to-day operations of the business.

*Projecting signs.* Any sign affixed to a building or wall in such a manner that its leading edge stands more than six inches beyond the surface of the building or wall.

*Revolving sign.* Signs with visible moving, revolving, or rotating parts or visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic, or mechanical means, except for traditional barber poles.

*Sign face.* The part of the sign that is or can be used to identify, display, advertise, communicate information, or for visual representation which attracts or intends to attract the attention of the public for any purpose.

*Sign height.* The vertical distance measured from ground level at the base of the sign to the highest point of the sign.

*Sign structure.* Any structure which is designed specifically for the purpose of supporting the sign, has supported or is capable of supporting a sign. This definition shall include decorative covers, braces, wires, supports or components attached to or placed around the sign structure.

*Snipe sign.* Any sign which is attached in any way to a utility pole, tree, fence post or other similar object, located on public or private property. Any sign designed to provide warning to the public shall not be construed to be a snipe sign.

*Twirling sign.* Signs, commonly referred to as wind signs, consisting of one or more banners, flags, pennants, ribbons, spinners, streamers or captive balloons, or other objects or material fastened in such a manner as to move upon being subjected to pressure by wind.

*Vehicle sign.* A sign attached to or placed on a vehicle, including automobiles, trucks, boats, campers, and trailers that are parked on or otherwise utilizing a public right-of-way, public property or on private property so as to be intended to be viewed from a vehicular right-of-way for the basic purposes of providing advertisement of products or services or directing people to a business or activity. This definition is not to be construed to include those signs that identify a firm or its principal products on a vehicle or such advertising devices as may be attached to and within the normal unaltered lines of the vehicle of a licensed transit carrier, when and during that period of time such vehicle is regularly and customarily used to traverse the public highways during the normal course of business.

*Wall sign.* A sign which is painted on, fastened to, or erected against the wall of a building with its face in a parallel plane to the plane of the building facade or wall.

*Warning sign.* Signs located on a property posting such property for warning or prohibitions on parking, trespassing, hunting, fishing, swimming, or other activity, provided such signs do not carry any commercial message or identification.

*Window sign.* A sign located on a window or within a building or other enclosed structure, which is visible from the exterior through a window or other opening.

*Site specific plant* means a selection of plant material that is particularly well suited to withstand the physical growing conditions that are normal for that location.

*Soil texture* means the classification of soil based on the percentage of sand, silt, and clay in the soil.

*Special Area Plan* means a plan adopted by a local government under the provisions of Section 4.2.7.6 of the Rules Concerning the Administration of the Countywide Future Land Use Plan, as amended through July 21, 2014, which establishes and governs the density, intensity, use, and other standards for a defined area within the local government's jurisdiction.

*Special adult cabarets* means any bar, dance hall, restaurant or other place of business which features dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers, or waiters or waitresses that engage in "specified sexual activities" or display "specified anatomical area", or any such business establishment, the advertising for, or a sign or signs identifying which, use the words, "adult," "topless," "nude," "bottomless," or other words of similar import.

*Special exception use* means a use which may be allowed within a zoning district subject to the provisions of the land development regulations and in accordance with the procedures as set forth in the land development regulations.

*Special flood hazard area* means all land located within the floodplain of a community subject to a one percent or greater chance of flooding in any given year.

*Specified anatomical areas* means:

- (1) Less than completely and opaquely covered:
  - a. Human genitals or pubic region;
  - b. Cleavage nates of the human buttocks;

- c. That portion of the human female breast below the point immediately above the top of the areola; this definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided the areola is not so exposed.

- (2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

*Specified criminal act means:*

- (1) An offense under Florida Statutes ch. 794, (sexual battery);
- (2) An offense under Florida Statutes ch. 796, (prostitution);
- (3) An offense under Florida Statutes ch. 800, (lewdness; indecent exposure);
- (4) An offense under Florida Statutes ch.826, (bigamy; incest); or
- (5) An offense under Florida Statutes ch. 847, (obscene literature; profanity); or
- (6) An offense under an analogous statute of a state other than this state, or under an analogous ordinance of another county or municipality.

*Specified sexual activities means:*

- (1) Human genitals in a state of sexual stimulation or arousal or tumescence;
- (2) Acts of anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellation, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sapphism, sexual intercourse, sodomy, urolagnia or zoerasty; and any other acts of human masturbation, sexual intercourse or sodomy, whether actual or simulated;
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast; or
- (4) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (3) of this definition.

*Start of construction*, for new construction or substantial improvement it means the date the building permit was issued, provided the actual commencement of construction, repair, reconstruction or improvement is within 180 days of the permit date. An extension, upon an approved written application, may be granted for 90 days.

*Stormwater retention* means that portion of surface water drainage system used for the storage or treatment of stormwater runoff and design reviewed and constructed in accordance with the land development regulations.

*Story* means the portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. A complete horizontal section of building having one continuous or practically continuous floor. This term does not include the floor of a garage used solely for the parking of vehicles and entry to habitable living space.

*Straddle dance* (also known as lap dance, or face dance) means the use by an employee, whether clothed or not, of any part of his/her body to massage, rub, stroke, knead, caress or fondle the genital or pubic area of a patron, while on the premises, or the placing of the genital or pubic area of an employee in contact with the face of a patron, while on the premises.

*Street* means all property accepted or intended by the city for public street purposes or officially approved for private street purposes.

*Storage/Warehouse/Distribution - Light* means a use devoted primarily to the storage or distribution of goods, materials or equipment. Such use shall be located within an enclosed building and any exterior storage or



distribution area shall be incidental to and not exceed twenty (20) percent of the area of the building to which it is accessory.

*Structural alterations* means any change, except the repair or replacement in supporting members of a building, such as bearing walls, columns, beams or girders, or the rearrangement of any interior partitions.

*Structure* means anything constructed or erected, the use of which requires permanent location on the land or attachment to something having permanent location on the land. Structures include buildings, walls, screened enclosures, fences, advertising signs, billboards, swimming pools and exterior mechanical equipment such as air-conditioning compressors.

- (1) *Major structure*: Houses, mobile homes, apartment buildings, condominiums, motels, hotels, restaurants, towers, other types of residential, commercial, or public buildings, and other construction.
- (2) *Minor structure*: Pile-supported, elevated dune and beach walkover structures; beach access ramps and walkways; stairways; pile-supported, elevated viewing platforms, gazebos, and boardwalks; lifeguard support stands; public and private bathhouses; sidewalks, driveways, parking areas, shuffleboard courts, tennis courts, handball courts, racquetball courts, and other uncovered paved areas; earth retaining walls; and sand fences, privacy fences, ornamental walls, ornamental garden structures, aviaries, and other ornamental construction. It shall be a characteristic of minor structures that they are considered to be expendable under design wind, wave, and storm forces.
- (3) *Nonhabitable major structure*: Swimming pools; parking garages; pipelines; piers; canals, lakes, ditches, drainage structures, and other water retention structures; water and sewage treatment plants; electrical power plants, and all related structures or facilities, transmission lines, distribution lines, transformer pads, vaults, and substations; roads, bridges, streets and highways; and underground storage tanks.
- (4) *Coastal or shore protection structure*: Shore-hardening structures, such as seawalls, bulkheads, revetments, rubble mound structures, groins, breakwaters, and aggregates of materials other than beach sand used for shoreline protection; beach and dune restoration; and other structures which are intended to prevent erosion or protect other structures from wave and hydrodynamic forces.

*Submerged land* means the land area situated below the mean high water line of a standing body of water, including ocean, gulf, bay, estuary, lake, pond, river or stream. For the purpose of this definition drainage retention/detention areas to be created as a function of development and wetlands shall not be considered submerged land.

*Substantial damage* means the damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*Substantial improvement* means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the fair market value of the structure, before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either any project for improvement of the structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official, and which are the minimum necessary to assure living conditions, or any alterations of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

*Substantially improved existing manufactured home parks or subdivisions* means where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

*Subsurface drainage* means any approved method used as a vehicle to convey groundwater.

*Swale* means a low place in a tract of land.

*Temporary lodging unit* means an individual room, rooms or suite within a temporary lodging use designed to be occupied as a single unit for temporary occupancy.

*Temporary lodging use* means a facility containing one or more temporary lodging units, the occupancy of which occurs, or is offered or advertised as being available, for a term of less than one month, more than three times in any consecutive 12-month period. In determining whether a property is used as a temporary lodging use, such determination shall be made without regard to the form of ownership of the property or unit, or whether the occupant has a direct or indirect ownership interest in the property or unit; and without regard to whether the right of occupancy arises from a rental agreement, other agreement, or the payment of consideration. This term includes tourist condo-hotel and motel/hotel as elsewhere defined in this Code.

*Transportation/Utility Uses* means uses including transportation facilities and utilities infrastructure, such as an airport, seaport, marina, electric power generation plant, electric power substation, and telephone switching station.

*Trees* means self-supporting, woody plants, which normally grow to a minimum height of 15 feet, have trunks which can be maintained with over five feet of clear wood and have an average mature crown spread of at least 15 feet.

*Turf* means continuous plant coverage consisting of grass species suited to growth in the county.

*Turtle nesting season* means the period from May 1 through October 31 of each year.

*Unimproved land* means the land that has not been altered or improved from its natural state.

*Unity of title* refers to a document recorded in the office of the clerk of the circuit court of Pinellas County stipulating that a lot, lots, or parcel of land shall be held under single ownership, shall not be eligible for further subdivision and shall not be transferred, conveyed, sold or divided in any unit other than in its entirety.

*Use* means the specific activity or function for which land, a building or a structure is designated, arranged, occupied or maintained.

- (1) Accessory use on the same lot or in the same structure with, and of a nature and extent customarily incidental and subordinate to the principal use of the lot or structure.
- (2) The primary use and chief purpose of a lot or structure.

*User* means any independent entity which is marketing a service to retail customers in the city. For the purposes of determining the number of users co-locating, no two users shall have any common ownership ties.

*Vacation Rental Use* means a residential dwelling unit used as a temporary lodging use, as defined by Section 509.242(1)(c), Florida Statutes, subject to regulation by the local government with Jurisdiction.

*Variance* means a modification of some particular requirement of the zoning ordinance which may be granted by the special magistrate in order to alleviate a unique and unnecessary hardship which may result from literal enforcement of the provisions of the land development regulations with respect to the parcel involved.

*Vegetation, native* means any plant species with a geographic distribution indigenous to all or part, of the state.

*Water or community waters* means any and all water on or beneath the surface of the ground or in the atmosphere. It includes the water in any watercourse, waterbody or drainage system. It also includes diffused surface water and water percolating, standing or flowing beneath the surface of the ground, as well as coastal waters.

*Water surface elevation* means the projected heights in relation to mean sea level reached by floods of various magnitudes and frequencies in the floodplains of coastal or riverline areas. These may be expressed by curvilinear lines on FHBMs or FIRMs and reflected as a border delineating the special flood hazard areas.

*Waterbody* means any natural or artificial pond, lake, reservoir or other area which ordinarily or intermittently contains water and which has a discernible shoreline.

*Watercourse* means any natural or artificial stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, street, roadway, swale or wash in which water flows in a definite channel, bed or banks.

*Watershed area* means an area allowing or generating storm or irrigation water runoff.

*Wetland* means land that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

*Wireless communication antenna* means any exterior apparatus designed for telephonic, radio or television communications through the sending or receiving of electromagnetic waves.

*Wireless communication antenna array* means a configuration of antennas necessary for broadcast and reception of radio frequency from a particular site.

*Wireless communication tower* means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes, but is not limited to radio and television transmission towers, microwave towers, common carrier towers, and cellular telephone towers.

*Working Waterfront* means a property that provides access for water-dependent commercial activities, or provides public access to the water. Working waterfronts require direct access to or a location on, over, or adjacent to a body of water. The term includes water-dependent facilities that are open to the public and offer public access by vessels to a body of water or that are support facilities for recreational, commercial, research, or governmental vessels. These facilities include docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over water.

*Xeriscape* means a landscaping method that maximizes the conservation of water by the use of site-appropriate plants and an efficient watering system. The principles of xeriscape include planning and design, appropriate choice of plants, soil analysis which may include the use of solid waste compost, practical use of turf, efficient irrigation, appropriate use of mulches, and proper maintenance.

*Yard* means an open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except by trees or shrubbery or as otherwise provided in the land development regulations.

*Yard, front* means an open unoccupied space across the full width of the lot, extending from the front building line, including open porches, to the front line of the lot.

*Yard, side* means an open unoccupied space on the same lot with a building, between the building line and the side line of the lot extending through from the front building line to the rear yard, or to the rear line of the lot where no rear yard is required.

*Yard, rear* means an open unoccupied space extending across the full width of the lot and measured between the rear line of the lot and the rear building line of the main building.

*Yard, waterfront* means an open unoccupied space on waterfront property with depth measured perpendicular to the property line or waterside lot line for nonseawalled lots. Waterfront property is hereby defined as property abutting open water, bays, bayous and manmade canals.



LAND USE CONSISTENCY CLARIFICATION OF INTENSITY/DENSITY TO THE CITY OF MADEIRA BEACH  
COMPREHENSIVE PLAN & LAND DEVELOPMENT REGULATIONS PER THE COUNTYWIDE COMPREHENSIVE PLAN



**Why the need for clarification:** The City of Madeira Beach Comprehensive Plan (comp plan) was amended in 2007 (Ordinance 1125) to mirror the “Alternative Temporary Lodging Use Standards” (ATLUS) provision of the Countywide Plan, however the provision was incorrectly applied to our entire Commercial General (CG), Retail/Office/Residential (ROR), and Resort Facilities Medium (RFM) categories. Subsequently, in 2008, our Land Development Regulations (LDRs) were similarly amended (Ordinance 1138) to include the “Alternative Temporary Lodging Use Standards”. The City of Madeira Beach is required to be consistent with the Countywide Plan and is currently not because of the way the ATLUS were adopted locally. These proposed amendments clarify how to use these already adopted standards as required with the Countywide Plan and to clean up definitions to be consistent with the county (Forward Pinellas).

**Definitions to know as you review this information:**

- **Floor area ratio (FAR)** means a ratio of square footage of gross floor area divided by the square footage of land area, creating a ratio for building area to property area. As related to FAR, gross floor area can generally be viewed as the square footage (SF) of conditioned space including of a portion of the area dedicated to building access. This is the measurement of intensity.
- **Units Per Acre (UPA)** means a ratio of residential or temporary lodging units per acre of land. This is the measurement of density. This number is always rounded down.
- **Temporary lodging** use means a facility containing one or more temporary lodging units, the occupancy of which occurs, or is offered or advertised as being available, for a term of less than one month, more than three times in any consecutive 12-month period. This term includes tourist condo-hotel and motel/hotel as elsewhere defined in the City of Madeira Beach Code.
- **“By Right”** means that development of the property may proceed under the established local codes with no need for a variance, special exception or development agreement.
- **LDRs** refer to our Land Development Regulations found in the Madeira Beach Code of Ordinances. This includes the zoning (intensity, density, setbacks, height, uses), landscape requirements, drainage requirements, accessory structures etc.
- **Comprehensive Plan (comp plan)** sets forth a vision for the city’s future, providing both foundations and limitation for all land use regulations (includes uses, intensity and density), the city’s plan is designed to be consistent with the Countywide Plan and must adhere to Florida Statutes.
- **Development Agreement (DA)** is a contract between a local jurisdiction and a property owner outlining the obligations of both parties, specifying the standards by which the property can be developed. While the DA can adjust LDR requirements it must still be compliant with the comprehensive plan.

For ease of review some of the above definitions have been truncated so for more detailed Definition information please use the below link to the City of Madeira Beach Code of ordinances [https://library.municode.com/fl/madeira\\_beach/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH82GEPR\\_S82-2DE](https://library.municode.com/fl/madeira_beach/codes/code_of_ordinances?nodeId=PTIICOOR_CH82GEPR_S82-2DE) , this link can also be found on the City of Madeira Beach website.

**What is being addressed:** When the above referenced ordinances were incorporated into the Comp Plan & LDRs, our comp plan did not provide clear differentiation between what would be allowed “by right” versus what would require a development agreement (DA).

**The Impact:** With these clarifications, the city comprehensive plan will become consistent with the Countywide Plan as intended when this process began in 2007. Please see the tables provided, noting the “by right” allowances in our code will be reduced and a DA will be required if a developer decides to use the “Alternative Temporary Lodging Use Standards”. The clarifications will provide better, more relevant definitions and provide clarity on how the FAR and UPA are calculated and imposed on developments.

**What are the “Alternative Temporary Lodging Use Standards” and why have them:** The “Alternative Temporary Lodging Use Standards” provide guidelines and limitations by which a qualifying property, based on map category, can be developed, details in the attached tables.

NOTES:

**TABLES - LAND USE CONSISTENCY CLARIFICATION FOR INTENSITY/DENSITY**

**PINELLAS COUNTY COMPREHENSIVE PLAN COMPARED TO THE CITY OF MADEIRA BEACH FOR EQUIVALANT CATERGORIES - CURRENT STANDARDS**

PINELLAS COUNTYWIDE COMPREHENSIVE PLAN							CITY OF MADEIRA BEACH COMPREHENSIVE PLAN			
	"BY RIGHT" ALLOWANCES			"ALTERNATIVE TEMPORARY LODGING STDS." W/ DA ONLY				"BY RIGHT" ALLOWANCES		
MAP CATEGORY	FAR	RESIDENTIAL UPA	TEMP LODGING UPA	FAR	RESIDENTIAL UPA	TEMP LODGING	MAP CATEGORY	FAR	RESIDENTIAL UPA	TEMP LODGING UPA
Retail & Services	0.55	24	40	1.2	NA	60	Commercial General (CG)	1.2	15	60
							Residential/Office/Retail (ROR)	1	18	45
Resort	1.2	30	50	2.2 - 4.0*	NA	75 - 125*	Resort Facilities Medium (RFM)	1.0 - 2.0*	18	45 - 75*

**CITY OF MADEIRA BEACH COMPREHENSIVE PLAN - SIDE BY SIDE COMPARISON**

CURRENT COMPREHENSIVE PLAN ALLOWANCES				COMPREHENSIVE PLAN ALLOWANCES AFTER UPDATE					
	"BY RIGHT" ALLOWANCES			AFTER UPDATE "BY RIGHT" ALLOWANCES			"ALT. TEMP. LODGING STDS." W/ DA ONLY		
MAP CATEGORY	FAR	RESIDENTIAL UPA	TEMP LODGING UPA	FAR (COMMERCIAL)	RESIDENTIAL UPA	TEMP LODGING	FAR	RESIDENTIAL UPA	TEMP LODGING
Commercial General (CG)	1.2	15	60	0.55	15	40	1.2	NA	60
Residential/Office/Retail (ROR)	1.0	18	45	0.55	18	40	1.2	NA	60
Resort Facilities Medium (RFM)	1.0 - 2.0*	18	45 - 75*	0.55	18	50	2.0	NA	60

**THE CITY OF MADEIRA BEACH LAND DEVELOPMENT REGULATIONS - SIDE BY SIDE COMPARISON**

ZONING MAP CATEGORY	COMP PLAN MAP CATEGORY	FAR		RESIDENTIAL UPA		TEMP LODGING UPA		ALT TEMP LODGING AFTER UPDATE - W/ DA ONLY***	
		CURRENTLY ALLOWED	ALLOWED AFTER UPDATE (COMMERCIAL)	CURRENTLY ALLOWED	ALLOWED AFTER UPDATE	CURRENTLY ALLOWED	ALLOWED AFTER UPDATE	FAR	UPA
C-1 (Tourist Commercial)	CG	1.2	0.55	15	15	60	40	1.2	60
C-2 (John's Pass Marine Commercial)	CG	0.55	0.55	Not Permitted	Not Permitted	Not Permitted	Not Permitted	NA	NA
C-3 (Retail Commercial)	CG & ROR	1.0	0.55	15/18**	15/18**	45/60**	40	1.2	60
C-4 (Marine commercial)	CG	0.55/1.2**	0.55	15	15	60	40	1.2	60
R-3 (Med. Density Multifamily Res.)	RFM	1.0 - 2.0*	0.55	18	18	45 - 75*	50	2.0	60

\* Depends on size of the lot

\*\* Depends on future land use category in the comprehensive plan & the proposed use

\*\*\*The above FAR & UPA is subject to change based on the Planning Commission and the Board of Commissioners





February 10, 2023

Andrew Morris  
Planner/GIS Technician  
City of Madeira Beach  
300 Municipal Drive  
Madeira Beach, FL 33708

**RE: Review of proposed amendments to Comprehensive Plan (Ord. No. 2023-11)**

Dear Andrew:

Thank you for forwarding the proposed amendments to the City's Comprehensive Plan. Staff have reviewed the proposed amendments and find that the City is required to address several inconsistencies outlined in the attached review form. Staff have also outlined recommended amendments which would provide clarity in consistency with the Countywide Rules.

Staff recommends the City of Madeira Beach thoroughly review the attached narrative for required amendments which will address inconsistencies with the City's Comprehensive Plan and Countywide Rules, particularly with the following sections of the Future Land Use Element regarding the density/intensity standards for various future land use categories: FLU Element, Policy 4.1.1.2 (Residential/Office/Retail, Resort Facilities Medium and Resort Facilities High categories) and FLU Element, Policy 4.1.1.3 (Commercial General category).

Forward Pinellas staff are happy to provide clarifications and continue assisting the City of Madeira Beach in matters of consistency with the Countywide Rules.

If you have any questions, please feel free to email [nrahman@forwardpinellas.org](mailto:nrahman@forwardpinellas.org).

Sincerely,

*Nousheen Rahman*

Nousheen Rahman  
Planner

## Countywide Rules Determination of Consistency for Madeira Beach Comprehensive Plan Amendments (Ord. No. 2023-11) 2/10/2023

### 3.1 Definitions

- Consider amending definition of *Ancillary non-residential use* to be consistent with Countywide Rules: “Off-street parking and trash receptable areas for adjacent, contiguous, nonresidential uses”
- Amend definition of *Floor Area Ratio (FAR)* from “relationship between the gross floor area on a site and gross land area” to “relationship between the gross floor area on a site and **net** land area”
- Amend definition of *Floor Area Ratio (FAR)* from “dividing by the gross land area” to “dividing by the **net** land area”
- Amend definition of *Impervious Surface Ratio (ISR)* from “relationship between the total impervious surface area on a site and the gross land area” to “relationship between the total impervious surface area on a site and the **net** land area.”
- Amend definition of *Impervious Surface Ratio (ISR)* from “the square footage of the gross land area” to “the square footage of the **net** land area.”

### FLU Element, Policy 4.1.1.1

- Staff recommends clearly adding allowable uses for each residential category, consistent with the Countywide Rules
- The definitions for each Residential category outlines allowable density “excluding residential equivalent uses and institutional uses.” Staff recommends clearly outlining what the maximum allowable densities for residential equivalent uses and institutional uses.

### FLU Element, Policy 4.1.1.2

#### *Residential/Office/Retail category:*

- The temporary lodging density standards for the R/O/R are **inconsistent** with the Countywide Rules. They are outlined as up to 45 UPA and should be **no more than 40 UPA as outlined by the corresponding Countywide Rules category Retail & Services** unless the Alternative Temporary Lodging Standards of Countywide Rules Section 5.2.1.3 are adopted for this category. The City is required to address this inconsistency.
- The FAR for the R/O/R category is **inconsistent** with the Countywide Rules. The FAR is outlined as 1.0 and should be **no more than 0.55 FAR as outlined by the corresponding Countywide Rules category Retail & Services**. Adopting the Alternative Temporary Standards would bring this standard into consistency for **temporary lodging uses only**. The City is required to address this inconsistency.
- Staff recommends clearly outlining what “other” uses are as referenced in the R/O/R category.

*Resort Facilities Medium and High categories:*

- The temporary lodging standards for the Resort Facilities Medium and Resort Facilities High categories are **partly consistent** with the Alternative Temporary Lodging Standards.
- The density and intensity standards, and the requirement for a development agreement, are consistent, but not all of the required provisions of Countywide Rules Section 5.2.1.3 have been addressed.

FLU Element, Policy 4.1.1.3

- The temporary lodging density standards for the CG category are **inconsistent** with the Countywide Rules. They are outlined as up to 60 UPA and should be **no more than 40 UPA as outlined by the corresponding Countywide Rules category Retail & Services unless the Alternative Temporary Lodging Standards are adopted for this category.** The City is required to address this inconsistency.
- The intensity standards for the CG category are **inconsistent** with the Countywide Rules. They are outlined as 1.2 FAR and should be **no more than 0.55 FAR as outlined by the corresponding Countywide Rules category Retail & Services.** Adopting the Alternative Temporary Standards would bring this standard into consistency for **temporary lodging uses only.** The City is required to address this inconsistency.
- Staff recommends clearly outlining allowable uses for the CG category.
- Staff recommends clearly outlining allowable uses for the R/OS category
- Staff recommends clearly outlining allowable uses for the Preservation category
- Staff recommends clearly outlining allowable uses for the Institutional category
- Staff recommends clearly outlining allowable uses for the T/U category

Objective 4.2.1

- Amend references from “Countywide Future Land Use Plan” to “Countywide Plan for Pinellas County” or “Pinellas County Countywide Plan”

General Comments for the Future Land Use Element

- The Future Land Use Element and some of its land use categories are inconsistent with the standards provided in the Countywide Rules. These inconsistencies are required to be addressed.
- Staff recommends including a table and/or matrix within the Future Land Use Element outlining each land use category, associated allowable uses, developmental standards and the corresponding Countywide Plan Map category for clarity. This would also help the city in identifying and addressing inconsistencies.

Coastal Management and Conservation Element General Comments

- This element should include provisions for amendments in the Coastal High Hazard Area, either verbatim or by reference (though we recommend verbatim), consistent with Section 4.2.7 of the Countywide Rules

Remaining Elements



- The remaining amendments are not subject to review for consistency with the Countywide Rules.

# The Countywide Rules

Amended through August 30, 2021



**FORWARD  
PINELLAS**  
Integrating Land Use & Transportation

### **2.3.3.7 Category/Symbol – Resort (R).**

**Purpose** – This plan category is intended to depict areas developed, or appropriate to be developed, in high-density residential and resort use; and to recognize such areas as well-suited for the combination of residential and temporary lodging use consistent with their location, surrounding uses, transportation facilities, and natural resources of such areas.

**Use Characteristics** - Those uses appropriate to and consistent with this category include:

- Permitted Uses Not Subject to Acreage Thresholds – Residential; Residential Equivalent; Vacation Rental pursuant to the provisions of Section 509.242(1)(c), Florida Statutes; Temporary Lodging; Recreational Vehicle Parks; Office; Personal Service/Office Support; Retail Commercial; Convention Center; Commercial/Business Service; Commercial Recreation; Recreation/Open Space; Community Garden; Agricultural-Light.
- Permitted Uses Subject to Acreage Thresholds – Any contiguous use or combination of uses subject to the same acreage threshold specified below, alone or when added together, exceeding the acreage maximum shall require a Countywide Plan Map amendment to another land use category that permits the use(s) where the acreage maximum does not apply:
  - Uses Subject to Three Acre Maximum – Ancillary Nonresidential; Transportation/Utility.
  - Uses Subject to Five Acre Maximum – Institutional
- Locational Characteristics – This category is generally appropriate to locations characterized by, and appropriate for, a highly intensive mix of residential and temporary lodging uses; in locations where unique recreational assets warrant the combination of permanent and temporary accommodations in proximity to and served by the arterial and highway network, as well as Multimodal Corridors and Future Transit Corridors depicted on the Land Use Strategy Map.
- Scenic/Noncommercial Corridor (SNCC) – Amendments to Resort in SNCCs are governed by Section 6.5.4.1.4, which restricts the category to the enhancement connector SNCC classification.
- Traffic Generation Characteristics – The standard for the purpose of calculating typical traffic impacts relative to an amendment for this category shall be 279 trips per day per acre.

**Density/Intensity Standards** – Shall include the following:

- Residential and Vacation Rental Use – Shall not exceed 30 units per acre (UPA).
- Residential Equivalent Use – Shall not exceed an equivalent of 3.0 beds per permitted dwelling unit at 30 UPA.
- Recreational Vehicle Use – Shall not exceed 30 UPA.

- Temporary Lodging Use – Shall not exceed: 1) 50 UPA; or 2) in the alternative, upon adoption of provisions for compliance with Section 5.2.1.3, the density and intensity standards set forth in Table 6 therein; or 3) in the alternative, the nonresidential intensity standards may be used.
- Nonresidential Use – Shall not exceed a floor area ratio (FAR) of 1.2, nor an impervious surface ratio (ISR) of .95.
- Mixed-Use – Shall not exceed, in combination, the respective number of UPA and FAR permitted, when allocated in their respective proportion to the net land area of the property. In the alternative, the mixed-use bonus provisions of Section 4.2.3.6 may be used.

### **2.3.3.8 Category/Symbol – Retail & Services (R&S).**

**Purpose** – This plan category is intended to depict areas developed with, or appropriate to be developed with, a mix of businesses that provide for the shopping and personal service needs of the community or region, provide for employment opportunities and accommodate target employment uses, and may include residential uses as part of the mix of uses.

**Use Characteristics** - Those uses appropriate to and consistent with this category include:

- Permitted Uses Not Subject to Acreage Thresholds – Office; Personal Service/Office Support; Retail Commercial; Commercial/Business Service; Commercial Recreation, Residential; Residential Equivalent; Vacation Rental pursuant to the provisions of Section 509.242(1)(c), Florida Statutes; Recreational Vehicle Park; Temporary Lodging; Research/Development- Light; Storage/Warehouse/Distribution-Light; Manufacturing-Light; Recreation/Open Space; Community Garden; Agricultural-Light.
- Permitted Uses Subject to Acreage Thresholds – Any contiguous use or combination of uses subject to the same acreage threshold specified below, alone or when added together, exceeding the acreage maximum shall require a Countywide Plan Map amendment to another land use category that permits the use(s) where the acreage maximum does not apply:
  - Uses Subject to Three Acre Maximum – Manufacturing-Medium.
  - Uses Subject to Five Acre Maximum – Institutional; Transportation/Utility; Agricultural; Ancillary Nonresidential.
- Locational Characteristics – This category is generally appropriate to locations in and adjacent to activity centers where surrounding land uses support and are compatible with intensive commercial use; in areas in proximity to and with access to major transportation facilities, including transit; and on Multimodal Corridors and Future Transit Corridors depicted on the Land Use Strategy Map, where its proximity to transit service supports the type and density/intensity of the proposed use characteristics.
- Scenic/Noncommercial Corridor (SNCC) – Amendments to Retail & Services in SNCCs are governed by Section 6.5.4.1.4, which restricts the category and its permitted uses to certain SNCC classifications.
- Traffic Generation Characteristics – The standard for the purpose of calculating typical traffic impacts relative to an amendment for this category shall be 433 trips per day per acre; which impacts may take into account the proximity and availability of transit service.

**Density/Intensity Standards** – Shall include the following:

- Residential and Vacation Rental Use – Shall not exceed 24 units per acre (UPA).
- Residential Equivalent Use – Shall not exceed an equivalent of 3.0 beds per permitted dwelling unit at 24 UPA.

- Recreational Vehicle Use – Shall not exceed 24 UPA.
- Temporary Lodging Use – Shall not exceed: 1) 40 UPA; or 2) in the alternative, upon adoption of provisions for compliance with Section 5.2.1.3, the density and intensity standards set forth in Table 6 therein; or 3) in the alternative, the nonresidential intensity standards may be used.
- Nonresidential Use – Shall not exceed a floor area ratio (FAR) of .55, nor an impervious surface ratio (ISR) of .90.
- Mixed-Use – Shall not exceed, in combination, the respective number of UPA and FAR permitted, when allocated in their respective proportion to the net land area of the property. In the alternative, the mixed-use bonus provisions of Section 4.2.3.6 may be used.
- When located in a Target Employment Center – Shall not exceed an FAR of 1.1 for Manufacturing, Office, and Research/Development uses.

**Table 5**  
**Summary Category Matrix**

CATEGORY/SYMBOL	UPA MAX.	FAR MAX.	ISR MAX.	TRAFFIC GENERATION RATE (ADT/ACRE)
Residential Rural (RR)	0.5	.30	.60	5
Residential Very Low (RVL)	1.0	.30	.60	8
Residential Low Medium (RLM)	10	.50	.75	67
Residential Medium (RM)	15.0	.50	.75	96
Residential High (RH)	30.0	.60	.85	162
Office (O)	15.0	.50	.75	89
		1.0 (specified uses in TEC)		101 (in TEC)
Resort (R)	30.0	1.2	.95	279
Retail & Services (R&S)	24.0	.55	.90	433
		1.1 (specified uses in TEC)		
Employment (E)	N/A	.65	.85	206
		1.3 (specified uses in TEC)		236 (in TEC)
Industrial (I)	N/A	.75	.95	216
		1.5 (specified uses in TEC)		246 (in TEC)
Public/Semi-Public (P/SP)	12.5	.65 (institutional) .70 (trans./utility) 1.0 (hospital)	.85 (institutional) .90 (trans./utility)	192 (institutional) 114 (educational) 173 (medical) 104 (religious/civic) 835 (municipal/public) 67 (other institutional) 15 (transportation) 16 (municipal/public utility) 79 (other transportation/utility)
Recreation/Open Space (R/OS)	N/A	.25	.60	3
Preservation (P)	N/A	.10 (preservation) .25 (water supply)	.20 (preservation) .50 (water supply)	0.3
Target Employment Center (TEC)	See Otherwise Applicable Category and Multiplier Factor			
Activity Center (AC)				
Urban Center	200	8.0	N/A	724
Major Center	150	5.0	N/A	542
Community Center	90	3.0	N/A	325
Neighborhood Center	60	2.0	N/A	216
Multimodal Corridor (MMC)				
Premium Transit Corridor	60	4.0	N/A	600
Primary Corridor	55	3.5	N/A	533
Secondary Corridor	50	3.0	N/A	467
Supporting Corridor	45	2.5	N/A	400
Planned Redevelopment District (PRD)	45	2.0	N/A	364
Scenic/Noncommercial Corridor (SNCC)	See Otherwise Applicable Category			

Key to abbreviations:

UPA: dwelling units per acre  
FAR: floor area ratio

ISR: impervious surface ratio  
ADT: average daily trips

TEC: Target Employment Center

**ARTICLE 3**

**LOCAL GOVERNMENT CONSISTENCY PROVISIONS**



**DIV. 3.1 AUTHORITY.**

The specific authority for consistency is contained in Sections 6(7)(b), 10(1)(e), 10(2)(a), and 10(2)(b) of Chapter 2012-245, Laws of Florida, as amended, as it relates to the Countywide Plan, including the Countywide Plan Map and the Countywide Rules. The consistency requirements as set forth in these Countywide Rules pertain to the Countywide Plan Map and were derived from Chapter 2012-245, Laws of Florida, as amended.

Chapter 2012-245, Laws of Florida, as amended, clearly distinguishes the Countywide Plan Map and the Countywide Rules from the Countywide Plan in its application of the consistency requirement. Sections 10(2)(b) and 6(7)(b), Chapter 2012-245, Laws of Florida, as amended, define consistency specifically with regard to how the local government future land use elements and plans and local land development regulations, and amendments thereto, relate to the Countywide Plan Map and the Countywide Rules. Section 6(7)(b), Chapter 2012-245, Laws of Florida, as amended, provides clear direction as to the minimum criteria to be used by the PPC and CPA to evaluate the consistency of local future land use plans and local development regulations, and amendments thereto, with the Countywide Plan Map and these Countywide Rules.

**DIV. 3.2 CONSISTENCY REQUIREMENT.**

Amendments to local future land use plans and land development regulations shall be consistent with the Countywide Plan Map and the criteria and standards set forth in these Countywide Rules.

Consistency, as used in the determination of whether or not a local government future land use plan or land development regulation is consistent with the Countywide Plan Map and these Countywide Rules, shall be construed to mean that the compared item is in accordance with, and is within the parameters specified, for the item by the criterion to which it is compared. If any one or combination of item(s), required to be compared, deviate or depart in any way from the parameters specified, other than as specifically provided in Chapter 2012-245, Laws of Florida, as amended, the compared item shall be deemed to be inconsistent with the norm and shall render the local government plan or land development regulation so compared, inconsistent.

**DIV. 3.3 LOCAL FUTURE LAND USE PLAN AND LAND DEVELOPMENT REGULATION AMENDMENTS.****SEC. 3.3.1 REQUIRED PROCEDURES.**

Local future land use plan and land development regulation amendments, other than future land use plan map amendments, which deal with any matter addressed by the criteria and standards set forth in Article 4 and Article 5 of these Countywide Rules, and which are proposed to be adopted by the local government, shall utilize the process set

forth herein in order to assure that consistency, once established, is maintained. Local future land use plan map amendments that require a corresponding Countywide Plan Map amendment shall be processed as set forth in Article 6 of these Countywide Rules.

**3.3.1.1 Local Government Referral.** Amendments to local future land use plans and local land development regulations which relate to, and are governed by, the criteria and standards in Article 4 and Article 5 of these Countywide Rules shall be submitted by the local government to the PPC not less than twenty-one days prior to the initial public hearing by the governing body.

**3.3.1.2 PPC Staff Review.** The PPC staff shall, within fifteen days of the receipt of such proposed amendment, notify the local government if such amendment is not consistent with the criteria contained in these Countywide Rules. Absent such notification, the local government may proceed to adopt such amendment.

If notified by the PPC staff that such amendment is not consistent with the criteria contained in these Countywide Rules, the local government shall be given an opportunity to correct the inconsistency or request a determination by the PPC and CPA prior to adoption of the local ordinance. However, such amendment shall not be adopted by the local government until the issue as to the consistency of the proposed amendment has been reconciled pursuant to this Division.

**3.3.1.3 Recording with the PPC.** Upon adoption by the local government, a final copy of the ordinance, and any such subsequent codification thereof, for all such amendments shall be filed with and maintained by the PPC.

## **SEC. 3.3.2 APPEAL OF STAFF DETERMINATION.**

**3.3.2.1 Appeal to the Pinellas Planning Council.** If the local government disputes the PPC staff interpretation, they may request the PPC to review the subject amendment. The PPC will review the staff and local government positions at a public meeting and make a recommended determination concerning the consistency of the proposed amendment. If found consistent by the PPC, the local government may then adopt the proposed local amendment.

If the PPC concurs with staff and finds the item inconsistent, such amendment shall not be adopted by the local government.

**3.3.2.2 Appeal to the Countywide Planning Authority.** If the local government disputes the determination of the PPC, they may appeal such determination to the CPA. If the CPA determines the amendment to be consistent by a majority plus one vote of the entire CPA, the local government may then adopt the proposed amendment. If the CPA agrees with the PPC and determines the amendment not to be consistent, such amendment shall not be adopted by the local government.

**3.3.2.3**

**Administrative Hearing.** If the local government disagrees with the determination of the CPA, the local government may petition for administrative hearing under and pursuant to the Chapter 120, F.S., administrative hearing process as authorized in Chapter 2012-245, Laws of Florida, as amended. A final decision shall be rendered by the CPA following any administrative hearing based upon the findings of fact of the hearing officer.

## **ARTICLE 5**

### **OPTIONAL PROVISIONS**

**5.2.1.2.5** Density/intensity averaging as otherwise governed by these Countywide Rules shall be allowed to include any development rights available to, but previously unused by, existing developed property that is being added to or redeveloped using the density/intensity averaging provisions of these Rules.

**5.2.1.3** **Alternative Temporary Lodging Use Standards.**

**5.2.1.3.1** **Alternative Density/Intensity.** Local governments may utilize the provisions of this section in lieu of the standard temporary lodging densities or intensities specified within each Countywide Plan Map category that provides for such use, subject to the following:

- A. A local government may utilize all, or any part of, the higher temporary lodging densities and associated intensities included in the accompanying Table 6, provided that both a density and intensity standard are applied to the temporary lodging use.
- B. Amendment of the local government comprehensive plan and land development regulations to provide for all, or any portion of, the alternative densities and intensities in Table 6, based on a Development Agreement prepared and approved pursuant to Chapter 163, Sections.3220-.3243, F.S., as amended.
- C. A Development Agreement proposing to utilize the higher densities and intensities identified in Table 6 and authorized by this Section shall address, at a minimum, the following:
  - 1. The ability of the local government, or the applicable service provider, to meet the concurrency management standards for sanitary sewer, solid waste, drainage, and potable water, as required pursuant to Section 163.3180, F.S., and the applicable local government or service provider plan and regulations.
  - 2. Provision for all temporary lodging uses to comply with all county and local hurricane evacuation plans and procedures to ensure orderly evacuation of guests and visitors pursuant to the Pinellas County Code, Chapter 34, Article III. In particular, all temporary lodging uses which are located in Hurricane Evacuation Level A, as identified by the Pinellas County Comprehensive Emergency Management Plan, shall prepare a legally enforceable mandatory evacuation/closure covenant, stating that the temporary lodging use will be closed as soon as practicable after a hurricane watch is posted for Pinellas County by the National Hurricane Center. Further, a plan implementing the closure and evacuation procedures shall be prepared and submitted to the county or municipal emergency management coordinator, whichever is applicable, within 90 days of the issuance of a certificate of occupancy. This plan will be updated and sent for review when there is a change of ownership or substantive change to the plan or as required by the county or municipal emergency management coordinator, whichever is applicable.

3. Design considerations in Section 5.2.1.3.2, the mobility management provisions in Section 5.2.1.3.3 and the restrictions on temporary lodging use in Section 5.2.1.3.4 set forth following.
- D. A Development Agreement prepared pursuant to this Section shall be approved by the local government governing body, recorded with the Clerk of the Circuit Court pursuant to Section 163.3239, F.S., a copy filed with the Property Appraiser's Office, and a copy submitted to the PPC and CPA for receipt and filing within fourteen days after recording. The development limitations set forth in the Development Agreement shall be memorialized in a deed restriction, which shall be recorded in the Official Records of Pinellas County prior to the issuance of a building permit for the temporary lodging use.
- E. The alternative densities and intensities set forth in Table 6 are maximums, except as provided for in F. below. A local government may choose to utilize a density and intensity standard equal to or less than the alternative density and intensity standard, when adopted in their comprehensive plan and land development regulations, based on the maximums set forth in Table 6.
- F. Intensity standards governing floor area ratio (FAR) and impervious surface ratio (ISR) may be varied by the local government with jurisdiction pursuant to the provisions of Division 7.4 of these Rules. The FARs in Table 6 apply to the temporary lodging use, residential dwelling uses integrated in the same structure with the temporary lodging use, associated parking structures, and uses accessory to temporary lodging uses (e.g., meeting space, restaurants, spas, clubs, etc.).
- G. For development that includes a combination of temporary lodging and residential dwelling use, each use shall be allowed in proportion to the size of the property and the permitted density and intensity of the respective use.

**Table 6**  
**Alternative Temporary Lodging Density and Intensity Standards**

Plan Category	Temporary Lodging On Property That Is:	Maximum Density/Intensity Standards		
		Units/Acre	FAR	ISR
R, AC, MMC, PRD	Less Than One Acre	75	2.2	0.95
	Between One Acre And Three Acres	100	3.0	0.95
	Greater Than Three Acres	125	4.0	0.95
R&S	No Property Size Limitations	60	1.2	0.90
E	Subject To 5-Acre Property Size Limitation Per Section 2.3.3.9	75	1.5	0.85

**5.2.1.3.2 Design Considerations.** The purpose of the design considerations is to enable the local government to authorize the increased density and intensity provided for in Table 6, subject to a determination that the project is compatible with the size, location, configuration and character of the site, its relationship to the Countywide Plan Map category in which it is located, and to adjoining uses; and that the overall principles of quality urban design as set forth in *Pinellas By Design: An Economic Development and Redevelopment Plan for the Pinellas Community* are furthered.

In particular, design considerations applicable to the proposed use shall address the following in the Development Agreement so as to ensure compatibility in terms of context-sensitive design, and the scale and placement of the proposed use so as to achieve a harmonious relationship and fit relative to its location and surroundings:

- A. Building scale, including height, width, location, alignment, and spacing.
- B. Building design, including elevations, façade treatment, entrance and porch or balcony projections, window patterns and roof forms.
- C. Site improvements, including building and site coverage, accessory structures, service and amenity features, walkway and parking areas, open space, and view corridors.
- D. Adjoining property use, including density/intensity, and building location, setbacks, and height.

**5.2.1.3.3 Mobility Management.** The applicant shall ensure that a project authorized to use the increased density and intensity provided for in Table 6 adequately addresses its impacts on the surrounding road network through the implementation of mobility improvements or strategies consistent with the Pinellas County Mobility Plan, as implemented by the countywide Multimodal Impact Fee Ordinance.

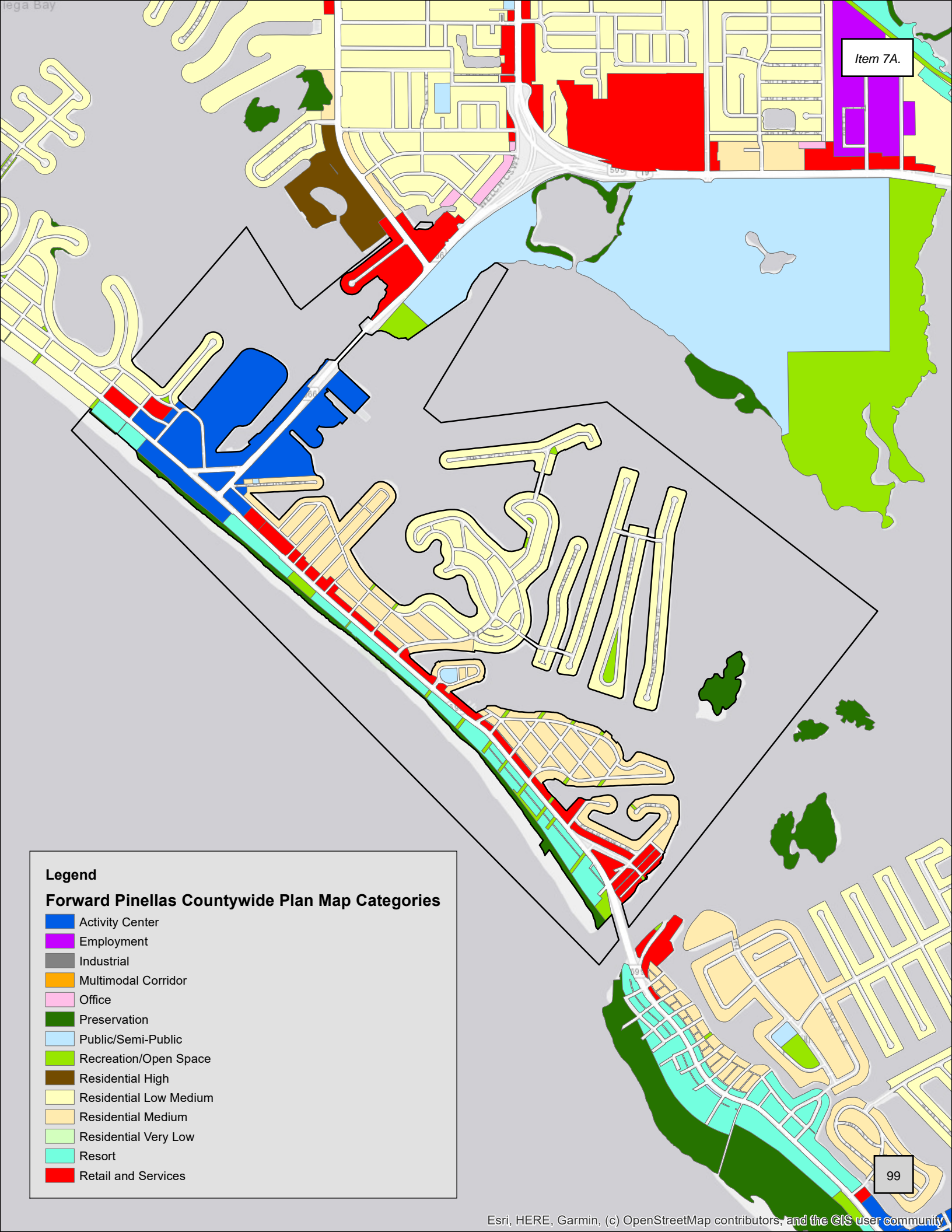
**5.2.1.3.4 Operating Characteristics and Restrictions.** The purpose of this provision is to ensure that a project authorized to use any portion of the increased density and intensity provided for in Table 6 is built, functions, operates, and is occupied exclusively as temporary lodging.

In particular, temporary lodging uses at the densities/intensities in Table 6, or any density higher than the standard density provided for such use in each applicable Countywide Plan Map category, or the local future land use plan designation where it may be more restrictive, shall comply with the following restrictions:

- A. No temporary lodging unit shall be occupied as a residential dwelling unit, and a locally-determined maximum length of stay for any consecutive period of time shall be established by the local government to ensure that any temporary lodging use does not function as a residential use.

- B. Temporary lodging units shall not qualify or be used for homestead or home occupation purposes.
- C. All temporary lodging units must be included in the inventory of units that are available within a temporary lodging use.
- D. No conversion of temporary lodging units to residential dwelling units shall be permitted unless the conversion is in compliance with the Countywide Rules with respect to the permitted residential density and, where applicable, the intensity for associated nonresidential uses.
- E. A temporary lodging use may include accessory uses, such as recreational facilities, restaurants, bars, personal service uses, retail uses, meeting space, fitness centers, spa facilities, parking structures and other uses commonly associated with temporary lodging uses. All such uses shall be included in the calculation of allowable floor area ratio.
- F. Any license required of a temporary lodging use by the local government, county, or state agency shall be obtained and kept current.
- G. Temporary lodging uses shall be subject to all applicable tourist development tax collections.
- H. A reservation system shall be required as an integral part of the temporary lodging use, and there shall be a lobby/front desk area that must be operated as a typical lobby/front desk area for temporary lodging would be operated.
- I. Temporary lodging uses must have sufficient signage that complies with local codes and is viewable by the public designating the use as a temporary lodging use.
- J. The books and records pertaining to use of each temporary lodging unit shall be open for inspection by authorized representatives of the applicable local government, upon reasonable notice, in order to confirm compliance with these regulations as allowed by general law.
- K. The applicable local government may require affidavits of compliance with this Section from each temporary lodging use and/or unit owner.





Item 7A.










### Legend

#### Forward Pinellas Countywide Plan Map Categories

- Activity Center
- Employment
- Industrial
- Multimodal Corridor
- Office
- Preservation
- Public/Semi-Public
- Recreation/Open Space
- Residential High
- Residential Low Medium
- Residential Medium
- Residential Very Low
- Resort
- Retail and Services

**Legend**

**Madeira Beach Zoning Categories**

	C-1
	C-2
	C-3
	C-4
	P-SP
	PD
	R-1
	R-2
	R-3

## Legend

### Madeira Beach Future Land Use Categories

- Commercial General
- Institutional
- Planned Redevelopment-Mixed Use
- Preservation
- Recreation/Open Space
- Residential Medium
- Residential Urban
- Residential/Office/Retail
- Resort Facilities Medium
- Right of Way
- Scenic Corridors
- Transportation/Utility
- Water



# Memorandum



**Meeting Details:** July 10, 2023, Planning commission Meeting

**Prepared For:** Planning Commission

**From:** Community Development Department

**Subject:** Shade Structures – Permitting Considerations & Impact to LDR Codes – R-1, R-2 & R-3

**Background:** Madeira Beach Land Development Regulations (LDRs) do not define “shade structure” nor any structure that would be directly comparable. While we have definitions for “Structure”, broken into subcategories of Major, Minor, Non-habitable Major and Coastal or Shore Protection, only the Minor definition makes mention of a gazebo. Other definitions reviewed were, “Accessory Building” (Sec. 82-2) as a “General Provision” definition and “Accessory Structure” (Sec. 94-93) defined for reference in “Floodplain Management”, neither of these addressed shade structures. The LDRs that will require review and possible alterations are mentioned here in this document and are provided as an attachment, pending any alteration in definitions and verbiage other LDRs may be subsequently impacted as well and will be addressed accordingly at that time. Links to all code references are located in this document.

**Discussion:** Permitting of accessory structures in Madeira Beach has some unique considerations. All of Madeira Beach lies within a Special Flood Hazard Area (SFHA) and several areas further fall into Coastal High Hazard Areas, as an example most all of Bay Point Drive. See link to FEMA flood maps below. With regards to floodplain management, FEMA allows for accessory structures, Sec. 94-102 At-grade Accessory Structures, only when utilized for parking or storage and with limited sizing.

Questions to consider:

1. Defining “shade structure” and/or “sun shelter”, with differentiation between shades that are free standing structures, attached to & extend out from house or retractable styles.
2. What setbacks would be applicable to the structure?
3. What is the allowable square footage and height?
4. Would construction be limited to four minimally sized posts composed of what type material?
5. The structure would have no walls.
6. What roof material would be allowed?
7. If other than an official “chickee hut”, what permit design documents would be required?
8. How will the allowance of these structures be viewed by FEMA and what impact could it have on our community Rating System (CRS)? CRS info link below.
9. Visibility for neighboring properties.
10. Potential for more outdoor kitchens.
11. What to do with the shade structures that are already built and unpermitted.

[https://library.municode.com/fl/madeira\\_beach/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH82GEPR\\_S82-2DE](https://library.municode.com/fl/madeira_beach/codes/code_of_ordinances?nodeId=PTIICOOR_CH82GEPR_S82-2DE)

[https://library.municode.com/fl/madeira\\_beach/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH94FLMA\\_DIV9GE\\_S94-93DE](https://library.municode.com/fl/madeira_beach/codes/code_of_ordinances?nodeId=PTIICOOR_CH94FLMA_DIV9GE_S94-93DE)

<https://msc.fema.gov/portal/search?AddressQuery=Madeira%20Beach%20Florida>

[https://library.municode.com/fl/madeira\\_beach/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH94FLMA\\_DIV10FLREDE\\_ARTIBUS\\_T\\_S94-102ADACST](https://library.municode.com/fl/madeira_beach/codes/code_of_ordinances?nodeId=PTIICOOR_CH94FLMA_DIV10FLREDE_ARTIBUS_T_S94-102ADACST)

<https://www.floridadisaster.org/dem/mitigation/floodplain/crs/#:~:text=What%20is%20the%20Community%20Rating,flood%20damage%20to%20insurable%20property>

In general, the permitting of “shade structures” will need to take into consideration:

The maximum area of a lot or parcel to be covered by structures which currently allows for:

- 40% in all of R-1, R-3 & for single family residence in R-2
- 50% for townhomes in R-2

A large % of developed lots have maximized buildable structure area and as such many properties may be left with little to no square footage for fixed shade structures mounted on posts/columns.

Pending site location, (i.e. over existing hardscape or grass) the ISR (Impervious Surface Ratio) will be impacted with the current allowable being:

- 0.65 (65%) of the lot can be impervious in R-1
- 0.70 (70%) of the lot can be impervious in R-2
- 0.85 (85%) of the lot can be impervious in R-3

Similar to maxed out structure coverage, several properties have reached max ISR and as such would have to take into consideration where to place the structure.

Specific LDR sections that will need to be reviewed, see below and refer to attached sections with highlights.

*DIVISION 2. – R-1, Single-Family Residential – Anticipated alterations to sections listed below*

- Sec. 110-178 – Accessory Uses

- Sec. 110-181 – Setback Requirements
- Sec. 110-183 – Maximum lot coverage

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*DIVISION 3. – R- 2, Low Density Multifamily Residential - Anticipated alterations to sections listed below*

- Sec. 110-203 – Accessory Uses
- Sec. 110-206 – Setback Requirements
- Sec. 110-208 – Maximum lot coverage

[https://library.municode.com/fl/madeira\\_beach/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH110ZO\\_ARTVDI\\_DIV3LODEMURE](https://library.municode.com/fl/madeira_beach/codes/code_of_ordinances?nodeId=PTIICOOR_CH110ZO_ARTVDI_DIV3LODEMURE)

*DIVISION 3. – R- 3, Medium Density Multifamily Residential - Anticipated alterations to sections listed below*

- Sec. 110-228 – Accessory Uses
- Sec. 110-231 – Setback Requirements
- Sec. 110-233 – Maximum lot coverage

[https://library.municode.com/fl/madeira\\_beach/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH110ZO\\_ARTVDI\\_DIV4MEDEMURE](https://library.municode.com/fl/madeira_beach/codes/code_of_ordinances?nodeId=PTIICOOR_CH110ZO_ARTVDI_DIV4MEDEMURE)

**Recommendation(s):** Staff recommends in depth discussion and consideration of permitting these type structures. While we understand they are seen throughout the city and adjacent cities, research indicates most all adjacent cities do not permit these structures by right and hold to the same development and FEMA requirements as Madeira Beach.

**Fiscal Impact or Other:** There is no anticipated fiscal impact, with the possible exception of increased permit fees associated with permitting and inspections. A foreseeable impact will be to the Community Rating System (CRS) and points the city receives for enforcement of FEMA recommended allowances for accessory structures.

**Attachments:**

- Madeira Beach Code of Ordinances

## Sec. 82-2. Definitions.

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

*Absorption area* means any area designed, or natural, capable of allowing stormwater percolation.

*Abutting* means to physically touch or border upon, to share a common property line, or is directly across a street, access easement, alley or other right-of-way (except those properties separated by an arterial street) from the subject property.

*Accessory building or use* means a building structure or use which is:

- (1) Subordinate to and serves a principal building or use.
- (2) Subordinate in area, extent and purpose to principal building or use.
- (3) Contributes to the comfort, convenience or necessities of the principal building or use.
- (4) Is located on the same lot as the principal building or use.

*Addition (to an existing building)* means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common loadbearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter loadbearing walls is new construction.

*Adjoining* means the same as "Abutting."

*Adult arcade* means a place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images, including motion pictures, films, video cassettes, slides or other photographic reproductions to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

*Adult bookstore* means:

- (1) An establishment having as a substantial or significant portion of its stock in trade books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities, or specified anatomical areas, or an establishment with a segment or section devoted to the sale, rental or display of such material.
- (2) It is an affirmative defense to an alleged violation of operating an adult bookstore without a permit if the adult material is accessible only by employees and either the gross income from the sale and/or rental of adult material comprises less than ten percent of the gross income from the sale; and/or rental of goods and/or services at the establishment, or the individual items of adult material offered for sale and/or rental comprises less than ten percent of the individual items publicly displayed at the establishment as stock in trade in any of the following categories: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations, or recordings or other audio matter. Any adult use activity other than the sale or rental of adult material shall preclude the establishment's qualifying solely as an adult bookstore and shall mandate its classification as other than an adult bookstore.

*Adult booth* means a separate enclosure inside an adult entertainment establishment, accessible to any person, regardless of whether a fee is charged for access. The term "adult booth" includes, but is not limited to, a "peep show" booth, adult arcade booth or other booth used to view adult material. The term "adult booth" does not include a foyer through which any person can enter or exit the establishment, nor a restroom.

*Structure* means anything constructed or erected, the use of which requires permanent location on the land or attachment to something having permanent location on the land. Structures include buildings, walls, screened enclosures, fences, advertising signs, billboards, swimming pools and exterior mechanical equipment such as air-conditioning compressors.

- (1) *Major structure*: Houses, mobile homes, apartment buildings, condominiums, motels, hotels, restaurants, towers, other types of residential, commercial, or public buildings, and other construction.
- (2) *Minor structure*: Pile-supported, elevated dune and beach walkover structures; beach access ramps and walkways; stairways; pile-supported, elevated viewing platforms, gazebos, and boardwalks; lifeguard support stands; public and private bathhouses; sidewalks, driveways, parking areas, shuffleboard courts, tennis courts, handball courts, racquetball courts, and other uncovered paved areas; earth retaining walls; and sand fences, privacy fences, ornamental walls, ornamental garden structures, aviaries, and other ornamental construction. It shall be a characteristic of minor structures that they are considered to be expendable under design wind, wave, and storm forces.
- (3) *Nonhabitable major structure*: Swimming pools; parking garages; pipelines; piers; canals, lakes, ditches, drainage structures, and other water retention structures; water and sewage treatment plants; electrical power plants, and all related structures or facilities, transmission lines, distribution lines, transformer pads, vaults, and substations; roads, bridges, streets and highways; and underground storage tanks.
- (4) *Coastal or shore protection structure*: Shore-hardening structures, such as seawalls, bulkheads, revetments, rubble mound structures, groins, breakwaters, and aggregates of materials other than beach sand used for shoreline protection; beach and dune restoration; and other structures which are intended to prevent erosion or protect other structures from wave and hydrodynamic forces.

## Sec. 94-93. Definitions.

*Accessory structure* means a structure on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For floodplain management purposes, the term includes only accessory structures used for parking and storage.

*Appeal* means a request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

*ASCE 24* means a standard titled *Flood Resistant Design and Construction* that is referenced by the Florida Building Code. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

*Base flood* means a flood having a one-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 202.] The base flood is commonly referred to as the "100-year flood" or the "one-percent-annual chance flood."

*Base flood elevation* means the elevation of the base flood, including wave height, relative to the national geodetic vertical datum (NGVD), North American vertical datum (NAVD) or other datum specified on the flood insurance rate map (FIRM). [Also defined in FBC, B, Section 202.]

*Basement* means the portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 202.]

*Breakaway wall* means a partition or wall that is independent of supporting structural members and that is intended to withstand design wind forces but to collapse from a water load less than that which would occur during the base flood, without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system.

**Sec. 94-102. At-grade accessory structures.**

At-grade accessory structures are permitted provided the accessory structures are used only for parking or storage and:

- (1) If located in special flood hazard areas (Zone A/AE) other than coastal high hazard areas, are one-story and not larger than 600 square feet and have flood openings in accordance with Section R322.2 of the Florida Building Code, Residential.
- (2) If located in coastal high hazard areas (Zone V/VE), are not located below elevated buildings and are not larger than 100 square feet.
- (3) Are anchored to resist flotation, collapse or lateral movement resulting from flood loads.
- (4) Have flood damage-resistant materials used below the base flood elevation plus one foot.
- (5) Have mechanical, plumbing and electrical systems, including plumbing fixtures, elevated to or above the base flood elevation plus one foot.

***DIVISION 2. R-1, SINGLE-FAMILY RESIDENTIAL*****Sec. 110-176. Definition; purpose and intent.**

The R-1, single-family residential district provides for single-family residential development located where lower density single-family uses are desirable. The R-1, single-family residential district correlates with the residential urban (RU) category of the Countywide Plan. The lots and dwellings are larger sized to provide for the desired density of use. Essential services and public facilities compatible with this residential district are also provided.

Any use which is not specifically identified as a permitted use, accessory use or special exception use is a prohibited use. Prohibited uses shall include, but are not limited to, short term rentals of a housing unit. As used in this division, the term "short term rental" shall mean any rental of a dwelling unit, or portion thereof, for less than a six-month period.

(Code 1983, § 20-404; Ord. No. 1069, § 1, 2-28-06; Ord. No. 1138, § 2, 12-9-08)

Cross reference(s)—Definitions generally, § 1-2.

**Sec. 110-177. Permitted uses.**

The permitted uses in the R-1, single-family residential district are single-family residential dwellings and public education facilities of the school board.

(Code 1983, § 20-404; Ord. No. 1138, § 2, 12-9-08)

**Sec. 110-178. Accessory uses.**

The accessory uses in the R-1, single-family residential district are as follows:

- (1) Home occupations.
- (2) Private garages and carports.
- (3) Private swimming pools.



- (4) Residential signs.
- (5) Residential docks.
- (6) Essential services.
- (7) Other accessory uses customarily incident to permitted or approved special exception uses.

(Code 1983, § 20-404)

### **Sec. 110-179. Special exception uses.**

Upon application for a special exception to the special magistrate and favorable action thereon, the following uses may be permitted in the R-1, single-family residential district:

- (1) Publicly owned or operated parks or recreation areas.
- (2) Public service facilities.
- (3) Cabanas used as bathhouses.
- (4) Amateur/marine radio antenna's not exceeding 50 feet.

(Code 1983, § 20-404; Ord. No. 2017-03 , § 2, 3-7-17)

### **Sec. 110-180. Minimum building site area requirements.**

The minimum building site area requirements in the R-1, single-family residential district are as follows:

- (1) Lot size:
  - a. Single-family:
    - Lots existing on or before December 9, 2008: 5,000 square feet.
    - Lots created after December 9, 2008: 5,800 square feet.
  - b. Public service facilities: Shall not exceed a maximum area of three acres. Like uses or contiguous like uses in excess of this threshold shall require the parcel to be amended to the P-SP zoning district and the appropriate land use category.
- (2) Minimum width: 50 feet.
- (3) Minimum depth: 80 feet.
- (4) Density: The maximum density is seven and one-half dwelling units per acre.

(Code 1983, § 20-404; Ord. No. 1138, § 2, 12-9-08)

### **Sec. 110-181. Setback requirements.**

The following minimum setbacks shall apply in the R-1 district:

- (1) Front yard: 20 feet measured from the right-of-way line to the structure
- (2) Rear yard:
  - Waterfront lots: 30 feet.
  - Non-waterfront lots: 25 feet.

- (3) Side yard: Total side setback of 15 feet with a minimum of seven feet on either side.
- (4) For only those dwelling units with the lowest habitable space elevated at or above the elevation designated on the flood insurance rate map (FIRM); exterior stairs, platforms for mechanical equipment, and chimneys shall be allowed to extend into the side-yard setback, but only to a depth of no more than one-half of the required setback. Such equipment shall be placed in the middle one-third of the structure. All mechanical equipment must be appropriately shielded from public view with materials including, but not limited to louvers, lattice and the like.

(Code 1983, § 20-404; Ord. No. 1023, § 1, 11-30-04)

### **Sec. 110-182. Maximum building height.**

No structure in the R-1, district shall exceed 30 feet in height measured from the designated base flood elevation on the flood insurance rate map (FIRM) plus required freeboard, to the eave line of the building, unless otherwise provided in the land development regulations.

In any case, the overall height of the building measured from the base flood elevation to the highest point shall not exceed 40 feet and the maximum roof pitch shall not exceed 6:12 pitch or 45 degrees.

(Code 1983, § 20-404; Ord. No. 1023, § 2, 11-30-04; Ord. No. 2021-23, § 1, 11-10-21)

### **Sec. 110-183. Maximum lot coverage.**

The maximum lot coverage in the R-1, single-family residential district is as follows:

- (1) Residential use: Floor area ratio (FAR) 0.80. The maximum area of a lot or parcel to be covered by structures shall be 40 percent of the total area.
- (2) Public owned parks and recreation facilities: Floor area ratio (FAR) 0.25.
- (3) Public service facilities: Floor area ratio (FAR) 0.40.

(Code 1983, § 20-404; Ord. No. 1138, § 2, 12-9-08)

### **Sec. 110-184. Impervious surface ratio (ISR).**

The impervious surface ratio (ISR) in the R-1, single-family residential district for all uses is 0.65.

(Code 1983, § 20-404; Ord. No. 1138, § 2, 12-9-08)

### **Secs. 110-185—110-200. Reserved.**

## ***DIVISION 3. R-2, LOW DENSITY MULTIFAMILY RESIDENTIAL***

### **Sec. 110-201. Definition; purpose and intent.**

The R-2, low density multifamily residential district provides for low density multifamily residential correlates with the residential medium (RM) category of the countywide plan and, which does allow for a variety of dwelling types.

Any use which is not specifically identified as a permitted use, accessory use or special exception use is a prohibited use. Prohibited uses shall include, but are not limited to, short term rentals of a housing unit. As used in this division, the term "short term rental" shall mean any rental of a dwelling unit, or portion thereof, for less than a three-month period.

(Code 1983, § 20-404; Ord. No. 1069, § 2, 2-28-06; Ord. No. 1138, § 3, 12-9-08; Ord. No. 2018-07, § 1, 7-11-18)

Cross reference(s)—Definitions generally, § 1-2.

### **Sec. 110-202. Permitted uses.**

The permitted uses in the R-2, low density multifamily residential district are as follows:

- (1) Single-family.
- (2) Duplex.
- (3) Triplex.
- (4) Townhouse type construction.
- (5) Public education facilities of the school board.

(Code 1983, § 20-404; Ord. No. 1138, § 3, 12-9-08; Ord. No. 2018-07, § 1, 7-11-18)

### **Sec. 110-203. Accessory uses.**

The accessory uses in the R-2, low density multifamily residential district are as follows:

- (1) Home occupations.
- (2) Private garages and carports.
- (3) Private swimming pools.
- (4) Residential signs.
- (5) Residential docks.
- (6) Essential services.
- (7) Other accessory uses customarily incident to permitted or approved special exception uses.

(Code 1983, § 20-404; Ord. No. 2018-07, § 1, 7-11-18)

### **Sec. 110-204. Special exception uses.**

Upon application for a special exception to the board of adjustment and favorable action thereon, the following uses may be permitted in the R-2, low density multifamily residential district:

- (1) Churches, synagogues or other houses of worship.
- (2) Publicly owned or operated parks or recreation areas.
- (3) Private schools.
- (4) Public service facilities.
- (5) Cabanas used as bathhouses.

(Code 1983, § 20-404; Ord. No. 2017-03 , § 3, 3-7-17; Ord. No. 2018-07 , § 1, 7-11-18)

### **Sec. 110-205. Minimum building site area requirements.**

The minimum building site area requirements in the R-2, low density multifamily residential district are as follows:

- (1) Lot size:
  - a. Single-family: 4,000 square feet.
  - b. Duplex and triplex: Minimum land area of 3,000 square feet per dwelling unit.
  - c. Townhouses: Minimum land area of 12,000 square feet (3,000 square feet per dwelling unit). (See article VI, division 10, subdivisions II and III of this chapter.)
  - d. Public service facilities: Shall not exceed a maximum area of three acres. Like uses or contiguous like uses in excess of this threshold shall require the parcel to be amended to the P-SP zoning district and the appropriate land use category.
- (2) Lot width:
  - a. Single-family: 40 feet.
  - b. Duplex: 60 feet.
  - c. Triplex: 80 feet.
  - d. Townhouses: 100 feet.
- (3) Lot depth: 80 feet.
- (4) The maximum density is 15 dwelling units per acre.

(Code 1983, § 20-404; Ord. No. 1138, § 3, 12-9-08; Ord. No. 2018-07 , § 1, 7-11-18)

### **Sec. 110-206. Setback requirements.**

The following minimum setbacks shall apply in the R-2, low density multifamily residential district:

- (1) Front yard: 20 feet.
- (2) Rear yard: 25 feet.
- (3) Side yard:
  - a. Single-family lots less than 50 feet wide may reduce the total side setback to ten feet with a minimum of five feet on either side.
  - b. Single-family and duplex lots, the total side setback shall be 15 feet with a minimum of seven feet on either side for lots equal to 50 feet and less than 80 feet wide.
  - c. Single-family and duplex lots, the total side setback shall be 18 foot with a minimum of eight feet on either side for lots equal to 80 feet and less than 120 feet wide.
  - d. Single-family and duplex lots 120 feet in width or greater, the total side setback shall be 25 foot with a minimum of 12 feet on either side.
  - e. Triplex lots, the total side setback shall be 20 feet with a minimum of nine feet on either side.

- f. Townhouses: A minimum of 15 feet between each row of townhouses and minimum of nine feet on each side property line.
- (4) For only those dwelling units with the lowest habitable space elevated at or above the elevation designated on the flood insurance rate map (FIRM); exterior stairs, platforms for mechanical equipment, and chimneys shall be allowed to extend into the side-yard setback, but only to a depth of no more than one-half of the required setback. Such equipment shall be located in the middle one-third of the structure. All mechanical equipment must be appropriately shielded from public view with materials including, but not limited to, louvers, lattice and the like.

(Code 1983, § 20-404; Ord. No. 1023, § 3, 11-30-04; Ord. No. 2018-07, § 1, 7-11-18; Ord. No. 2020-01, § 1, 3-24-20)

### **Sec. 110-207. Maximum building height.**

No structure in the R-2, district shall exceed 30 feet in height measured from the designated base flood elevation on the flood insurance rate map (FIRM) plus required freeboard, to the eave line of the building; except as provided in the land development regulations.

In any case, the overall height of the building measured from the base flood elevation to the highest point shall not exceed 40 feet and the maximum roof pitch shall not exceed 6:12 pitch or 45 degrees.

(Code 1983, § 20-404; Ord. No. 1023, § 4, 11-30-04; Ord. No. 2018-07, § 1, 7-11-18; Ord. No. 2021-23, § 1, 11-10-21)

### **Sec. 110-208. Maximum lot coverage.**

The maximum lot coverage in the R-2, low density multifamily residential district is as follows:

- (1) Residential use: Floor area ratio (FAR) 0.80. The maximum area of a lot or parcel to be covered by structures shall be 40 percent of the total area except for townhouse dwelling units which shall be 50 percent of the total lot area.
- (2) Public owned parks and recreation facilities: Floor area ratio (FAR) 0.25.
- (3) Public service facilities:
  - a. Institutional: Floor area ratio (FAR) 0.50.
  - b. Transportation/utility: Floor area ratio (FAR) 0.50.

(Code 1983, § 20-404; Ord. No. 1138, § 3, 12-9-08; Ord. No. 2018-07, § 1, 7-11-18)

### **Sec. 110-209. Impervious surface ratio (ISR).**

The impervious surface ratio (ISR) in the R-2, low density multifamily residential district for all uses is 0.70.

(Code 1983, § 20-404; Ord. No. 2018-07, § 1, 7-11-18)

### **Sec. 110-210. Special requirement.**

Institutional, other than public educational facilities shall not exceed a maximum area of five acres. Transportation and/or utility uses shall not exceed a maximum area of three acres.

(Ord. No. 1138, § 3, 12-9-08; Ord. No. 2018-07, § 1, 7-11-18)

**Secs. 110-211—110-225. Reserved.**

***DIVISION 4. R-3, MEDIUM DENSITY MULTIFAMILY RESIDENTIAL***

**Sec. 110-226. Definition; purpose and intent.**

The R-3, medium density multifamily residential district provides for medium density development for both permanent and tourist residential facilities at locations where public facilities are adequate to support such intensity. The R-3, medium density multifamily residential district correlates with the resort facilities medium (RFM) category of the City of Madeira Beach Comprehensive Plan.

(Code 1983, § 20-404; Ord. No. 1138, § 4, 12-9-08; Ord. No. 2022-14, § 1, 5-11-22)

Cross reference(s)—Definitions generally, § 1-2.

**Sec. 110-227. Permitted uses.**

The permitted uses in the R-3, medium density multifamily residential district are as follows:

- (1) Single-family.
- (2) Duplex.
- (3) Triplex.
- (4) Multifamily.
- (5) Tourist dwelling units.
- (6) Restaurants, excluding drive-in restaurants.
- (7) Publicly owned or operated parks and recreation areas.

(Code 1983, § 20-404)

**Sec. 110-228. Accessory uses.**

The accessory uses in the R-3, medium density multifamily residential district are as follows:

- (1) Home occupation.
- (2) Private garages and carports.
- (3) Swimming pools or cabanas used as bath houses.
- (4) Residential docks.
- (5) Essential services.
- (6) Wireless communication antennas as regulated by article VI, division 12, subdivisions I, II and IV of this chapter.

(Code 1983, § 20-404)

**Sec. 110-229. Special exception uses.**

Upon application for a special exception to the special magistrate and favorable action thereon, the following uses may be permitted in the R-3, medium density multifamily residential district:

- (1) Retail and personal service uses only ancillary to a permitted use.
- (2) Public service facilities.
- (3) Commercial recreation and entertainment facilities.

(Code 1983, § 20-404; Ord. No. 2017-03 , § 4, 3-7-17)

**Sec. 110-230. Minimum building site area requirements.**

The minimum building site area requirements in the R-3, medium density multifamily residential district are as follows:

- (1) Lot size:
  - a. Single-family: 4,000 square feet.
  - b. Duplex, triplex: 3,000 square feet per dwelling unit.
  - c. Multifamily: 2,420 square feet per dwelling unit.
  - d. Restaurants: 5,000 square feet.
  - e. Public service facilities: Shall not exceed a maximum area of three acres. Like uses or contiguous like uses in excess of this threshold shall require the parcel to be amended to the P-SP zoning district and the appropriate land use category.
- (2) Lot width:
  - a. Single-family, duplex, triplex: 40 feet.
  - b. Multifamily and hotel: 60 feet.
  - c. Restaurants: 60 feet.
- (3) Lot depth: All permitted uses 80 feet.

(Code 1983, § 20-404; Ord. No. 1043, § 1, 6-14-05; Ord. No. 1138, § 4, 12-9-08; Ord. No. 2022-14 , § 2, 5-11-22)

**Sec. 110-231. Setback requirements.**

The following minimum setbacks shall apply in the R-3, medium density multifamily residential district:

- (1) Front yard:
  - a. Single-family, duplex and triplex: 20 feet, measured from right-of-way to structure.
  - b. Multifamily, hotel and restaurants: 25 feet.
- (2) Rear yard: 25 feet, unless otherwise provided in the land development regulations, and then the more restrictive requirement shall apply.
- (3) Waterfront yard: For lots with a waterfront yard on the Gulf of Mexico, the setback shall be landward of to the county coastal construction control line.

## (4) Side yard setbacks:

## a. Single-family, duplex and triplex dwellings:

1. For lots less than 50 feet in width, the minimum side yard setback shall be five feet.
2. For lots 50 feet or greater in width, the minimum total side yard setback shall be 15 feet with a minimum of seven feet on either side.

## b. Multifamily, hotels and restaurants: The minimum side yard setback shall be ten feet provided that the provisions of section 110-236 are met.

(Code 1983, § 20-404; Ord. No. 2022-14 , § 3, 5-11-22)

**Sec. 110-232. Maximum building height.**

No building in the R-3, medium density multifamily residential district shall exceed 44 feet in height.

(Code 1983, § 20-404; Ord. No. 2021-23 , § 1, 11-10-21; Ord. No. 2022-14 , § 4, 5-11-22)

**Sec. 110-233. Maximum lot coverage.**

The maximum lot coverage in the R-3, medium density multifamily residential district is as follows:

- (1) Residential use: Floor area ratio (FAR) 1.0. The maximum area of a lot or parcel to be covered by structures shall be 40 percent.
- (2) Multifamily, hotel, and related uses: The density shall be a maximum of 18 residential dwelling units or temporary lodging units as shown in the table below. A combination of both residential and tourist dwelling units may be permissible provided that the provisions of subsection 110-236(b) are met.

Land Area of the Development Site	Units/Acre	FAR	ISR
Less than one acre	45	1.0	0.85
One to three acres	60	1.5	0.85
Greater than three acres	75	2.0	0.85

## (3) Commercial/nonresidential: Floor area ratio (FAR) 0.55.

## (4) Public service facilities: Floor area ratio (FAR) 0.65.

## (5) Public owned parks and recreation facilities: Floor area ratio (FAR) 0.25.

(Code 1983, § 20-404; Ord. No. 1138, § 4, 12-9-08; Ord. No. 2022-14 , § 5, 5-11-22)

**Sec. 110-234. Impervious surface ratio (ISR).**

The impervious surface ratio (ISR) in the R-3, medium density multifamily residential district for all uses is 0.85.

(Code 1983, § 20-404; Ord. No. 2022-14 , § 6, 5-11-22)

**Sec. 110-235. Buffering requirements.**

Buffering requirements in the R-3, medium density multifamily residential district are as follows:



- (1) Parking lots/garages for tourist dwellings and nonresidential uses shall be designed to minimize their impacts to any adjacent residential uses as established in the land development regulations.
- (2) During the development process, existing curb cuts shall be reoriented, if necessary, to minimize the negative impact on adjacent properties.
- (3) All development within this category will meet or exceed the buffering/landscape requirements as outlined in chapter 106, article II.

(Code 1983, § 20-404)

### **Sec. 110-236. Special requirements.**

- (a) No structure in the R-3, medium density multifamily residential district shall be constructed that is greater than 250 feet in width. If two structures are proposed on the same lot or parcel, the buildings shall be separated by a minimum of ten feet.
- (b) Mixed uses in a single development shall not exceed, in combination, the respective number of units per acre and floor area ratio permitted, when allocated in their respective proportion to the gross land area of the property.
- (c) Institutional, other than public educational facilities shall not exceed a maximum area of five acres. Transportation and/or utility uses shall not exceed a maximum area of three acres.
- (d) When a proposed multifamily or non-residential use in the R-3, medium density multifamily residential district abuts a single-family, duplex, or triplex, an additional five-foot setback is required along the length of the entire shared lot line. This additional setback will be utilized to provide additional landscaped screening.

(Code 1983, § 20-404; Ord. No. 1138, § 4, 12-9-08; Ord. No. 2022-14, § 7, 5-11-22)

### **Secs. 110-237—110-255. Reserved.**

### **Sec. 110-472. R-1, single-family residential zones.**

**Accessory structures** may not be located in front yards in R-1, single-family residential zones.

- (1) *Lots not on water.* For lots not on water in R-1, single-family residential zones, accessory structures may be located in side or rear yards but must provide a minimum of 2½-foot setback to allow for vegetation control.
- (2) *Lots on water.* For lots on water in R-1, single-family residential zones, accessory structures may be located in side or rear yards. If the accessory structure is located in a side yard, a minimum of 2½-foot side setback must be provided. If the accessory structure is located in the rear yard, the same rear setback as required for principal structures must be provided.

(Code 1983, § 20-505(B))

### **Sec. 110-473. R-2, low density multifamily residential zones.**

**Accessory structures** may not be located in front yards in R-2, low density multifamily residential zones.

- (1) *Lots not on water.* For lots not on water in R-2, low density multifamily residential zones, accessory structures may be located in side or rear yards but must provide a minimum of 2½-foot setback to allow for vegetation control.

- (2) *Lots on water.* For lots on water in R-2, low density multifamily residential zones, accessory structures may be located in side or rear yards. If the accessory structure is located in a side yard, a minimum of 2½-foot side setback must be provided. If the accessory structure is located in the rear yard, the same rear setback as required for principal structures must be provided.

(Code 1983, § 20-505(C))

### **Sec. 110-474. R-3, medium density multifamily residential zones.**

**Accessory structures** (except carports) may not be located in front yards in R-3, medium density multifamily residential zones.

- (1) *Lots not on water.* For lots not on water in R-3, medium density multifamily residential zones, accessory structures (except carports) may be located in side yard, but must provide a five-foot minimum side setback. If the accessory structure is located in the rear yard, a minimum of two-foot setback must be provided to allow for vegetation control.
- (2) *Lots on water.* Accessory structures (except carports) on lots on water in R-3, medium density multifamily residential zones must provide the same setbacks as are required for the principal structure.
- (3) Carports in the R-3, medium density multifamily residential zones may be located in the front or side yard and must provide a five-foot side yard setback and ten-foot front yard setback.
- (4) The accessory structure must meet the intersection visibility requirement.

(Code 1983, § 20-505(D); Ord. No. 2022-12 , § 1, 5-11-22)

### **Sec. 110-480. Maximum size in R-1, R-2 and R-3 zones.**

For single-family structures, the maximum size for an accessory structure will be eight feet wide by ten feet long by eight feet high. For duplex and multifamily structures, there may not be more than two accessory structures for a maximum size of six feet by eight feet by eight feet or a single accessory structure eight feet by ten feet by eight feet. The maximum size of a carport in the R-3, medium density multifamily residential zone for single family structures, is 20 feet wide by 22 feet long by ten feet high. For single family structures, there may not be more than one carport. The limit to the number of carport structure for duplex and multifamily structures will be regulated by parking requirements and the site plan approval process.

(Code 1983, § 20-505(J); Ord. No. 2022-12 , § 2, 5-11-22)

### **Sec. 110-482. Lot coverage.**

The area covered by accessory structures shall be included in the allowable lot coverage.

(Code 1983, § 20-505(L))

### **Sec. 110-484. Placement.**

An accessory type structure may not be placed forward of the front entrance of the principal structure. In no case shall an accessory type structure be placed closer to any lot line adjacent to a street than provided for the principal structure nor closer than 18 feet to any seawall on the Gulf of Mexico.

(Code 1983, § 20-505(N); Ord. No. 918, § 3, 12-7-99)



## DIVISION 4. - ACCESSORY STRUCTURES

Item 7C.

## Sec. 110-471. - Building permits required.

Building permits are required for the construction or placement of all accessory structures.

(Code 1983, § 20-505(A))

## Sec. 110-472. - R-1, single-family residential zones.

Accessory structures may not be located in front yards in R-1, single-family residential zones.

- (1) *Lots not on water.* For lots not on water in R-1, single-family residential zones, accessory structures may be located in side or rear yards but must provide a minimum of 2½-foot setback to allow for vegetation control.
- (2) *Lots on water.* For lots on water in R-1, single-family residential zones, accessory structures may be located in side or rear yards. If the accessory structure is located in a side yard, a minimum of 2½-foot side setback must be provided. If the accessory structure is located in the rear yard, the same rear setback as required for principal structures must be provided.

(Code 1983, § 20-505(B))

## Sec. 110-473. - R-2, low density multifamily residential zones.

Accessory structures may not be located in front yards in R-2, low density multifamily residential zones.

- (1) *Lots not on water.* For lots not on water in R-2, low density multifamily residential zones, accessory structures may be located in side or rear yards but must provide a minimum of 2½-foot setback to allow for vegetation control.
- (2) *Lots on water.* For lots on water in R-2, low density multifamily residential zones, accessory structures may be located in side or rear yards. If the accessory structure is located in a side yard, a minimum of 2½-foot side setback must be provided. If the accessory structure is located in the rear yard, the same rear setback as required for principal structures must be provided.

(Code 1983, § 20-505(C))

## Sec. 110-474. - R-3, medium density multifamily residential zones.

Accessory structures (except carports) may not be located in front yards in R-3, medium density multifamily residential zones.

- (1) *Lots not on water.* For lots not on water in R-3, medium density multifamily residential zones, accessory structures (except carports) may be located in side yard, but must provide a five-foot minimum side setback. If the accessory structure is located in the rear yard, a minimum of two-foot setback must be provided to allow for vegetation control.
- (2) *Lots on water.* Accessory structures (except carports) on lots on water in R-3, medium density multifamily residential zones must provide the same setbacks as are required for the principal structure.
- (3) Carports in the R-3, medium density multifamily residential zones may be located in the front or side yard and must provide a five-foot side yard setback and ten-foot front yard setback.
- (4) The accessory structure must meet the intersection visibility requirement.

(Code 1983, § 20-505(D); Ord. No. 2022-12, § 1, 5-11-22)

Sec. 110-475. - C-1, tourist commercial zones.

Accessory structures may not be located in front yards in C-1, tourist commercial zones.

- (1) *Lots not on water.* For lots not on water in C-1, tourist commercial zones, accessory structures may be located in side yard, but must provide a five-foot minimum side setback. If the accessory structure is located in the rear yard, a minimum of 2½-foot setback must be provided to allow for vegetation control.
- (2) *Lots on water.* Accessory structures on lots on water in C-1, tourist commercial zones must provide the same setbacks as are required for the principal structure.

(Code 1983, § 20-505(E))

Sec. 110-476. - C-2, John's Pass marine commercial zone.

Accessory structures may not be located in front yards in the C-2, John's Pass marine commercial zone. Accessory structures in the C-2, John's Pass marine commercial zone must provide the same side and rear setbacks as are required for the principal structure.

(Code 1983, § 20-505(F))

Sec. 110-477. - C-3, retail commercial zones.

Accessory structures may not be located in front yards in C-3, retail commercial zones. Accessory structures in C-3, retail commercial zones must provide the same side and rear setbacks as are required for the principal structure.

(Code 1983, § 20-505(G))

Sec. 110-478. - C-4, marine commercial zones.

Accessory structures may not be located in front yards in C-4, marine commercial zones. Accessory structures in C-4, marine commercial zones must provide the same side and rear setbacks as are required for the principal structure.

(Code 1983, § 20-505(H))

Sec. 110-479. - P/SP, public-semi public zones.

There are no restrictions regarding accessory structures in P/SP, public-semi public zones. Accessory structures in P/SP, public-semi public zones must be consistent with site plan approval.

(Code 1983, § 20-505(I))

Sec. 110-480. - Maximum size in R-1, R-2 and R-3 zones.

For single-family structures, the maximum size for an accessory structure will be eight feet wide by ten feet long by eight feet high. For duplex and multifamily structures, there may not be more than two accessory structures for a maximum size of six feet by eight feet by eight feet or a single accessory structure eight feet by ten feet by eight feet. The maximum size of a carport in the R-3, medium density multifamily residential zone for single family structures, is 20 feet wide by 22 feet long by ten feet high. For single family structures, there may not be more than one carport. The limit to the number of carport structure for duplex and multifamily structures will be regulated by parking requirements and the site plan approval process.

(Code 1983, § 20-505(J); Ord. No. 2022-12, § 2, 5-11-22)

Sec. 110-481. - Maximum size in C-1, C-2, C-3 and C-4 zones.

An accessory structure not to exceed eight feet by 12 feet by eight feet may be installed and only one accessory type structure may be placed on any lot or group of lots under the same ownership.

(Code 1983, § 20-505(K))

Sec. 110-482. - Lot coverage.

The area covered by accessory structures shall be included in the allowable lot coverage.

(Code 1983, § 20-505(L))

Sec. 110-483. - Tiedowns.

All accessory structures must have tiedowns per the Standard Building Code. This also applies to all accessory type structures in place before the passage of the ordinance from which this section was derived.

(Code 1983, § 20-505(M))

Sec. 110-484. - Placement.

An accessory type structure may not be placed forward of the front entrance of the principal structure. In no case shall an accessory type structure be placed closer to any lot line adjacent to a street than provided for the principal structure nor closer than 18 feet to any seawall on the Gulf of Mexico.

(Code 1983, § 20-505(N); Ord. No. 918, § 3, 12-7-99)

Sec. 110-485. - Prohibited accessory structures.

Manufactured housing, mobile homes, semi-trailers and other motor vehicles shall not be permitted to be used as storage buildings or other such uses.

(Code 1983, § 20-505(O))

Secs. 110-486—110-500. - Reserved.

## Sec. 94-93. - Definitions.

Item 7C.

*Accessory structure* means a structure on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For floodplain management purposes, the term includes only accessory structures used for parking and storage.

*Appeal* means a request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

*ASCE 24* means a standard titled *Flood Resistant Design and Construction* that is referenced by the Florida Building Code. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

*Base flood* means a flood having a one-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 202.] The base flood is commonly referred to as the "100-year flood" or the "one-percent-annual chance flood."

*Base flood elevation* means the elevation of the base flood, including wave height, relative to the national geodetic vertical datum (NGVD), North American vertical datum (NAVD) or other datum specified on the flood insurance rate map (FIRM). [Also defined in FBC, B, Section 202.]

*Basement* means the portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 202.]

*Breakaway wall* means a partition or wall that is independent of supporting structural members and that is intended to withstand design wind forces but to collapse from a water load less than that which would occur during the base flood, without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system.

*Coastal A Zone* means area within a special flood hazard area, landward of a V zone or landward of an open coast without mapped coastal high hazard areas. In a coastal A zone, the principal source of flooding must be astronomical tides, storm surges, seiches or tsunamis, not riverine flooding. During the base flood conditions, the potential for breaking wave height shall be greater than or equal to one and one-half feet (457 mm). The inland limit of the coastal A zone is (a) the limit of moderate wave action if delineated on a FIRM, or (b) designated by the authority having jurisdiction.

*Coastal construction control line* means the line established by the state pursuant to Florida Statutes § 161.053, and recorded in the official records of the community, which defines that portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge, storm waves or other predictable weather conditions.



*Coastal high hazard area* means a special flood hazard area extending from offshore to the inland a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal high hazard areas are also referred to as "high hazard areas subject to high velocity wave action" or "V zones" and are designated on Flood Insurance Rate Maps (FIRM) as zone V1-V30, VE, or V. [Also defined in FBC, B, Section 202.]

*Conditional Letter of Map Revision (CLOMR)* means a formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective flood insurance rate map or flood insurance study; upon submission and approval of certified as-built documentation, a letter of map revision may be issued by FEMA to revise the effective FIRM.

*Design flood* means the flood associated with the greater of the following two areas: [Also defined in FBC, B, Section 202.]

- (1) Area with a floodplain subject to a one-percent or greater chance of flooding in any year; or
- (2) Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

*Design flood elevation* means the elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to two feet. [Also defined in FBC, B, Section 202.]

*Development* means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

*Encroachment* means the placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

*Existing building and existing structure* means any buildings and structures for which the "start of construction" commenced before May 7, 1971. [Also defined in FBC, B, Section 202.]

*Federal emergency management agency (FEMA)* means the federal agency that, in addition to carrying out other functions, administers the national flood insurance program.

*Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B, Section 202.]

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

*Flood damage-resistant materials* means any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, Section 202.]

*Flood hazard area* means the greater of the following two areas: [Also defined in FBC, B, Section 202.]

- (1) The area within a floodplain subject to a one-percent or greater chance of flooding in any year.
- (2) The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

*Flood insurance rate map (FIRM)* means the official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section 202.]

*Flood insurance study (FIS)* means the official report provided by the federal emergency management agency that contains the flood insurance rate map, the flood boundary and floodway map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, Section 202.]

*Floodplain administrator* means the office or position designated and charged with the administration and enforcement of this chapter (may be referred to as the floodplain manager).

*Floodplain development permit or approval* means an official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this chapter.

*Florida Building Code* means the family of codes adopted by the Florida Building Commission, including: Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

*Freeboard* means a level higher than the base flood elevation. It is a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. Freeboard compensates for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action or the hydrological effect of urbanization on the watershed. [The City] of Madeira Beach requires four feet of freeboard above base flood elevation.

*Functionally dependent use* means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term

does not include long-term storage or related manufacturing facilities.

*Highest adjacent grade* means the highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

*Historic structure* means any structure that is determined eligible for the exception to the flood hazard area requirements of the Florida Building Code, Existing Building, Chapter 12 Historic Buildings.

*Letter of map change (LOMC)* means an official determination issued by FEMA that amends or revises an effective flood insurance rate map or flood insurance study. Letters of map change include:

*Letter of map amendment (LOMA)* means an amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective flood insurance rate map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

*Letter of map revision (LOMR)* means a revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

*Letter of map revision based on fill (LOMR-F)* means a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

*Light-duty truck* means as defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds gross vehicular weight rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

*Limit of moderate wave action* means [a] line shown on FIRMs to indicate the inland limit of the one and one-half-foot (457 mm) breaking wave height during the base flood.

*Lowest floor* means the lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the Florida Building Code or ASCE 24. [Also defined in FBC, B, Section 202.]

*Manufactured home* means a structure, transportable in one or more sections, which is eight feet more in width and greater than 400 square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." [Also defined in 15C-1.0101, F.A.C.]

*Market value* means the value of buildings and structures, excluding the land and other improvements on the parcel. Market is the actual cash value (in-kind replacement cost depreciated for age, wear and tear, neglect, and quality of construction) determined by a qualified independent appraiser, or the "just value" of the structure, developed by the Pinellas County Property Appraiser's Office (PAO) for ad valorem taxation purposes, adjusted to approximate market value, as determined by the PAO.

*New construction* means, for the purposes of administration of this chapter and the flood resistant construction requirements of the Florida Building Code, structures for which the "start of construction" commenced on or after May 7, 1971 and includes any subsequent improvements to such structures.

*Nonconversion agreement* means a form provided by the floodplain administrator to be signed by the owner and recorded on the property deed in official records of the clerk of courts, for the owner to agree not to convert or modify in any manner that is inconsistent with the terms of the building permit and these regulations, enclosures below elevated buildings.

*Recreational vehicle* means a vehicle, including a park trailer, which is: [See Florida Statutes § 320.01]

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

*Sand dunes* means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

*Special flood hazard area* means an area in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. All of Madeira Beach is located in a special flood hazard area. [Also defined in FBC, B, Section 202.]

*Start of construction* means the date of issuance of permits for new construction and substantial improvements structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of

construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B, Section 202.]

*Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

*Substantial improvement* means any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a one-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the "start of construction" of the improvement. For each building or structure, the one-year period begins on the date of the first permit issued for improvement or repair subsequent to November 15, 2016. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 202.]

- (1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
- (2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

*Variance* means a grant of relief from the requirements of this chapter, or the flood resistant construction requirements of the Florida Building Code, which permits construction in a manner that would not otherwise be permitted by this chapter or the Florida Building Code.

(Ord. No. 2016-11, § 2, 11-15-16; Ord. No. 2021-06, § 1, 8-11-21; Ord. No. 2022-02, § 1, 2-9-22)

## Sec. 82-2. - Definitions.

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

*Absorption area* means any area designed, or natural, capable of allowing stormwater percolation.

*Abutting* means to physically touch or border upon, to share a common property line, or is directly across a street, access easement, alley or other right-of-way (except those properties separated by an arterial street) from the subject property.

*Accessory building or use* means a building structure or use which is:

- (1) Subordinate to and serves a principal building or use.
- (2) Subordinate in area, extent and purpose to principal building or use.
- (3) Contributes to the comfort, convenience or necessities of the principal building or use.
- (4) Is located on the same lot as the principal building or use.

*Addition (to an existing building)* means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common loadbearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter loadbearing walls is new construction.

*Adjoining* means the same as "Abutting."

*Adult arcade* means a place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images, including motion pictures, films, video cassettes, slides or other photographic reproductions to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

*Adult bookstore* means:

- (1) An establishment having as a substantial or significant portion of its stock in trade books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities, or specified anatomical areas, or an establishment with a segment or section devoted to the sale, rental or display of such material.
- (2) It is an affirmative defense to an alleged violation of operating an adult bookstore without a permit if the adult material is accessible only by employees and either the gross income from the sale and/or rental of adult material comprises less than ten percent of the gross income from the sale; and/or rental of goods and/or services at the establishment, or the

individual items of adult material offered for sale and/or rental compromises less than ten percent of the value of the individual items publicly displayed at the establishment as stock in trade in any of the following categories: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations, or recordings or other audio matter. Any adult use activity other than the sale or rental of adult material shall preclude the establishment's qualifying solely as an adult bookstore and shall mandate its classification as other than an adult bookstore.

*Adult booth* means a separate enclosure inside an adult entertainment establishment, accessible to any person, regardless of whether a fee is charged for access. The term "adult booth" includes, but is not limited to, a "peep show" booth, adult arcade booth or other booth used to view adult material. The term "adult booth" does not include a foyer through which any person can enter or exit the establishment, nor a restroom.

*Adult dancing* means a commercial establishment that permits, suffers or allows dancers to display or expose specified anatomical areas. Additionally, any establishment on whose premises an employee, who need not be the same employee, displays or exposes specified anatomical areas on more than one day in any 30-day period shall be deemed an adult dancing establishment and shall be required to obtain a license under this Code.

*Adult entertainment establishment* means adult arcade, adult bookstore, adult booth, adult dancing establishment, adult massage establishment, adult motel, adult motion picture theater, special adult cabarets, physical cultural establishments or adult photographic studios including any business establishment whose primary business stock in trade is dependent upon the activities relating to specified sexual activities or specified anatomical areas, or an adult dancing establishment, or any other establishment exhibiting or relating to specified sexual activities or specified anatomical areas. Any commercial establishment that displays a sign or engages in any other form of advertising capable of leading a reasonable person to believe that such establishment offers, presents, permits or engages in any form of adult entertainment shall be deemed an adult entertainment establishment under the appropriate classification. For the purposes of the land development regulations, the term "adult use" is synonymous with the term "adult entertainment establishment."

*Adult massage establishment* means a site or premises, or portion thereof, upon which any person, who is an employee, manipulates or massages the superficial tissues of the body of another person, but does not include the following:

- (1) Licensed health care facilities;
- (2) Licensed physicians or nurses engaged in the practice of their professions;
- (3) Educational or athletic facilities if the massage is a normal and usual practice in such facilities;
- or
- (4)

Establishments exempted under Florida Statutes § 480.034.

*Adult material* means any one or more of the following regardless of whether it is new or used:

- (1) Books, magazines, periodicals or other printed matter, paintings, drawings or other publications or graphic media or photographs, films, motion pictures, video cassettes or disks, slides or other visual representations, or recordings or other audio matter, which have as their primary or dominant theme matter depicting, illustrating, describing or relating to specified sexual activities or specified anatomical areas; or
- (2) Instruments, novelties, devices or paraphernalia which are designed for use in connection with specified sexual activities.

*Adult motel* means any motel or hotel, boardinghouse, rooming house or other lodging used predominantly for transient customers which includes the words "adult" in any name it uses or otherwise advertises, and actually permits the presentation of film material, video or other visual representations, which has as its preliminary or dominant theme matters depicting, illustrating or relating to specified sexual activities or specified anatomical areas for observations of patrons thereof.

*Adult photographic or modeling studio* means any business establishment which offers or advertises as its primary business stock and trade, the use of its premises for the purpose of photographing or exhibiting specified sexual activities or specified anatomical areas or the modeling of apparel that exhibits specified anatomical areas.

*Adult theater* means an enclosed building or an enclosed space within a building, or an open-air area used for presenting either filmed or live plays, dances, or other performances, either by individuals or groups, distinguished or characterized by an emphasis on material depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein. An establishment which has adult booths or an adult arcade is considered to be an adult theater.

*Adult use* means and includes the terms as described under the definition of "adult entertainment establishment."

*Adversely impact* means to destroy or damage or contribute to the destruction or damage of something.

*Alley* means a public right-of-way 15 feet or less in width and which affords only a secondary means of access to abutting property.

*Alteration* means to change, rearrange, enlarge, extend or reduce any structure or part thereof on the same site.

*Ancillary use* means a use which is either: Subordinate to and serves a principal building or use; subordinate in area, extent, and purpose to the principal building or use served; contributes to the comfort, convenience, or necessities of the users or occupants of the principal building or use; and is located on the



same lot as the principal building or use. Unless otherwise specified, no ancillary use shall exceed 25 percent of the gross floor area of the principal building or use.

*Antenna* means any exterior apparatus designed for telephonic, radio, or television communications, through the sending or receiving of electromagnetic waves.

*Appeal* means a request for a review of the building and zoning official's interpretation of any provision of the land development regulations or a request for a variance.

*Aquatic preserves* means publicly owned submerged lands which are covered by brackish or salt water and which are recognized by law or regulations of having exceptionally high biological, aesthetic, educational or scientific value.

*Area of special flood hazard* means the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

*Art work* means drawings, pictures, symbols, paintings or sculpture which in no way identify a product or business and which are not displayed in conjunction with a commercial, for profit or nonprofit enterprise.

*Arterial* means a street officially defined as such by the state department of transportation's functional classification.

*Artificial light* means any source of light emanating from a manmade device, including, but not limited to, incandescent, mercury vapor, metal halide, neon, sodium, spotlights, street lights, construction or security lights.

*Automatic controller* means a mechanical or electronic timer, capable of operating valve stations to set the days and length of time of a water application.

*Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year.

*Base flood elevation (BFE)* means the elevation, measured in feet above mean sea level, as shown on the flood insurance rate map (FIRM).

*Basement* means that portion of a building having its floor subgrade (below ground level) on all sides.

*Beach access point* means any path which may be through or over the dune used by the general public or private property owners for the purpose of gaining access to the beach.

*Board of adjustment* means the board of adjustment of the city.

*Board of commissioners* means the board of commissioners as legally constituted for the city.

*Boat, charter* means a boat for hire which carries not more than ten paying passengers.

*Boat, party* means a boat for hire which carries more than ten paying passengers.

*Breakaway walls* means any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building material which is not part of the structural support of the building and which are so designated as to break away, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by floodwaters.

*Buildable area* means the area of a site in which development is permitted without variance.

*Building* means an enclosed structure with walls and a roof.

*Building permit* means a permit which authorizes the construction of a new building structure or related building system or the expansion of floor area or the increase in the number of dwelling units contained in an existing building or change of use.

*Building value* = market value of structure only. Land and exterior improvements are excluded, e.g., swimming pool, pool enclosure, landscaping, paving, etc. Market value = assessed value or properly-depreciated appraised building value. The assessed value may be adjusted upward to reflect the market more accurately. Replacement cost can only be used if properly depreciated. Certified appraisals must be based on the comparable sales method. The land value must be deducted and it must be equal to or greater than that established by the county assessor.

*Business entity* means any and all persons, natural or artificial, including any individual, firm, corporation or association operating or proposing to operate for commercial or pecuniary gain. "Operated for commercial or pecuniary gain" shall not depend upon actual profit or loss. Also, "operated for commercial or pecuniary gain" shall be presumed where the establishment has an occupational license. Business entity includes any enterprise or venture in which a person sells, buys, exchanges, barter, deals or represents the dealing in any thing or article of value or renders services for compensation.

*Camouflage techniques* means a tower and/or antenna designed to unobtrusively blend into existing surroundings, be disguised so as to not have the appearance of a communication facility, or be designed or located in such a manner that the tower or antenna is not easily discernible from the ground. Examples include the form and shape of a tree, bell tower, steeple, clock tower, light standard, and other techniques which serve to diminish the visible impact of the tower or antenna.

*Cannabis* means any plant or part of a plant of the genus *cannabis* whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.

*Cannabis farm* means any property used in whole or in part for the growing or cultivation of cannabis plants, whether or not such growing or cultivation is lawful under federal or state law.

*Carport, private* means an accessory building with two or more sides open, designed or used for the storage of motor vehicles owned and used by the occupants of the primary building.

*Certificate of concurrency* means the official document issued by the city upon finding that the application for final development permit will not result in the reduction of level of service standards set forth in the city comprehensive plan for public facilities and services.

*Certification of compliance/noncompliance* means a notice issued by the building and zoning official indicating to an applicant for an occupational license that the location proposed for an adult use complies or does not comply with the locational requirements of the land development regulations.

*Child care facility* means any children's center, day nursery or family day care home as defined in Laws of Fla. ch. 61-2681.

*Church* means a premise or site which is used primarily or exclusively for religious worship and related activities. The term "church" shall also include the term synagogue, temple, mosque, cathedral, church building and any other facility or premises where individuals of a particular religion gather to worship and for any other related religious purpose.

*Clearing* means the removal of vegetation, rocks, structures, debris and other obstructions resting on or protruding through the existing ground surface.

*Clinic* means a facility wherein professional services concerning personal health of humans are administered by medical doctors, chiropractors, optometrists, dentists, or any such professional which may lawfully practice in the state, provided that the persons treated are not lodged therein overnight.

*Club* means an establishment which is owned or operated by a corporation, association, person or persons for social, literary, political, educational, fraternal or charitable purposes, but which is not operated for profit or to render a service which is customarily conducted as a business.

*Coastal barrier islands* means the geological features which are completely surround by marine waters that front upon the open waters of the Gulf of Mexico, and are composed of quartz sands, clays, limestone, oolites, rock, coral, coquina, sediment, or other material, including spoil disposal, which features lie above the line of mean high water. Mainland areas which were separated from the mainland by artificial channelization for the purpose of assisting marine commerce shall not be considered coastal barrier islands.

*Coastal building zone* means the land area from the seasonal high water line landward to a line 1,500 feet landward from the coastal construction control line as established pursuant to Florida Statutes § 161.053, and, for those areas fronting on the Gulf of Mexico and not included under Florida Statutes § 161.053, the land area seaward of the most landward velocity zone (V-zone) as established by the Federal Emergency Management Agency as shown on flood insurance rate maps. The coastal building zone on coastal barrier islands shall be the land area from the seasonal high water line to a line 5,000 feet landward from the coastal construction control line established pursuant to Florida Statutes § 161.053, or the entire island, whichever is less.

*Coastal construction control line* means the line as established by the state pursuant to Florida Statute 161.053.

*Coastal high hazard area (CHHA)* means the area subject to high velocity waters, including but not limited to hurricane wave wash or tsunamis. The area is designated by the Federal Emergency Management Agency (FEMA) as Zone V1-V30. The coastal high hazard area incorporates all areas seaward of the coastal construction control line established by state law and the velocity flood hazard area as established by the Federal Emergency Management Agency (FEMA). This includes areas where public facilities have been damaged or undermined by coastal storms, and inlets which are not structurally controlled.

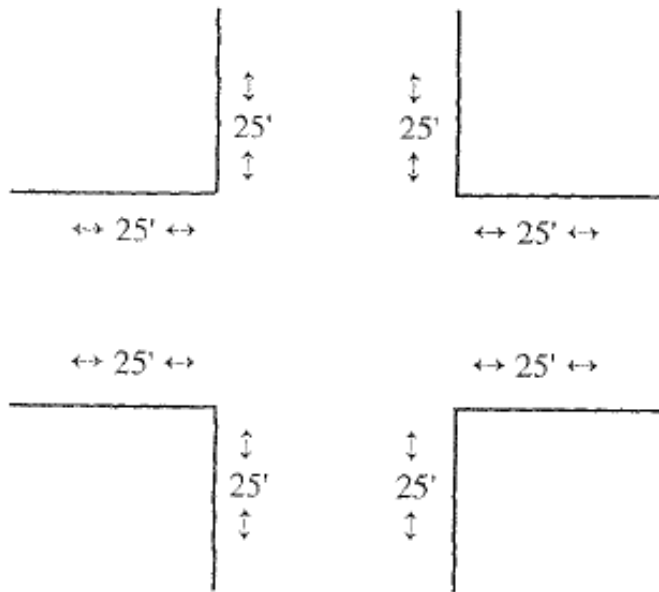
*Commercial equipment* means vehicles, trailers, step and box vans, and all machinery, materials or furnishings owned or used for commercial purposes will be considered commercial equipment. Personal vehicles, up to and including one ton pick-up truck or passenger or utility van, used by an individual for transportation to and from home or job sites will not be considered commercial equipment regardless of any commercial names, insignias or markings on the vehicle. Machinery, materials or furnishings owned or used for commercial purposes clearly visible on these vehicles will be considered commercial equipment for the purposes of this Code.

*Comprehensive plan* means the city comprehensive plans as adopted by Ordinance No. 738 on December 5, 1989 by city commission pursuant to Florida Statutes ch. 163, part 2, as such plan may be amended from time to time.

*Congregate care facility* means a residential facility which may be comprised of individual dwelling units with or without kitchen facilities. These facilities may offer central dining, personal and therapeutic care and other facilities necessary to meet special living needs of the residents. These include adult congregate living facilities and similar retirement or life-care facilities. These facilities, where required, shall be licensed by the state department of children and family services, or be operated pursuant to state law. As a continuing care facility it shall not be located within the coastal high hazard area, hurricane evacuation zone level "A" or floodway.

*Contiguous* means parcels touching along a boundary or directly across roadway with a local or collector functional classification or other right-of-way from each other. For the purpose of calculating density averaging, "contiguous" means parcels touching along a boundary or directly across any roadway or other right-of-way from each other.

*Cross visibility area* means the area of property located at the corner formed by the intersection of two or more public streets with two sides of a triangular area being 25 feet in length along the abutting public street, measured from their point of intersection, and the third side being a line connecting the ends of the other two sides. In areas where this scenario cannot be achieved, the distance will be determined by the city manager or his designee.



*Day care center* means and includes any day nursery, nursery school, kindergarten or other facility as defined by state law, which, with or without compensation, cares for five or more children 17 years of age or under, not related to the operator by blood, marriage or adoption, away from the child's home.

*Density* means a ratio of dwelling units per acre of land. No portion of dedicated public right-of-way may be used to calculate density. No portion of submerged land may be used to calculate density.

*Density/intensity averaging* means the aggregation of the otherwise permitted density and/or intensity of a parcel or parcels of land in a non-uniform or consolidated manner on a portion of such contiguous parcel(s) in accordance with article V of chapter 86, Administration, of this Code.

*Detention* means the temporary collection and storage of surface water for subsequent controlled dissipation at a rate which is less than the rate of flow.

*Development* means any material manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations. The following activities or uses shall be taken to involve "development," as defined in this section:

- (1) A reconstruction, alteration of the size, or change in the external appearance of a structure on land.
- (2) A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or an increase in the number of businesses, manufacturing establishments, offices or dwelling units in a structure or on land.
- (3) Alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, including any "coastal construction" as defined in Florida Statutes § 161.021.
- (4)

Commencement of drilling, except to obtain soil samples, mining, or excavation on a parcel of land.

(5) Demolition of a structure.

(6) Clearing of land as an adjunct of construction.

(7) Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

*Development agreement* means an agreement, as authorized by the Florida Local Government Development Agreement Act (set forth in Florida Statutes §§ 163.3220—163.3243) and subject to the requirements of article IV of chapter 86, Administration, of this Code.

*Development permit* means any approved final site plan, building permit, zoning clearance, rezoning, special exception, variance, conditional use or any other official action of the city having the effect of permitting the development of land, except that for the purposes of the land development regulations, tree permits and grubbing permits are not to be considered development permits.

*Diameter at breast height (DBH)* means the standard measurement of a single-stemmed tree at 4½ feet above grade.

*District* means a section or sections of the city for which zoning regulations governing the use of buildings and premises, the height of the buildings, the size of yards and the intensity of use are uniform.

*Dock, commercial* means a revenue producing structure on piling over water or structure that is defined as a commercial dock under state law, which is designed or used to provide a berth for and access to one or more private, charter, commercial or party boats.

*Dock, residential* means an accessory structure to a residential use which is built on pilings over water and is designed or used to provide moorage for one or more boats.

*Drainage system* means the system through which water flows from the land. It includes all watercourses, waterbodies and wetlands.

*Dripline* means an artificial line along the ground which conforms to the perimeter of the crown of a tree as projected vertically to the ground.

*Drive-in restaurant* means any food or beverage dispensing operation at retail to the general public where such public may be served while remaining in automobiles or other motor vehicles parked on the premises, or where prepared meals may be obtained at a drive-in window.

*Drive-in window* means a window or other opening in the wall of a principal or accessory building through which goods or services are provided directly to customers who are in their motor vehicles and by means eliminates the need for such customers to exit their motor vehicles.

*Dune* means the amount or ridge of loose sediments lying landward of the beach and deposited by any natural or artificial mechanism.

*Dwelling unit* means a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

*Duplex* means two dwelling units contained in one structure on a single lot or parcel and attached by common vertical walls.

*Multifamily* means three or more dwelling units contained in one structure on a single lot or parcel and attached by common vertical walls.

*Single-family detached* means a dwelling unit in a single structure not attached to any other dwelling by any means, designed for or occupied exclusively by one family.

*Tourist:*

- A. *Condo-hotel* means a hotel, motel, tourist or seasonal accommodation room or group of rooms forming a separate, habitable unit used or which could be used for living and sleeping by one family with independent kitchen facilities. Each unit shall be owned by an individual, corporation, or any other legal entity having membership into an association comprised of all owners within the same development. No unit in a condo-hotel shall be used as a timeshare or fractional ownership unit or be converted to a permanent, non-tourist dwelling unit.

Each condo-hotel shall:

1. Contain a front desk, lobby, internally oriented and easily accessible to members of the public;
2. Have the appropriate license for a hotel and all such licenses must be kept up-to-date annually;
3. Have sufficient signage viewable by the general public advertising such structure as a condo-hotel, with units available for daily, weekly or monthly rentals;
4. Provide a reservation system or agency for rental of units; and
5. Upon request of the city, provide access to all rental records, tax receipts or any other documents necessary to verify conformance with the provisions established herein.

Each unit shall:

1. Have the appropriate license for hotel unit and all such licenses must be kept up-to-date annually;
2. Be required to obtain a business tax receipt for each unit from the city;
3. Be subject to all applicable tourist tax collection requirements;
4. Utilize the reservation system or agency;
5. Not be used for homesteading purposes;
6. Not be issued a home occupational license;

7. Not be utilized as an address for the purposes of establishing residency or registering to vote; and
8. Be available to the owner for use no more than 90 days within a calendar year. The unit shall be available for lease to parties other than the owner in intervals of 30 days or less for the remainder of the calendar year

Only one unit in a condo-hotel structure may be used for the year-round occupancy by a person or family serving as the on-site manager(s). This unit must be owned by the condo association or management company and shall not be used for homestead purposes. This manager unit shall be exempt from the requirement of leasing 30 days or less in the calendar year.

B. *Motel or hotel* means a room or a group of rooms forming a separate, habitable unit used or which could be used for living and sleeping purposes by one family, with or without independent kitchen facilities, occupied or intended to be occupied by transients on a rental or leased basis.

Each motel or hotel shall:

1. Contain a front desk and/or lobby with a reservation system, and easily accessible to members of the public;
2. Have the appropriate license for a motel or hotel and all such licenses must be kept up-to-date annually; and
3. Have sufficient signage viewable by the general public advertising such structure as a motel or hotel, with units available for daily, weekly or monthly rentals.

Each unit shall:

1. Be subject to all applicable tourist tax collection requirements;
2. Not be used for homesteading purposes;
3. Not be issued a home occupational license; and
4. Not be utilized as an address for the purposes of establishing residency or registering to vote.

Only one unit in the motel or hotel structure may be used for the year-round occupancy by a person or family serving as the on-site manager(s). The manager unit may be used to establish residency. If the unit is owner-occupied, this unit may be used for homestead purposes. This manager unit shall be exempt from the requirement being available for daily, weekly or monthly rental.

*Townhouse* means a building designed for or occupied exclusively by one family and attached to two or more other buildings of similar design and separated by one or more party walls. The attached townhouses as defined constitute a building group.



*Triplex* means a multifamily dwelling with three units contained in one structure on a single lot parcel and attached by common vertical walls.

*Elevated building* means a nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (post and piers), shear walls, or breakaway walls.

*Emitter* means the drip irrigation fittings that deliver water slowly from the system to the soil.

*Employee* means a person who works in the service of another person (the employer) under an express or implied contract of hire, under which the employer has the right to control the details of work performance.

*Erosion* means the damage caused by unrestricted surface waters which shall include the movement of silt, soils or foreign material.

*Essential services* means public utility facilities either underground or overhead and related to the transmission or distribution system of water, sanitary or storm sewage, telephone, gas, electricity, and public safety, including poles, wires, mains, hydrants, drains, pipes, conduits, law enforcement or fire call boxes, traffic signals and other similar equipment necessary for the furnishing of service, but not including the buildings.

*Establishment or commencement of business* means and includes any of the following:

- (1) The opening or commencement of any adult entertainment establishment as a new business;
- (2) The conversion of any existing business, whether or not an adult entertainment establishment; or
- (3) The relocation of any adult entertainment establishment.

For the purposes of determining the date of commencement of business, evidence in the form of a certificate of occupancy and an occupational license will be required. Any decision regarding a given date of commencement may be appealed pursuant to the provisions of section 90-10.

*Existing construction* means any structure for which the start of construction commenced before (the effective date of the first floodplain management code, ordinance, or standard based upon specific technical base flood elevation data which establishes the area of special flood hazard) or (specific date).

*Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management

regulations adopted by a community (before the effective date of the first floodplain management code ordinance, or standard based upon specific technical base flood elevation data which establishes the area of special flood hazard) or (specific date).

*Expansion to an existing manufactured home park or subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

*Eutrophication* means the enrichment of bodies of water with nutrients resulting in luxurious organic growth and depletion of dissolved oxygen.

*Family* means an individual, or two or more persons, related by blood or marriage, or a group of not more than three persons who need not be related by blood or marriage, living together as a housekeeping unit in a dwelling.

*FAA* means the Federal Aviation Administration.

*FCC* means the Federal Communications Commission.

*Final development order* means the last approval necessary to carry out the development requested which will result in an immediate and increased impact upon public facilities.

*Flood hazard boundary map (FHBM)* means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as zone A.

*Flood insurance study* means the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary floodway map and the water surface elevation of the base flood.

*Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

*Flood elevation determination* means a determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

*Flood insurance rate map (FIRM)* means an official map of a community, on which the administrator has delineated both the special hazard areas and the risk premium zone applicable to the community.

*Flood light* means a reflector type light fixture which is attached directly to a building or post and is unshielded.

*Flood prone area* means any land area susceptible to being inundated by water from any source.

*Floodplain* means the lateral extent of inundation by an event of given statistical frequency, such as a 100-year floodplain, as designated in the county stormwater management plan (SWMP).

*Floodplain management regulations* means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of law enforcement powers. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

*Floodproofing* means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

*Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one-tenth of a foot.

*Floor area, gross* means the sum of all enclosed areas of floors of a building, measured from the outside faces of the exterior walls, or from the centerline of a wall separating two buildings, including halls, lobbies, arcades, stairways, elevator shafts and balconies, but not including interior parking spaces, open terraces, patios, atriums, entryways, loading space for motor vehicles, and any space where floor to ceiling height is less than six feet.

*Floor area ratio (FAR)* means a ratio of square footage of gross floor area divided by the square footage of land area. The square footage of land area for purposes of determining the FAR shall not include public road rights-of-way and shall not include submerged land.

*Frontage, street* means all the property on one side of a street between two streets which intersect such street (crossing or termination), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between a street which intersects such street and the dead end of the street.

*Functionally dependent facility* means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

*Garage, private* means an accessory building or an enclosed area in the main building designed or used for the storage of motor-driven vehicles owned and used by the occupants of the building.

*Garage, public* means a building or portion thereof, other than a private garage, designed or used equipping, servicing, repairing, hiring or selling or storing of motor-driven vehicles, but not including the storage of wrecked or junked vehicles.

*Grade* means a reference plane representing the average of finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or between the building and a point six feet (1,829 mm) from the building, whichever is closer to the building.

*Grading or land balancing* means the moving of earth or materials for the purpose of development or redevelopment or the temporary or permanent alteration of existing topography of the land.

*Ground cover* means plants, other than turf grass, normally reaching an average maximum height of not more than 24 inches in maturity.

*Ground-level barrier* means any natural or artificial structure rising above the ground which prevents beachfront lighting from shining directly onto the beach-dune system.

*Habitable space* means a space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

*Hedges* means any installation or placement of plants, structural elements, feature art, ornaments or objects that together form a row, boundary or screen that extends more than three feet before a break (open space) of at least three feet horizontally and six feet vertically. Hedges can be installed in conjunction with or in lieu of fences, except those fences required by the Florida Building Code, and must meet the same height restrictions as fences and walls except in the rear yard where the natural plant material of the hedge may be allowed to grow to natural height.

*Height, building* means the vertical distance from grade to the highest finished roof surface in the case of flat roofs or to a point at the average height of the highest roof having a pitch. When a building is located within a special flood hazard area having a designated base flood elevation on the flood insurance rate map (FIRM), the height may be measured from the base flood elevation plus required freeboard to the highest point of the building.

*Height, wireless communication antennas/towers* means the distance measured from existing grade to the highest point on the tower structure, even if the highest point of the tower or structure is an antenna.

*Historic structure* means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2)

Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs which have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior; or
  - b. Directly by the Secretary of the Interior in states without approved programs.

*Home occupation* means an occupation conducted as an accessory use in a dwelling unit in a manner which is clearly incidental and accessory to the residential use and requiring no changes to the outside of the structure or its outward appearance.

*Hotel* means a building containing five or more sleeping accommodations available to the public for compensation and in which meals may or may not be provided. All ancillary or accessory uses such as dining rooms, restaurants or cafes shall be operated within the same building or buildings and principal access to all facilities is through an inside lobby or office supervised by a person in charge at all hours. Hotel facilities are classified as a form of a tourist dwelling facility.

*Household animals* means animals which are customarily kept for personal use or enjoyment which are not exhibited to the public nor raised for commercial purposes. Household animals shall include domestic dogs, domestic cats, white mice and domestic rabbits, frogs, small birds, small reptiles and fish.

*Hurricane evacuation zone* means the hurricane evacuation zone established by the county emergency services agency. Evacuation Levels A, B, C, D, and E, as identified in the most recent hurricane evacuation study, require the evacuation of successively more zones inland from the coast during a storm event.

*Impervious surface* means a surface that has been compacted or covered with a layer of material so that it is highly resistant to or prevents infiltration by stormwater. It includes surfaces such as limerock, or clay, as well as most conventionally surfaced streets, structures, roofs, sidewalks, parking lots, and other similar surfaces.

*Impervious surface ratio (ISR)* means the relationship between the total impervious surface area on a site and the gross land area. The impervious surface ratio is calculated by dividing the square footage of the area of all impervious surfaces on the site by the square footage of the gross land area. The square footage of the gross land area for purposes of determining the ISR shall not include public road right-of-way and shall not include submerged land.

*Improved land* means the land that has been altered or improved from its natural state including but not limited to grading, paving, drainage, installation of structures, etc., that ultimately increased the value of, or altered the original integrity of such land.

*Infiltration rate* means the rate of water entry into the soil expressed as a depth of water per unit of time (inches per hour).

*Irrigation system* means a permanent artificial watering system designed to transport and distribute water to plants.

*Landscaping* means and shall consist of any of the following combinations of grass or ground cover and shrubs, vines, hedges, trees or palms. Other materials such as rocks, pebbles, sand and decorative fence, but excluding concrete, asphalt paving or pebbles placed on an impervious surface, may be used to satisfy the landscaping requirements west of Gulf Boulevard.

*Law enforcement officer* means any person who is elected, appointed, or employed full-time by the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.

*Lawn grass* means all species normally grown as permanent lawns native to this area of the state. Grass may be sodded, plugged, sprigged or seeded.

*Level of service* means an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of a facility.

*Licensee* means any person whose application for any business enterprise has been granted and who owns, possesses, operates and controls the establishment.

*Loading space* means space located outside of any street right-of-way or easement and designed to accommodate the temporary parking of vehicles used for bulk pickups and deliveries.

*Lot* means land bounded by lines legally established for the purposes of property division. A lot shall have frontage on an improved public street or on an officially approved private street. For zoning purposes, a lot may consist of:

- (1) A combination of complete lots of record.
- (2) A combination of complete lots of record and portions of lots of record.
- (3) Portions of lots of record, provided that such lots or combinations of lots are of sufficient size to meet the requirements of this chapter for the district in which the lots are located.
- (4) Single lots of record.
- (5) Parcels of land defined by metes and bounds description where such parcels are in conformity with the land development regulations.

*Lot, corner* means a lot located at the intersection of two or more streets.

*Lot coverage* means the percentage of the lot area covered or occupied by the base of the buildings, including attached or unattached accessory buildings.

*Lot depth* means the distance measured in the mean direction of the side lines of the lot from the midpoint of the front lot line to the midpoint of the opposite mean rear line of the lot.

*Lot, interior* means a lot other than a corner lot, and abutting one street. Alleys shall not be considered as streets.

*Lot, through* means a lot other than a corner lot and with frontage on more than one street.

*Lot line* means a line that marks the boundary of a lot.

(1) *Interior*: Any lot line that is not a street lot line; a lot line separating a lot from another lot.

(2) *Street*: Any lot line separating a lot from a street right-of-way or general access easement.

Where a lot line is located within such street right-of-way or easement, the right-of-way or easement boundary adjacent to the lot line shall be construed to be considered the street lot line.

*Lot of record* means a lot which is part of a subdivision, or a parcel of land described by metes and bounds, the plat or description of which has been recorded by deed with the office of the county clerk of the circuit court. In addition, such plat or description shall provide for a lot which meets the minimum size dimensions for lots in the district for which it is located at the time of recording, or was recorded prior to the effective date of the land development regulations.

*Lot width* means the width of the lot at the minimum front building setback line.

*Low profile luminaire* means a light fixture set on a base which raises the source of the light no higher than 48 inches off the ground, and designed in such a way that light is directed downward from the hooded light source.

*Lowest floor* means the lowest habitable floor of a building which must be located at or above the 100-year flood elevation (base flood level).

*Mangrove* means any or all of the following species of aquatic woody plants:

Red Mangrove — *Rhizophora mangle*.

Black Mangrove — *Avicennia nitida* or *avicennia geminans*.

White Mangrove — *Laguncularia racemosa*.

Buttonwood or button-mangrove — *Conocarpus erecta*.

*Mangrove stand* means an association of mangrove trees which are noted for development within intertidal zone of marine shorelines and which contain one or more of the following species:

Red Mangrove - *Rhizophora mangle*.

Black Mangrove - *Avicennia nitida*.

White Mangrove - *Laguncularia racemosa*.

Buttonwood - *Conocarpus erecta*.

*Manufactured home* means a building, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

*Marina* means a facility for storing, berthing, securing and launching of private pleasure craft which may also include the sale of fuel and incidental supplies and minor repairs.

*Mean high water* means the high water mark established by the U.S. Coast and Geodetic Survey in its latest coastal survey of the city.

*Mean sea level (MSL)* means the average height of the sea for all stages of the tide. This is used as a reference for establishing various elevations within the floodplain. For purposes of the land development regulations, the term is synonymous with the National Geodetic Vertical Datum (NGVD).

*Medical marijuana dispensary* means a facility that is operated by an organization or business holding all necessary licenses and permits from which marijuana, cannabis, cannabis-based products, or cannabis plants are delivered, purchased, possessed, or dispensed for medical purposes and operated in accordance with all local, federal and state laws. Physicians authorized by state law to order low-THC cannabis, as defined in Florida Statutes, for patients' medical use are not included in the definition of medical marijuana dispensary.

*Medical use* means the prescriptive use of any form of cannabis to treat a qualifying medical condition and the symptoms associated with that condition or to alleviate the side effects of a qualifying medical treatment.

*Mobile home* means a structure, transportable in one or more sections, which structure is eight feet or more in width and over 32 feet in length, and which structure is built on an integral chassis and designed to be used as a dwelling unit when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. This term shall include manufactured housing as defined by state law.



*Mobile home park* means a lot or parcel of land which contains mobile home sites and accessory areas, recreation or community facilities for the residents.

*Mobile home site* means a space or plot of ground within a mobile home park, designated for the accommodation of not more than one mobile home.

*Motel* means a building in which lodging is available for rent to the public, which is open to transient guests, in which a majority of the rental units have direct entrances from the outside, and in which parking spaces are oriented to the rental units in such a manner as to facilitate direct access from units to the automobiles of the renters. Motels are classified as a form of a tourist dwelling facility.

*National Geodetic Vertical Datum (NGVD)* means a vertical control as corrected in 1929, used as a reference for establishing varying elevations within the floodplain.

*Mulch* means nonliving organic and synthetic materials customarily used in landscape design to retard erosion and retain moisture.

*Native* means trees and other vegetation that is indigenous to Central or North Florida.

*New construction* means any structure for which the "start of construction" commenced after January 1, 1975. The term also includes any subsequent improvements to such structure.

*New manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

*Nonconforming structure, lot, or use* means lawful land use, lots, or structures existing at the time of the passage of the land development regulations which does not conform to the provisions, requirements and regulations of the land development regulations.

*Non-medical marijuana sales* mean the purchase, sale, transfer or delivery of marijuana, cannabis, cannabis-based products or cannabis plants when such sale, transfer or delivery is not associated with any medical purpose or use, whether or not such purchase, sale, transfer or delivery is lawful under federal or state law.

*Occupiable room* means a room or enclosed space designed for human occupancy in which individuals congregate for amusement, educational or similar purposes, or in which occupants are engaged at labor; and which is equipped with means of egress, light, and ventilation facilities meeting the requirements of this Code.

*Office, professional* means an establishment offering services or knowledge to the business community or to individuals. Such activities would include, by the way of illustration, accounting, brokerage, insurance, advertising, employment services, real estate services, physician, lawyer, dentist, architect and psychologist.

*Off-street vehicular use area* means any area located outside of road right-of-way or easement and designed for parking, service, loading, circulation, storage or display of any type of vehicle, excluding parking garages.

*Open space* means the land and/or water areas between and around buildings and structures, including required recreation areas, stormwater detention areas, preservation areas, landscape islands and areas with permeable blocks. Retention areas are considered open space if they serve as a water feature and are used as a design element within the overall site. This shall not include parking areas.

*Open storage* means the storage outside of a building of material supplies, merchandise equipment, commercial vehicles and like items, but excluding junk.

*Outdoor lighting/outdoor lighting fixtures* means any light emitting device which causes any illumination beyond the exterior walls of any structure or building.

*Personal services* means an establishment that primarily provides services generally involving the care of a person or his apparel, such as barber shops, beauty salons, seamstress shops, shoe repair shops, dry cleaning and laundry pickup facilities and coin-operated laundry and dry cleaning facilities.

*Pervious open space* means the area on a lot or parcel not covered by a building or impervious surface.

*Pervious paving materials* means a porous asphaltic or concrete surface and a high-void aggregate base which allows for rapid infiltration and temporary storage of rain on, or runoff delivered to, paved surfaces.

*Physical culture establishment* means any business establishment which offers or advertises, massage, body rubs or physical contact with specified anatomical areas, whether or not licensed. Business establishments which routinely provide medical services by state licensed practitioners, and electrolysis treatment by licensed operators of electrolysis equipment shall be excluded from the definition of adult physical culture establishments.

*Planning commission* means the city planning commission, the legally constituted membership of the planning commission of the city as defined in chapter 2, article II, division 2 of this Code.

*Pole lighting* means a lighting fixture set on a base or pole which raises the source of the light higher than 48 inches off the ground.

*Portable storage units (PSU)* are containers, which are intended to be used for the offsite storage of personal property, and are on the property solely for loading and unloading. Portable containers designated for depositing personal goods to be donated to a nonprofit charitable organization are not included in the definition of a PSU.

*Private performance* means the display or exposure of any specified anatomical area by an employee of an adult entertainment establishment to a person other than another employee while the person is in an area not accessible during such display to all other persons in the establishment, or while the person is in an area in which the person is totally or partially screened or partitioned during such display from the view of all persons outside the area.

*Private pleasure craft* means a vessel privately owned or leased primarily for aquatic recreational purposes which includes a transport trailer. Private pleasure craft shall not include commercial, official or scientific vessels.

*Protective barrier* means a physical structure not less than three feet in height, including access to a protected area, composed of wood or other suitable materials.

*Rain sensor equipment* means a low voltage electrical component placed in the circuitry of an automatic lawn irrigation system which is designed to turn off a sprinkler controller when it rains enough to meet the needs of the landscape.

*Recreational vehicles* means a vehicular-type portable structure without a permanent foundation, which can be towed, hauled or driven, and which is primarily designed as temporary living accommodations for recreation, camping and travel use, including but not limited to, travel trailers, motor homes, camping trailers, boat trailers, truck campers, recreational vans and self-propelled motor homes.

*Remove* or *removal* mean the actual removal or causing the effective removal through damaging, poisoning or other direct or indirect actions resulting in death to the tree.

*Residential designed manufactured homes* means manufactured homes as defined by state law which meet residential design standards contained in this Code.

*Residential property* means property which is zoned R-1, R-2 or R-3 and which is used for a residential use or which is vacant.

*Restaurant* means a building or lot where meals are prepared and sold on the premises from within a completely enclosed building and where at least 20 seats are provided for customers inside the building or a building or lot where meals are prepared and sold on the premises from within a completely enclosed building and which has an unenclosed area or patio provided for the consumption of food on the premises which unenclosed area or patio seating is supplemental to the interior seating provided in this definition.

*Retail* means commercial establishments that generally serve day-to-day commercial needs of a residential neighborhood, including but not limited to, drugstores, tobacco shops, news stands, clothing, specialty shops, bakeries, confectioneries, delicatessens, meat and produce markets, food stores eating and drinking establishments, specifically excluded from this class of uses is retail sales of spirits and liquors.

*Sand dunes* means accumulations of sand in ridges or mounds landward of the beach.

*Satellite dish antenna* means a device used to receive satellite broadcast signals, usually a parabolically shaped antenna, one meter or less in diameter. This definition is meant to include but not limited to, what are commonly referred to as a satellite earth station, TAROs (television reception only), and satellite microwave antennas.

*School* means a premise or site upon which there is a nursery school, kindergarten, elementary school, junior high school, middle school, senior high school, or exceptional learning center. However, the term "school" does not include a premise or site upon which there is an institution devoted solely to vocational or professional education or training or an institution of higher education, including, but not limited to, a community college, junior college, four-year college or university.

*Seawall* means any artificial shoreline protection device approved by applicable regulatory agencies.

*Sediment* means mineral or organic matter deposited by water, air, or ice.

*Sedimentation facility* means any structure or area which is designed to hold runoff water until suspended sediments have settled.

*Service station* means an establishment where gasoline or diesel fuel is supplied and dispensed at retail and where, in addition, the following services only may be rendered and sales made:

- (1) Minor motor vehicle repair.
- (2) Sales of beverages, packaged food, tobacco products and similar convenience goods for customers, as accessory and incidental to principal uses.
- (3) Provision of road maps and other travel information.
- (4) Provision of restroom facilities.
- (5) Warranty maintenance and safety inspections.
- (6) Car washing facility, as accessory and incidental to the permitted use.

Uses permissible at a service station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in service stations.

*Setback* means the minimum required distance from the property lines to the outermost vertical component of a building wall (including stairs, balconies, elevators, shafts, etc., but not including eaves). On waterfront lots the outside edge of the seawall cap is considered to be the rear property line. However, when there is no seawall cap, the coastal construction setback line as determined by the Florida Department of Environmental Regulation and the Corps of Engineers shall be considered the rear property line.

*Shrubs* means a low, woody plant with several stems; a bush.

*Sign* means any device, fixture, placard or structure that uses any color, form, graphics, illumination, architectural style or design or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

## SIGN TYPES

*Abandoned sign.* Any sign or sign structure which bears no sign or copy or displays information which incorrectly identifies the principal activity conducted on the site for a period of three consecutive months.

*Advertiser.* Any person who is the lessee or owner of the sign, an agent of such person or anyone who has beneficial use of the sign.

*Advertising.* Any form of public announcement intended to aid, directly or indirectly, in the sale, use, or promotion of a product, commodity, service, activity, or entertainment.

*A-Frame (sandwich board).* Any unsecured sign, double or single faced, which is portable and may be readily moved from place to place.

*Alter.* This term shall include but not be limited to the addition of a sign surface area, the changing or relocation of site source, or the relocation of an outdoor advertising display from one position to another. Alter includes any and all structural changes in the sign, excluding changeable copy.

*Animated sign.* Any sign which includes action, motion, the optical illusion of action or motion or color changes of all or any part of the sign facing, requiring electrical energy or set in motion by movement of the atmosphere or a sign made up of a series of sections that turn and stop to show two or more pictures or messages in the copy area. A sign having externally moving parts or messages or operating so as to give the viewer the illusion of moving parts or messages. This does not include signs whose informational content can be changed or altered on a fixed display. Animated signs shall not include electronic reader boards.

*Art work.* Drawings, pictures, symbols, paintings or sculpture which in no way identify a product or business and which are not displayed in conjunction with a commercial, for profit or a nonprofit enterprise.

*Banner.* Any fabric, plastic, foil or similar material that is mounted to a pole or building at one or more edges.

*Beach/bay signs.* Signs that are intended for viewing from the Gulf Beach, Gulf water or Boca Ciega Bay.

*Beacon.* A stationary or revolving light which flashes or projects, single color or multi-colored illumination.

*Signs on a bench sign/bus shelter.* A bench or bus shelter upon which a sign is drawn, painted, printed, or otherwise affixed.

*Billboards.* Any off-site sign composed of a continuous, and uninterrupted surface (including cut-outs) which measures 72 square feet or more in aggregate area.

*Building marker.* Any sign, tablet or plaque of commemorative or historical nature indicating the name of building and date or incidental information about its construction, where such sign is cut into a masonry surface or made of bronze or other permanent material.

*Building sign.* Any sign attached to any part of a building as contrasted to a freestanding sign.

*Bulletin board.* Sign of permanent character, but with removable letters, words, numerals or symbols.

*Business establishment.* Any individual person, nonprofit organization, partnership, corporation, other organization or legal entity holding a valid local business tax receipt and occupying distinct and separate physical space.

*Canopy sign.* Any sign that is part of an awning, canopy or other fabric, plastic or structural protective cover over a door entrance, window or outdoor service area. A marquee is not a canopy.

*Changeable copy sign.* A sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign in which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered not a changeable copy sign for purposes of the land development regulations.

*Construction sign.* Any sign erected and located upon a site where building construction or remodeling is in progress.

*Directional sign.* Any sign which exclusively contains information providing direction or location of any object, place, or area including but not limited to, those signs indicating avenues of ingress/egress.

*Double-faced sign.* A sign which has two display surfaces backed against the same background, one face of which is designed to be seen from one direction and the other from the opposite direction, every point on each face or in contact with the same background.

*Electronic reader board.* A type of sign whose alphabetic, pictographic, or symbolic information content can be changed or altered on a fixed display screen composed of electrically illuminated segments.

*Erect.* To build, construct, attach, hang, place, suspend or affix, and shall also include the painting of signs.

*Flag.* Any fabric, banner or bunting containing distinct colors, patterns or designs.

*Freestanding sign.* Any sign supported by structures or supports that are placed on or anchored in the ground and that are not attached to any building or area.

*Government or public purpose sign.* A sign serving a public or civic purpose which is installed by, or under direction of, a governmental entity. The term does not include signs containing advertising except to the extent allowed by the land development regulations.

*Ground level.* The finish grade of a parcel of land exclusive of any filling, berming, mounding or excavating solely for the purpose of locating a sign. Ground level on marina docks or floating structures shall be the finish grade of the landward portion of the adjoining parcel.

*Ground sign.* An outdoor sign supported by uprights or braces in or upon the ground. The bottom coping shall be not more than three feet above ground or street level which space may be filled with platform decorative trim or light construction.

*Identification signs.* Any sign which indicates no more than the name, address, company logo and occupation or function of an establishment or premise.

*Illuminated sign.* Any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes, internally or externally, as part of the sign proper or may be illuminated from an exterior source designed or utilized primarily for such illumination.

*Integral roof sign.* Any sign erected or constructed as a part of a normal roof structure of any design, such that no part of the sign extends above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

*Maintenance.* The replacing, repairing or repainting of a portion of a sign structure, periodically changing changeable copy or renewing copy which has been made unusable by ordinary wear or weather or accident.

*Mansard.* A roof with two slopes on each of four sides. The mansard sign shall be attached as outlined in wall signs.

*Marquee sign.* Any sign attached to, or made a part of a marquee.

*Nonconforming sign.* Any sign that does not conform to the requirements of the land development regulations.

*Off-site sign.* Any sign that advertises goods, services, person, activity or condition not obtainable on the premises where the signs are located.

*On-premises sign.* Any sign which identifies a use, person, business or advertises a product for sale or service to be rendered on the zone lot where the sign is located.

*Pennant.* Any plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string usually in a series.

*Pole sign.* An outdoor sign supported by poles or uprights. The bottom coping shall be not less than eight feet above ground or street level.

*Porch.* An exterior appendage to a building forming a covered approach to a doorway.

*Portable sign* means any sign not permanently attached to the ground or other permanent structure, designed to be transported including, but not limited to, signs designed to be transported by means of wheels, balloons used as signs, umbrellas used for advertising, and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless such vehicle is used in the normal day-to-day operations of the business.

*Projecting signs.* Any sign affixed to a building or wall in such a manner that its leading edge stands more than six inches beyond the surface of the building or wall.

*Revolving sign.* Signs with visible moving, revolving, or rotating parts or visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic, or mechanical means, except for traditional barber poles.

*Sign face.* The part of the sign that is or can be used to identify, display, advertise, communicate information, or for visual representation which attracts or intends to attract the attention of the public for any purpose.

*Sign height.* The vertical distance measured from ground level at the base of the sign to the highest point of the sign.

*Sign structure.* Any structure which is designed specifically for the purpose of supporting the sign, has supported or is capable of supporting a sign. This definition shall include decorative covers, braces, wires, supports or components attached to or placed around the sign structure.



*Snipe sign.* Any sign which is attached in any way to a utility pole, tree, fence post or other object, located on public or private property. Any sign designed to provide warning to the public shall not be construed to be a snipe sign.

*Twirling sign.* Signs, commonly referred to as wind signs, consisting of one or more banners, flags, pennants, ribbons, spinners, streamers or captive balloons, or other objects or material fastened in such a manner as to move upon being subjected to pressure by wind.

*Vehicle sign.* A sign attached to or placed on a vehicle, including automobiles, trucks, boats, campers, and trailers that are parked on or otherwise utilizing a public right-of-way, public property or on private property so as to be intended to be viewed from a vehicular right-of-way for the basic purposes of providing advertisement of products or services or directing people to a business or activity. This definition is not to be construed to include those signs that identify a firm or its principal products on a vehicle or such advertising devices as may be attached to and within the normal unaltered lines of the vehicle of a licensed transit carrier, when and during that period of time such vehicle is regularly and customarily used to traverse the public highways during the normal course of business.

*Wall sign.* A sign which is painted on, fastened to, or erected against the wall of a building with its face in a parallel plane to the plane of the building facade or wall.

*Warning sign.* Signs located on a property posting such property for warning or prohibitions on parking, trespassing, hunting, fishing, swimming, or other activity, provided such signs do not carry any commercial message or identification.

*Window sign.* A sign located on a window or within a building or other enclosed structure, which is visible from the exterior through a window or other opening.

*Site specific plant* means a selection of plant material that is particularly well suited to withstand the physical growing conditions that are normal for that location.

*Soil texture* means the classification of soil based on the percentage of sand, silt, and clay in the soil.

*Special adult cabarets* means any bar, dance hall, restaurant or other place of business which features dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers, or waiters or waitresses that engage in "specified sexual activities" or display "specified anatomical area", or any such business establishment, the advertising for, or a sign or signs identifying which, use the words, "adult," "topless," "nude," "bottomless," or other words of similar import.

*Special exception use* means a use which may be allowed within a zoning district subject to the provisions of the land development regulations and in accordance with the procedures as set forth in the land development regulations.

*Special flood hazard area* means all land located within the floodplain of a community subject to a percent or greater chance of flooding in any given year.

*Specified anatomical areas* means:

- (1) Less than completely and opaquely covered:
  - a. Human genitals or pubic region;
  - b. Cleavage nates of the human buttocks;
  - c. That portion of the human female breast below the point immediately above the top of the areola; this definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided the areola is not so exposed.
- (2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

*Specified criminal act* means:

- (1) An offense under Florida Statutes ch. 794, (sexual battery);
- (2) An offense under Florida Statutes ch. 796, (prostitution);
- (3) An offense under Florida Statutes ch. 800, (lewdness; indecent exposure);
- (4) An offense under Florida Statutes ch.826, (bigamy; incest); or
- (5) An offense under Florida Statutes ch. 847, (obscene literature; profanity); or
- (6) An offense under an analogous statute of a state other than this state, or under an analogous ordinance of another county or municipality.

*Specified sexual activities* means:

- (1) Human genitals in a state of sexual stimulation or arousal or tumescence;
- (2) Acts of anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellation, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sapphism, sexual intercourse, sodomy, urolagnia or zooerasty; and any other acts of human masturbation, sexual intercourse or sodomy, whether actual or simulated;
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast; or
- (4) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (3) of this definition.

*Start of construction*, for new construction or substantial improvement it means the date the building permit was issued, provided the actual commencement of construction, repair, reconstruction or improvement is within 180 days of the permit date. An extension, upon an approved written application, may be granted for 90 days.

*Stormwater retention* means that portion of surface water drainage system used for the storage or treatment of stormwater runoff and design reviewed and constructed in accordance with the land development regulations.

*Story* means the portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. A complete horizontal section of building having one continuous or practically continuous floor. This term does not include the floor of a garage used solely for the parking of vehicles and entry to habitable living space.

*Straddle dance* (also known as lap dance, or face dance) means the use by an employee, whether clothed or not, of any part of his/her body to massage, rub, stroke, knead, caress or fondle the genital or pubic area of a patron, while on the premises, or the placing of the genital or pubic area of an employee in contact with the face of a patron, while on the premises.

*Street* means all property accepted or intended by the city for public street purposes or officially approved for private street purposes.

*Structural alterations* means any change, except the repair or replacement in supporting members of a building, such as bearing walls, columns, beams or girders, or the rearrangement of any interior partitions.

*Structure* means anything constructed or erected, the use of which requires permanent location on the land or attachment to something having permanent location on the land. Structures include buildings, walls, screened enclosures, fences, advertising signs, billboards, swimming pools and exterior mechanical equipment such as air-conditioning compressors.

- (1) *Major structure*: Houses, mobile homes, apartment buildings, condominiums, motels, hotels, restaurants, towers, other types of residential, commercial, or public buildings, and other construction.
- (2) *Minor structure*: Pile-supported, elevated dune and beach walkover structures; beach access ramps and walkways; stairways; pile-supported, elevated viewing platforms, gazebos, and boardwalks; lifeguard support stands; public and private bathhouses; sidewalks, driveways, parking areas, shuffleboard courts, tennis courts, handball courts, racquetball courts, and other uncovered paved areas; earth retaining walls; and sand fences, privacy fences, ornamental walls, ornamental garden structures, aviaries, and other ornamental construction. It shall be a characteristic of minor structures that they are considered to be expendable under design wind, wave, and storm forces.

- (3) *Nonhabitable major structure*: Swimming pools; parking garages; pipelines; piers; canals; lakes, ditches, drainage structures, and other water retention structures; water and sewage treatment plants; electrical power plants, and all related structures or facilities, transmission lines, distribution lines, transformer pads, vaults, and substations; roads, bridges, streets and highways; and underground storage tanks.
- (4) *Coastal or shore protection structure*: Shore-hardening structures, such as seawalls, bulkheads, revetments, rubble mound structures, groins, breakwaters, and aggregates of materials other than beach sand used for shoreline protection; beach and dune restoration; and other structures which are intended to prevent erosion or protect other structures from wave and hydrodynamic forces.

*Submerged land* means the land area situated below the mean high water line of a standing body of water, including ocean, gulf, bay, estuary, lake, pond, river or stream. For the purpose of this definition drainage retention/detention areas to be created as a function of development and wetlands shall not be considered submerged land.

*Substantial damage* means the damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*Substantial improvement* means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the fair market value of the structure, before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either any project for improvement of the structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official, and which are the minimum necessary to assure living conditions, or any alterations of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

*Substantially improved existing manufactured home parks or subdivisions* means where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

*Subsurface drainage* means any approved method used as a vehicle to convey groundwater.

*Swale* means a low place in a tract of land.

*Temporary lodging unit* means an individual room, rooms or suite within a temporary lodging use designed to be occupied as a single unit for temporary occupancy.

*Temporary lodging use* means a facility containing one or more temporary lodging units, the occupancy of which occurs, or is offered or advertised as being available, for a term of less than one month, more than three times in any consecutive 12-month period. In determining whether a property is used as a temporary lodging use, such determination shall be made without regard to the form of ownership of the property or unit, or whether the occupant has a direct or indirect ownership interest in the property or unit; and without regard to whether the right of occupancy arises from a rental agreement, other agreement, or the payment of consideration. This term includes tourist condo-hotel and motel/hotel as elsewhere defined in this Code.

*Trees* means self-supporting, woody plants, which normally grow to a minimum height of 15 feet, have trunks which can be maintained with over five feet of clear wood and have an average mature crown spread of at least 15 feet.

*Turf* means continuous plant coverage consisting of grass species suited to growth in the county.

*Turtle nesting season* means the period from May 1 through October 31 of each year.

*Unimproved land* means the land that has not been altered or improved from its natural state.

*Unity of title* refers to a document recorded in the office of the clerk of the circuit court of Pinellas County stipulating that a lot, lots, or parcel of land shall be held under single ownership, shall not be eligible for further subdivision and shall not be transferred, conveyed, sold or divided in any unit other than in its entirety.

*Use* means the specific activity or function for which land, a building or a structure is designated, arranged, occupied or maintained.

- (1) Accessory use on the same lot or in the same structure with, and of a nature and extent customarily incidental and subordinate to the principal use of the lot or structure.
- (2) The primary use and chief purpose of a lot or structure.

*User* means any independent entity which is marketing a service to retail customers in the city. For the purposes of determining the number of users co-locating, no two users shall have any common ownership ties.

*Variance* means a modification of some particular requirement of the zoning ordinance which may be granted by the special magistrate in order to alleviate a unique and unnecessary hardship which may result from literal enforcement of the provisions of the land development regulations with respect to the parcel involved.

*Vegetation, native* means any plant species with a geographic distribution indigenous to all or part, of the state.

*Water or community waters* means any and all water on or beneath the surface of the ground or in the atmosphere. It includes the water in any watercourse, waterbody or drainage system. It also includes diffused surface water and water percolating, standing or flowing beneath the surface of the ground, as well as coastal waters.

*Water surface elevation* means the projected heights in relation to mean sea level reached by floods of various magnitudes and frequencies in the floodplains of coastal or riverline areas. These may be expressed by curvilinear lines on FHBMs or FIRMs and reflected as a border delineating the special flood hazard areas.

*Waterbody* means any natural or artificial pond, lake, reservoir or other area which ordinarily or intermittently contains water and which has a discernible shoreline.

*Watercourse* means any natural or artificial stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, street, roadway, swale or wash in which water flows in a definite channel, bed or banks.

*Watershed area* means an area allowing or generating storm or irrigation water runoff.

*Wetland* means land that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

*Wireless communication antenna* means any exterior apparatus designed for telephonic, radio or television communications through the sending or receiving of electromagnetic waves.

*Wireless communication antenna array* means a configuration of antennas necessary for broadcast and reception of radio frequency from a particular site.

*Wireless communication tower* means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes, but is not limited to radio and television transmission towers, microwave towers, common carrier towers, and cellular telephone towers.

*Xeriscape* means a landscaping method that maximizes the conservation of water by the use of site-appropriate plants and an efficient watering system. The principles of xeriscape include planning and design, appropriate choice of plants, soil analysis which may include the use of solid waste compost, practical use of turf, efficient irrigation, appropriate use of mulches, and proper maintenance.

*Yard* means an open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except by trees or shrubbery or as otherwise provided in the land development regulations.

*Yard, front* means an open unoccupied space across the full width of the lot, extending from the front building line, including open porches, to the front line of the lot.

*Yard, side* means an open unoccupied space on the same lot with a building, between the building and the side line of the lot extending through from the front building line to the rear yard, or to the rear line of the lot where no rear yard is required.

*Yard, rear* means an open unoccupied space extending across the full width of the lot and measured between the rear line of the lot and the rear building line of the main building.

*Yard, waterfront* means an open unoccupied space on waterfront property with depth measured perpendicular to the property line or waterside lot line for nonseawalled lots. Waterfront property is hereby defined as property abutting open water, bays, bayous and manmade canals.

(Code 1983, ch. 20, art. II; Ord. No. 918, § 1, 12-7-99; Ord. No. 925, § 1, 6-20-00; Ord. No. 956, §§ 1, 2, 12-11-01; Ord. No. 987, § 1, 11-25-03; Ord. No. 992, § 1, 1-27-04; Ord. No. 1020, § 1, 6-8-04; Ord. No. 1037, § 1, 1-25-05; Ord. No. 1071, § 3(Exh. A, § 4), 2-28-06; Ord. No. 1126, § 2, 7-8-08; Ord. No. 1138, § 1, 12-9-08; Ord. No. 1165, § 1, 8-10-10; Ord. No. 1181, § 1, 7-10-12; Ord. No. 2014-08, § 1, 11-12-14; Ord. No. 2014-15, § 4, 12-9-14; Ord. No. 2015-03, § 2, 2-24-15; Ord. No. 2015-04, §§ 1, 2, 6-9-15; Ord. No. 2016-02, § 1, 4-12-16; Ord. No. 2016-12, § 1, 11-15-16; Ord. No. 2021-18, § 1, 9-8-21; Ord. No. 2021-22, § 1, 11-10-21)

**Cross reference—** Definitions generally, § 1-2.

## Sec. 14-62. - Definitions.

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

*Accessory structure* means a structure, the use of which is incidental to that of the main building and which is attached thereto or located on the same premises.

*Building* means a combination of materials to form a construction adapted to permanent or continuous occupancy for use for private, public, institutional, residence, business or storage purposes.

*Building code* means the Standard Building Code, as amended.

*Deterioration* means the condition or appearance of a building or parts thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay or neglect, excessive use or lack of maintenance.

*Enforcing authority* means city manager or such other person as he may specifically designate.

*Exposed to public view* means any premises, or any part thereof, or any building, or any part thereof, which may be lawfully viewed by the public or any member thereof, from a sidewalk, street, alley way, water, licensed open-air parking lot or from any adjoining or neighboring premises.

*Exterior of premises* means those portions of a building which are exposed to public view and the open space of any premises outside of any building erected thereon.

*Extermination* means the control and elimination of insects, termites, rodents and vermin by eliminating their harborage places; by removing or making inaccessible material that may serve as their food by poisoning, spraying, fumigating, tenting, trapping, or by any other approved means of pest elimination.

*Fire hazard* means anything or any act which increases or may cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service of preventing, suppressing, or extinguishing fire; or which may obstruct, delay or hinder or may become the cause of an obstruction, a delay, a hazard or a hindrance to the prevention, suppression or extinguishment of fire.

*Garbage* means putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

*Ground cover* includes all plant materials which reach a maximum height of not more than 12 inches and may be used in lieu of grass.

*Health officer* means the health officer of the county.

*Hedges* means a dense row of shrubs forming a boundary which shall be:



- (1) A minimum of 18 inches in height immediately upon planting, with spacing of no more than 30 inches on center and reach an average height of 22 inches within one year of planting.
- (2) Of nondeciduous (leaves not falling off at a certain season) species, planted and maintained so as to form a continuous screen within a maximum of one year of planting.

*Infestation* means the presence of insects, termites, rodents, vermin or other pests on the premises which constitute a health or structural hazard.

*Mixed occupancy* means any building containing one or more dwelling units or rooming units and also having a portion thereof devoted to nondwelling uses.

*Nuisance* means any one or combination of the following:

- (1) Any public nuisance known at common law or in equity jurisprudence or as provided by the statutes of the state, or ordinances of the city.
- (2) Physical conditions dangerous to human life or detrimental to the health or safety of children, whether in a building, or the premises of a building, or upon an unoccupied lot. This includes, but is not limited to: Abandoned wells, shafts, basements, excavation, abandoned buildings, abandoned ice boxes, refrigerators, motor vehicles and any structurally unsound fences or structures, lumber, trash, fences, debris or vegetation such as poison ivy, oak or sumac, which may prove a hazard for inquisitive minors.
- (3) Physical conditions dangerous to human life or detrimental to health of persons on or near the premises where the condition exists.
- (4) Unsanitary conditions or anything offensive to the senses or dangerous to health, in violation of this article.
- (5) Whatever renders air, food or drink unwholesome or detrimental to the health of human being.
- (6) Fire hazards.

*Operator* means any person who has charge, care or control of premises or a part thereof, whether with or without the knowledge or consent of the owner.

*Owner* means any person who, alone or jointly or severally with others, shall have legal or equitable title to any premises with or without accompanying actual possession thereof, or shall have charge, care or control of premises, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee, receiver, or guardian of the estate, or as a mortgagee in possession either by virtue of a court order or by voluntary surrender by the person holding the legal title. Any person who is a lessee, subletting, or reassigning any part or all of any premises shall be deemed to be a co-owner with the lessor and shall have joint responsibility over the portion of the premises sublet or assigned by such lessee.

*Plumbing* means all of the following supplies, facilities and equipment: Gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bath tubs, shower baths, installed clothes washing machines, catch basins, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines and water pipes and lines utilized in connection with air conditioning equipment.

*Premises* means a lot, plot or parcel of land including the buildings or structures thereon.

*Refuse* means all putrescible or nonputrescible solid wastes (except body wastes), including but not limited to garbage, rubbish, ashes, street cleaning, dead animals, abandoned vehicles, unlicensed vehicles and solid market and industrial wastes.

*Room* means space in an enclosed building or space set apart by a partition or partitions.

*Rubbish* means nonputrescible solid wastes consisting of both combustible and noncombustible waste, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

*Sanitary sewer* means any sanitary sewer owned, operated and maintained by the county or the city and available for public use for the disposal of sewage.

*Sewage* means waste from a flush toilet, bath tub, sink, lavatory, dishwashing or laundry machine, or the water-carried waste from any other fixture or equipment or machine.

*Shrub* means a low, woody plant with several stems; bush.

*Story* means that portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between such floor and the ceiling next above it. The ground floor of a building may be used for parking and not counted as a story.

*Structure* means a combination of any materials, whether fixed or portable, forming a construction, including buildings.

*Washrooms* means enclosed space containing one or more bath tubs, showers, or both, and which shall also include toilets, lavatories, or fixtures serving similar purposes.

*Water closet compartment* means enclosed space containing one or more toilets which may also contain one or more lavatories, urinals and other plumbing fixtures.

*Weathering* means deterioration, decay or damage caused by exposure to the elements.

*Vacant lot* means a lot without improvements.

(Code 1983, § 6-204; Ord. No. 2011-06, § 1, 12-13-11)

**Cross reference—** Definitions generally, § 1-2.



# Memorandum

**Meeting Details:** July 10, 2023, Planning Commission Meeting

**Prepared For:** Planning Commission

**From:** Community Development Department

**Subject:** 2 ½ foot setback to allow vegetation control

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**Background:** The Madeira Beach Land Development Regulations (LDRs), Sec. 82-2 – Definitions, lists *Minor structure* as items such as sidewalks, driveways, parking areas, et al. Given this definition, sidewalks, driveways, and parking areas become subject to another code reference, *Accessory Structures*. *Accessory Structures*, with definitions in Sec. 14-62 and Sec. 94-93, results in the subsequent setback requirements in Ch. 110, Article VI, Division 4 – Accessory Structures, which requires a minimum 2 ½ foot setback.

**Discussion:** During the permit review process, city staff continually enforces and explains the 2 ½ foot setback requirement, however many properties throughout the city have encroachment of walkways, driveways, and other hard surfaces into the 2 ½ foot setback causing confusion over enforcement and consistency with the LDRs. The original intent of the setback is for vegetation control and a pervious buffer between properties for proper drainage.

***Residential Zones, R-1, R-2 and R-3:*** Many residential properties contain a primary structure built to their minimum side yard setback (ranging from 5 to 7 feet) or have legally nonconforming primary structures with minimal side yard setbacks. The 2 ½ foot setback required for hardscapes often creates narrow walkway widths along the side yards. This makes reasonable use of a pathway difficult, and ultimately, throughout the years, has appeared to encourage the unpermitted placement of walkways and other hardscape material leading to confusion over allowable placement.

**Commercial Zone, C-1:** C-1 Zoning District is the only zone outside R-1, R-2 and R-3 which has the same 2 ½ foot setback constraint. C-1 Zoning District encompasses Johns Pass Village. Most properties in this district do not conform to the 2 ½ foot setback requirement and were built prior to the creation of the LDRs, and therefore are legally nonconforming.

**Alternative Non-vegetative Pervious Materials:** These materials include, but are not limited to, pervious pavers and artificial turf with permeability qualities. These two example options would require no vegetative control and are advertised as pervious but are not specified within the LDRs and as such pose challenges.

- **Criteria for Permitting:** Would the city require engineered specification sheets of the proposed material or other?
- **Location:** Would the city limit to private property only, thus not allowing within the ROW or easements, noting that “average” driveway pavers are currently permitted within the ROW for driveway construction? Would these materials be permitted all the way up to the property line?
- **Impact on the Impervious Surface Ratio (ISR):** Would these materials be calculated as 100% pervious giving full credit or partial credit? Some municipalities calculate these materials at a percentage towards the ISR. If the LDRs calculates the material at a percentage, would there be a limit to the percentage of allowable pervious area that can be covered by these non-vegetative alternatives?

**Fiscal Impact or Other:** There will be no foreseeable fiscal impact to the city. A potential impact will be to the Community Rating System (CRS) and points the city receives based on our commitment to “open space”, as we have, in the past, referenced the LDRs requirement that residential structures maintain this 2 ½ foot setback.

**Recommendation(s):** City staff fully recognizes the challenges of the 2 ½ foot setback but also understands the intent of its requirement. Staff recommends better defining of hardscape items used for decking, walkways, driveways, etc. as well as better definitions for “non-vegetative” pervious options. Staff recommends drafting more defined requirements for installation and use of non-vegetative pervious options and setting criteria by which the 2 ½ foot setback may not be required but still hold permittee’s/homeowners responsible for proper vegetation control as well as not directing stormwater runoff to adjacent properties. City staff proposes to do the research

necessary to develop more relevant definitions for previously mentioned terms as well as research to support the “what, where, and how” as related to the use of non-vegetative, pervious material.

**Attachments:**

- Madeira Beach Land Development Regulations
- Madeira Beach Zoning Map



# City of Madeira Beach Zoning and House Numbers

## Madeira Beach Zoning

### Zoning Categories

- C-1
- C-2
- C-3
- C-4
- P-SP
- PD
- R-1
- R-2
- R-3
- Madeira Beach Parcels

