

## 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

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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:

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- (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.

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*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.

*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.

*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. *The base flood is commonly referred to as the "100-year flood" or the "one-percent-annual chance flood."*

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

*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. 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.

*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

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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 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 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,

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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 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 (CHHA)* means a special flood hazard area extending from offshore to the inland limit of 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. 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.

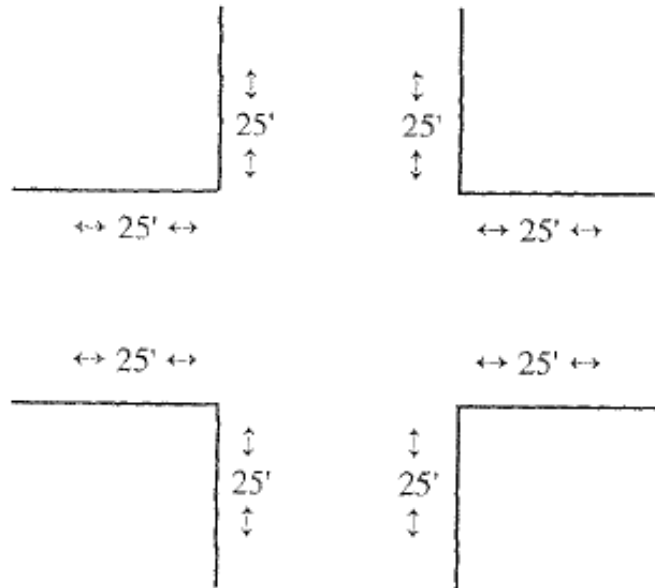
*Comprehensive plan* means the city comprehensive plans as adopted by Ordinance No. 738 on December 5, 1989 by city commission pursuant to Florida Statutes ch. 163, part 2, as such plan may be amended from time to time.

*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.

***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.]**

*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:

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- (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.



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*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.

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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.

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*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.]

*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.

*Federal emergency management agency (FEMA)* means the federal agency that, in addition to carrying out other functions, administers the national flood insurance program.

*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 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.

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*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 Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zone applicable to the community.

*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.]

*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 administrator* means the office or position designated and charged with the administration and enforcement of Chapter 94 (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 Chapter 94.

*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.

*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.

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*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 use means a use* ~~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 including only docking facilities, port facilities that are~~ necessary for the loading and unloading of cargo or passengers, ~~and shipbuilding and, ship repair facilities, 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.

*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, ~~for the purposes of Chapter 94, 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. any structure that is:~~

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- (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

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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.

*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:

(1) 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.

(2) 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.

(3) 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.

(4) 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.

*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.

*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.

*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.

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- (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), 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.

*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*.



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*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. **The term "manufactured home" does not include a "recreational vehicle" or "park trailer."**

*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.

**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.**

*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 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. for the purposes of administration of Chapter 94 and the flood resistant construction requirements of the Florida Building Code, structures for which**

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the "start of construction" commenced on or after May 7, 1971 and includes any subsequent improvements to such structures.

*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.

*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 Chapter 94 for enclosures below elevated buildings.

*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.

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*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, park trailers, motor homes, camping trailers, boat trailers, truck campers, recreational vans and self-propelled motor homes and which are:

- (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.

*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,

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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 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.

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*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.

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*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.

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*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. For purposes of this chapter, a sign not bearing a commercial message which is carried by a person (whether worn or held by hand) shall not be considered a portable sign, and such signs shall be permitted to be carried in any location such person is otherwise lawfully allowed to be present, including on the city's sidewalks and parks.

*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.

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*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. 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.

*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. 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.

*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.



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*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. **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. 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

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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 combination of repair, reconstruction, rehabilitation, alteration, addition or other improvement of a building or structure taking place during a one-year period, the cumulative structure, the cost of which equals or exceeds 50 percent of the fair 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 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.

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*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. **For the purposes of Chapter 94, a variance is a grant of relief from the requirements of Chapter 94, or the flood resistant construction requirements of the Florida Building Code, which permits construction in a manner that would not otherwise be permitted by Chapter 95 or the Florida Building Code.**

*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.

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*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.

(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; Ord. No. 2023-12, § 1, 6-14-23)

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

### **Sec. 82-3. Interpretation.**

In interpreting and applying the land development regulations, the provisions of the land development regulations shall be held to be the minimum requirements for the protection, promotion and improvement of the public health, safety, morals and general welfare of the community. It is not intended by the land development regulations to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, where the land development regulations impose a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of the land development regulations shall control. If, because of error or omission in the zoning map, any property in the city is not shown as being in a zoning district, the classification of such property shall be R-1 unless changed by amendment to the zoning map or by subsequent zoning ordinances.

(Code 1983, § 20-1401)

### **Sec. 82-4. Validity.**

In the event any court of competent jurisdiction should hold that any article, section, clause, or provision of the land development regulations are invalid, such judgment shall not affect the validity of the land development regulations as a whole or any part thereof, other than the part so declared to be invalid.

(Code 1983, § 20-1402; Ord. No. 1037, § 2, 1-25-05)

### **Sec. 82-5. Violations and penalties.**

Any person violating any time limitation or provisions of the land development regulations, or the terms of any decision of the special magistrate, shall be punished by a fine not exceeding \$500.00, or imprisonment for a

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term not exceeding 60 days, or by both such fine and imprisonment. Each day and time limitation or provision of the land development regulations, or the terms of any decision of the special magistrate is violated shall constitute a separate offense under the land development regulations. Moreover, in addition to the penalty provided in this section or as an alternative thereto at the discretion of the city, the city may enforce the time limitations or provisions of the land development regulations or any decision of the special magistrate by injunction in a court of appropriate jurisdiction.

(Code 1983, ch. 20, art. XV; Ord. No. 1037, § 3, 1-25-05; Ord. No. 1071, § 3(Exh. A, § 4), 2-28-06)