

CHAPTER 171. DEFINITIONS; ABBREVIATIONS AND ACRONYMS .....171-1

§ 171.001. DEFINITIONS .....171-1

§ 171.002. ABBREVIATIONS AND ACRONYMS.....171-54

## **CHAPTER 171. DEFINITIONS; ABBREVIATIONS AND ACRONYMS**

### **§ 171.001. DEFINITIONS**

The following words and phrases used in this Land Development Code shall have the meaning herein described unless the context clearly suggests otherwise.

**ABROGATE.** To abolish; repeal; or annul.

**ACCESS.** The legal right or physical means to enter and exit a property from a public or private road.

**ACCESSORY.** Clearly incidental or subordinate to and customary in connection with the principal building or use on a developed site and which is located on the same lot or parcel with such principal building or use.

**ACCESSORY DWELLING UNIT.** A residential dwelling unit, but not a mobile home or recreational vehicle, located on the same lot or parcel of land as a single-family dwelling unit, with a separate, complete housekeeping unit including a separate kitchen, sleeping area, and full bathroom facilities. The unit may be attached to the single-family dwelling unit or detached in a free-standing structure. An accessory dwelling unit is not permitted as accessory to a duplex dwelling, multi-family dwelling, or mobile home dwelling.

**ACCESSORY USE/STRUCTURE.** A use or structure that is:

- (1) Clearly incidental to, customarily found in connection with, and located on the same parcel as the principal use to which it is related; and
- (2) Designed for the comfort, convenience or necessity of the occupants of the principal use served.

**ACTIVITY-BASED OPEN SPACE AREA.** Open space areas providing recreational opportunities, which shall include such amenities as walkways, bike paths, trails, picnic areas, playgrounds, lakes, and parks.

**ADULT BOOKSTORE/ADULT VIDEO STORE.**

- (1) An establishment which, as its principal business purpose, sells or rents adult material or which offers adult materials for sale or rent as a significant portion of its stock and trade as defined more particularly herein below.
- (2) Any establishment in which any one (1) or more of the following five (5) elements occur shall be presumed to be an adult bookstore/adult video store:
  - (a) The adult material is accessible to customers; "accessible to customers" means that the item can be physically touched, picked up, handled by a customer before being transferred from the control of a worker, or is visually displayed so that an adult or child present in the store can view substantially more than its name alone;
  - (b) The individual items of adult material offered for sale and/or rental comprise more than ten percent (10%) of the unused individual items publicly displayed at the establishment as stock in trade in the following categories: books, magazines, periodicals, other printed matter, slides, photographs, films, motion pictures, videotapes, compact disks, DVDs, computer digital graphic recordings, other visual representations, audio recordings and other audio matter;

- (c) The gross income each month from the sale and rental of adult material comprises more than ten percent (10%) of that month's gross income from the sale and rental of the goods and material at the establishment;
  - (d) The floor area used to display adult material comprises more than ten percent (10%) of the floor area used for display of all goods and material at the establishment; or
  - (e) The establishment uses any of the following terms in advertisements or any other promotional activities relating to the adult material: "XXX," "XX," "X," or any series of the letter "X" whether or not interspersed with other letters, figures or characters; "erotic" or deviations of that word; "adult entertainment," "adult books," "adult videos" or similar phrases; "sexual acts" or similar phrases; "nude" or "nudies" or similar phrases which letters, words or phrases a reasonable person would believe to be promotional of the purchase or rental of adult material.
- (3) In recognition of the provisions of §§ 847.013 and 847.0133, F.S., which protects minors from exposure to obscene material, any business which is an adult bookstore/adult video store shall have in place at each entrance to such business a sign, no greater than one (1) square foot in size, stating "Persons under 18 years of age not permitted."

**ADULT BOOTH.** A separate booth 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 or arcade, 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 or a rest room.

**ADULT DAY CARE CENTER.** Any building, buildings, or part of a building, whether operated for profit or not, in which is provided through its ownership or management, for a part of a day, basic services to three (3) or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services.

**ADULT ENTERTAINMENT.**

- (1) The display or exposure of any specified anatomical area by a worker to a customer to the extent permitted by §§ 102.01 et seq., regardless of whether the worker actually engages in performing or dancing or where workers wear or display to a customer any covering, tape, pastie, or other device which simulates or otherwise gives the appearance of the display or exposure of any specified anatomical areas regardless of whether the worker actually engages in performing or dancing;
- (2) Providing adult material for commercial or pecuniary gain;
- (3) The offering, soliciting or contracting to dance or perform by a worker with or for a customer with the acceptance of any consideration, tip, remuneration or compensation from or on behalf of that customer; or
- (4) The dancing or performing by a worker at or within three (3) feet of a customer with the acceptance of any consideration, tip, remuneration, or compensation from or on behalf of that customer.

**ADULT ENTERTAINMENT ESTABLISHMENT.** An adult performance establishment, adult bookstore/adult video store, adult motel, or adult theater as those terms are defined in this section, which is operated for

commercial or pecuniary gain. An establishment with an adult entertainment license shall be presumed to be an adult entertainment establishment.

ADULT FAMILY CARE HOME. See "Community Residential Home".

ADULT MATERIAL. One (1) or more of the following, regardless of whether it is new or used:

- (1) Books, magazines, periodicals, or other printed matter, photographs, films, motion pictures, DVDs, videotapes, video cassettes, slides, computer digital graphic recordings, or other visual representations, tape recordings, disks or other audio matter, which have as their primary or dominant theme matters 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, excluding bona fide birth control devices.

ADULT MODEL. Any person who, for commercial or pecuniary gain, offers, suggests, or agrees to engage in a private performance, modeling or display of male or female lingerie, bathing suits, under garments, or specified anatomical areas to the extent permitted by §§ 102.01 et seq. to the view of a customer.

ADULT MOTEL. Any motel, hotel, boarding house, rooming house or similar commercial establishment which offers accommodations to the public for any form of consideration whose advertisements or business name includes the word "adult" or which advertises to the public outside of the premises of the establishment and visible from a public right-of-way the presentation of closed-circuit television transmissions, films, motion pictures, video tapes, DVDs, video cassettes, slides or other photographic reproductions, which have as their primary or dominant theme matters depicting, illustrating or relating to specified sexual activities or specified anatomical areas. The term ADULT MOTEL is included within the definition of ADULT THEATER.

ADULT PERFORMANCE ESTABLISHMENT.

- (1) Any establishment where any worker:
  - (a) Engages in a private performance, acts as an adult model, or displays or exposes any specified anatomical areas to a customer, regardless of whether the worker engages in dancing or any particular activity;
  - (b) Wears and displays to a customer any covering, tape, pastie, or other device which simulates or otherwise gives the appearance of the display or exposure of any specified anatomical areas, regardless of whether the worker actually engages in performing or dancing;
  - (c) Offers, solicits, or contracts to dance or perform with or for a customer and accepts any consideration, tip, remuneration or compensation from or on behalf of that customer; or
  - (d) Dances or performs at or within three (3) feet of a customer and accepts any consideration, tip, remuneration, or compensation from or on behalf of that customer.
- (2) (2) A bona fide private club whose membership as a whole engages in social nudism or naturalism as in a nudist resort or camp and at which specified sexual activities do not occur shall be presumed not to be an adult performance establishment.

**ADULT THEATER.** An establishment which consists of an enclosed building, or a portion or part of an enclosed building, or an open-air area used for viewing by persons of films, motion pictures, DVDs, video cassettes, video tapes, slides, computer digital graphic recordings, or other photographic reproductions which have as their primary or dominant theme, matters depicting, illustrating or relating to specified sexual activities or specified anatomical areas. ADULT MOTELS, and ADULT BOOTHS are included within the definition of ADULT THEATER.

**ADULT VIDEO STORE.** See ADULT BOOKSTORE.

**AFFORDABLE HOUSING.** Shall be as defined in § 420.0004, F.S., as may be amended from time to time.

**AGRICULTURAL LANDS.** Those lands in actual agricultural use and for which an agricultural tax exemption has been granted.

**AGRICULTURAL USE.** The using of land to produce, keep or maintain for sale, lease, or personally use, plants and animals useful to man, including, but not limited to, forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry products; livestock including beef cattle, sheep, swine, horses, ponies, mules or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds; vegetables; and nursery, floral, ornamental and greenhouse producers.

**ALCOHOLIC BEVERAGES.** Shall be as defined in §561.01, F.S., as may be amended from time to time.

**ALTERNATIVE SUPPORT STRUCTURE.** For the purpose of enforcing §174.035, COMMUNICATION TOWERS AND FACILITIES, alternative support structure shall mean any man-made structure, including but not limited to, buildings, light poles, clock towers, bell towers/steeple, water towers and the like, which allow for the attachment of communication facilities.

**ALLEY.** A public or private right-of-way primarily designed to serve as secondary access to the side or rear of a property whose principal frontage is on some other street. Alleys are not intended for general traffic circulation.

**ALTER, STREETS.** Change any street in any way, including but not limited to:

- (1) Clearing trees, shrubs, plants and other undergrowth or vegetation;
- (2) Changing the base of an existing dirt, marl or paved street; or
- (3) Changing or resurfacing the surface of an existing dirt, marl or paved street.

**ALTERATION OF A WATERCOURSE.** A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction or velocity of the riverine flow of water during conditions of the base flood.

**APARTMENT.** See DWELLING, MULTIPLE-FAMILY.

**APPEAL.** Any request for a review of a decision or an administrative determination of an official or employee of the City of Palm Bay.

**APPLICANT.** An authorized person who files an application under Title XVII of the Code of Ordinances. Written consent shall be required from the legal owner of the premises if the applicant is not the owner.

- AQUIFER.** A geologic formation through which water may be percolated, transmitted, stored and yielded.
- ARCADE AMUSEMENT CENTER.** Shall be as defined in §546.10, F.S., as may be amended from time to time. An arcade amusement center shall follow all state regulations, as established by § 546.10, F.S. For the purpose of this code, the term does not include ELECTRONIC GAMING ESTABLISHMENTS.
- ARTERIAL ROAD.** Roadway Intended to move moderate to large volumes of traffic relatively long distances. Arterials often connect widely separated rural and urban communities. Requirements for speed and level of service are usually quite high. Access should be well controlled, and where possible, limited to other arterials and collector roads. Arterials are used to move traffic around neighborhoods and should form a continuous network designed for a free flow of through traffic. This definition shall also be inclusive of any road identified as an arterial in the Comprehensive Plan Map Series.
- AS-BUILT PLANS.** The site plans specifying the locations, dimensions, elevations, capacities and capabilities of structures or facilities as they have been constructed.
- ASSEMBLY.** Any activity involving the assembly of any commodity, including the assembly, packaging, re-packaging of any items. This does not include changing any commodity in composition, form, size, shape, texture, or appearance which is deemed to be an industrial process.
- ASSISTED LIVING FACILITIES (ALF).** Any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, regardless of whether operated for profit, which through its ownership or management provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator. For the purpose of this code, assisted living facilities shall not be deemed to include rooming or boarding homes, fraternities, sororities, clubs, monasteries or convents, hotels, emergency shelters, residential treatment facilities, recovery homes or nursing homes. Small ALF facilities house up to fourteen (14) residents. Large ALF facilities house more than fourteen (14) residents.
- AWNING.** A detachable, roof-like cover, supported by the wall of a building for the purpose of shielding a doorway or window from the elements.
- BARBED TAPE.** A usually flexible, metallic strand or rod, without regard to the gauge thereof, made in many lengths and diameters but generally machined to produce clusters of sharp points or barbed obstacles at evenly located, regular intervals along the strand or rod to cause and create injury and to prevent people or animals from passing beyond the point of where the wire is placed. The word BARBED TAPE shall include the words RAZOR WIRE and RAZOR TAPE.
- BARBED WIRE** shall mean two strips of interwoven, flexible, metallic strands, without regard to the gauge thereof, with clusters of sharp points added and placed at evenly located, regular intervals along the interwoven strips.
- BASE FLOOD.** A flood having a one percent (1%) 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 (1%)-annual chance flood.”
- BASE FLOOD ELEVATION.** The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM).

**BASEMENT.** The portion of a building having its floor subgrade (below ground level) on all sides.

**BENCHMARK.** A point, natural or artificial, bearing a marked position whose elevation above or below an adopted datum plane is known. § 61G17-6.002(1), F.A.C.

**BOARDINGHOUSE.** See ROOMING HOUSE.

**BOATHOUSE.** Any structure designed to accommodate the storage of a boat on or above the water. Roofed structures without any walls are boathouses.

**BLANK WALL AREA.** An exterior wall of a commercial structure that is unadorned with any architectural features.

**BLOCK.** A municipal area being a tract or parcel of land whether partially or wholly occupied by buildings or containing only vacant lots and enclosed by rights-of-way or by a combination of rights-of-way, public parks, cemeteries, railroad rights-of-way, shorelines of waterways or boundary lines of municipalities.

**BOND.** Any form of security including a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the City Manager or designee.

**BREW PUB.** An establishment that produces malt beverages for onsite consumption. It requires licensing by the Florida Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco.

**BUILDABLE AREA.** The portion of a lot remaining after required yards have been provided.

**BUILDER.** Any person, firm, association, syndicate, partnership, corporation, realtor or corporation who constructs model homes and other residential dwellings for sale to the public.

**BUILDING or STRUCTURE.** Any structure constructed or used for residence, business, industry or other private or public purposes or accessory thereto, including tents, lunch wagons, dining cars, trailers, mobile homes, sheds, garages, carports, animal kennels, structures of all types, storerooms, billboards, signs, gasoline pumps and similar structures whether stationary or moveable.

**BUILDING COVERAGE.** The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.

**BUILDING OFFICIAL.** The official charged with the administration and enforcement of the building codes as adopted by the City.

**BUSINESS DAY.** Every day except Saturday, Sunday, and any city, state, or federal legal holidays.

**BUSINESS OFFICE.** Facility consisting of desks, files, phone banks, telephone switchboards, typewriters or other equipment usually associated with and utilized in a business office.

**BUSINESS SERVICES.** See SERVICE ESTABLISHMENT, BUSINESS

**CAMOUFLAGED TOWER OR ANTENNA.** A communications tower or antenna designed to unobtrusively blend into the existing surroundings and be disguised so as not to have the appearance of a communications tower or antenna. Camouflaged towers and antennas on developed property must be disguised to appear as either a part of the structure housing a principal use, or an accessory structure that is normally associated with the principal use. Camouflaged towers and antennas placed on unimproved property must be disguised to blend in with the existing vegetation.



- CANOPY TREE.** Native tree species having an average mature height of twenty-five (25) feet or more under local climatic conditions.
- CAR WASH FACILITY.** A building or structure in which the washing, cleaning, or polishing of motor vehicles is conducted.
- CERTIFICATE OF COMPLETION (SUBDIVISION).** A certificate issued by the City Manager or designee subsequent to final inspection certifying that all improvements have been completed in conformity with the requirements of the Subdivision Chapter (Chapter 177) of the LDC, the approved construction plans, and specifications.
- CERTIFICATE OF OCCUPANCY (CO).** A written permission to occupy a structure granted by the Chief Building Official.
- CERTIFIED SURVEY.** A survey that lists the entities legally allowed to use the result of any professional service or work resulting from the practice of Surveying and Mapping as defined in Ch. 472, F.S., which is either graphically or digitally with signature and seal as defined in 5J-17, F.A.C.
- CHANNEL.** A natural stream that conveys water or a ditch excavated for the flow of water.
- CHICKEN.** A domestic fowl developed in a number of breeds for their eggs. A fowl is defined as a chicken by the University of Florida Extension Service. This definition shall not include ducks, geese, turkeys, pigeons, or guinea.
- CHILDCARE FACILITY.** Any childcare center or childcare arrangement which provides childcare for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit. See also Family Day Care Home.
- CHURCH.** A building or structure or groups of buildings or structures which by design and construction are primarily intended for the conducting of organized religious services and customary accessory uses excluding general education facilities.
- CITY.** The City of Palm Bay, the City Council, or the City Manager or designee.
- CITY COUNCIL.** The City Council of the City of Palm Bay, Florida.
- CITY ROAD.** All roads designated as city roads by Florida Statutes.
- CLEARING.** The removal of trees and brush from the land, not including the ordinary mowing of grass.
- CLEAR WOOD.** For hardwood trees, "Clear wood" refers to that portion of the trunk between the ground and the lowest lateral limbs. For palms, it is the portion of the trunk from the ground to the base of the first frond.
- CLINIC.** An establishment where patients are not lodged overnight but are admitted for examination and treatment by a group of physicians or dentists practicing medicine together. For the purpose of this Land Development Code, clinics are deemed medical offices (see OFFICE definition). The term, however, does not include a place for the treatment of animals and does not include a "pain-management clinic" as defined in the Palm Bay Code of Ordinances.



**CLOSURE.** A street or portion of a street closed permanently or by prohibiting vehicular access. The street or portion of it will generally remain open to non-motorized and pedestrian public access and will remain usable for other public purposes such as sidewalks, landscaping, and utility use.

**CLUB, PRIVATE.** An organization or group of people pursuing common goals, interests, or activities not operated or maintained for profit and incorporated under the laws of the state as a nonprofit organization.

**COASTAL HIGH HAZARD AREA.** 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.

**CODE.** The City of Palm Bay Code of Ordinances.

**COLLECTOR ROAD.** The connecting link between local streets and arterials to provide intra-neighborhood access. Traffic characteristics generally consist of relatively short trip lengths, moderate speeds and volumes. Access is of secondary significance, and should be limited to local streets, other collectors and major traffic generators. Collectors should penetrate neighborhoods without forming a continuous network, thus discouraging through traffic which is better served by arterials. This definition shall also be inclusive of any road identified as a collector in the Comprehensive Plan Map Series.

**CO-LOCATION.** Attachment of two or more communications antennae to a new or existing communications tower, and the attachment of one or more communications antennas on an existing alternative support structure.

**COMMERCIAL BODILY CONTACT.**

- (1) The manipulation, washing, scrubbing, stroking, or touching, for commercial or pecuniary gain, of the body of another person directly, or indirectly through a medium or using any object, instrument, substance, or device between a worker and a customer.
- (2) The following persons engaged in the bona fide performance of the following activities shall not be deemed to be engaging in commercial bodily contact for the purposes of this chapter when they are engaged in the bona fide practice of their occupation or profession:
  - (a) Persons licensed as a massage therapist or apprentice massage therapist pursuant to Chapter 480, F.S., when providing massage services in an establishment licensed under Chapter 480, F.S.;
  - (b) Persons licensed under the laws of the state to practice medicine, surgery, osteopathy, chiropractic, naturopathy, or podiatry;
  - (c) Persons licensed under the laws of the state as a physician's assistant or nurse;
  - (d) Persons holding a drugless practitioner's certificate under the laws of the state;
  - (e) Persons licensed as barbers or cosmetologists under the laws of the state;
  - (f) Persons performing authorized services in a hospital, nursing home, sanitarium, adult congregate living facility, group home, day care center, or similar place of business when owned and operated in accordance with the laws of the state;

(g) Persons who are instructors, coaches, or athletic trainers employed by, or on behalf of, any professional, amateur, Olympic, or similar athletic team engaging in bona fide athletic events, or when employed by a governmental entity or a bona fide educational institution; or

(h) Persons licensed as physical therapists under the laws of the state.

**COMMERCIAL BODILY CONTACT ESTABLISHMENT.** Any establishment, business, or place operated for commercial or pecuniary gain or where for any form of consideration workers or customers engage in commercial bodily contact or any establishment, business or place any portion of which is set aside, advertised, promoted or used as a place where commercial bodily contact occurs or which is described or depicted as a "body scrub salon," "body wash salon," or "body relaxation salon."

**COMMERCIAL or PECUNIARY GAIN.** Operated for commercial or pecuniary gain shall be presumed for any establishment which has received a business tax receipt. For the purposes of this chapter, operation for commercial or pecuniary gain shall not depend on actual profit or loss. An establishment which has a business tax receipt or an establishment which advertises itself as a type of adult entertainment establishment shall be presumed to be operated for commercial or pecuniary gain.

**COMMERCIAL ESTABLISHMENT.** Any business, location, or place which conducts or allows to be conducted on its premises any activity for commercial or pecuniary gain.

**COMMON RECREATION AND OPEN SPACE.** Designated land, or a combination of land and water within a Planned Unit Development (PUD) designed and intended for the use or enjoyment of its residents. All common recreation and open space shall complement the residential and commercial uses and may contain compatible and complimentary structures for the benefit and enjoyment of the residents of the PUD. This designated land and water area may contain a combination of **ACTIVITY-BASED OPEN SPACE AREA** and **RESOURCE-BASED OPEN SPACE AREA**. It shall not include landscaped areas within parking lots, foundation plantings or stormwater management areas unless enhanced for dual purposes such as LID, native landscaped areas, pathways, or gathering areas. In no instance shall the stormwater management system be impacted by improvements.

**COMMUNICATIONS ANTENNA.** Any exterior device more than one meter in diameter used to send or receive electromagnetic waves for all types of communication.

**COMMUNICATIONS FACILITIES.** A facility or location designed, or intended to be used for transmitting or receiving radio, television, cellular, SMR, paging, 911, personal communications services (PCS), commercial satellite services, microwave services, and any commercial wireless telecommunication service whether or not it is licensed by the FCC. This includes without limit, towers of all types and kinds, where used, and all related facilities and equipment such as antennas, cabling, equipment shelters and other structures associated with the site.

**COMMUNICATIONS TOWER.** Any structure designed and constructed for the primary purpose of supporting one or more communications antennas. Tower shall mean the same as communications tower. Towers may be of the following construction types:

(1) *GUYED*. A vertical structure anchored by guy wires.

(2) *MONOPOLE*. A vertical self-supporting structure, not guyed, made of spin-cast concrete, steel or similar material, presenting a solid appearance.

(3) *LATTICE*. A vertical self-supporting structure, not guyed, with three or more sides consisting of open-frame supports.

**COMMUNICATIONS TOWER HEIGHT**. The distance measured from the finished grade of the parcel, including the base pad, to the highest point on the communications tower or other structure, including all communications antennae.

**COMMUNITY RESIDENTIAL HOME**. Shall be as defined in §419.001, F.S., as may be amended from time to time. Homes of six (6) or fewer residents shall be deemed a single-family unit and a non-commercial, residential use. For the purpose of this Code, Adult Family Care Homes, as defined in the Florida Statutes, are deemed to be Community Residential Homes.

**COMMUNITY RESIDENTIAL HOME RESIDENT**. Shall be as defined in §419.001, F.S., as may be amended from time to time.

**COMPREHENSIVE PLAN**. The future land use map series, future land use element and other elements of the City Palm Bay Comprehensive Plan adopted October 6, 1988, by the City Council and as amended which establishes goals, objectives, policies and criteria relating to the use of land, the provision of supporting services and the protection of natural resources and the environment.

**CONCEPT PLAN**. A sketch preparatory to the preparation of the preliminary plat to enable the subdivider to save time and expense in reaching general agreement with the city as to the form of the plat and the objectives of these regulations.

**CONCERTINA** shall mean to create an accordion-type pattern of barbed wire, barbed tape, razor wire or razor tape by attaching coils of them together at specified points and thereby allowing for the coils to be stretched across areas in a manner so as to cause injury to humans or animals that attempt to pass beyond the point(s) across which the coils are placed or stretched or to prevent either ingress or egress into or out of any area or structure.

**CONDITIONAL USE**. A use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted in such zoning district as conditional uses.

**CONSTRUCTION**. Any activity including land clearing, earth moving, or the erection of structures which may result in the creation of a Stormwater Management System.

**CONSTRUCTION PERMIT (SUBDIVISIONS)**. The permit to begin construction of improvements according to the construction plans and specifications approved under Chapter 177 of the LDC.

**CONSTRUCTION PLANS**. The engineering drawings, specifications, tests and data necessary to show construction of the proposed improvements in a subdivision.

**CONTOUR**. An imaginary line on the surface of the earth connecting points of the same elevation.

**CONTROL ELEVATION**. The lowest elevation at which water can be released through the discharge structure.

**CONTROL STRUCTURE**. The element of a stormwater discharge system which allows the gradual release of water under controlled conditions.

**CONVENTION CENTER.** A building or group of buildings designed to host conventions, industrial shows, and similar events.

**CONVICTION.** A determination of guilt resulting from plea or trial, regardless of whether adjudication was withheld or whether imposition of sentence was suspended.

**CORRECTIONS FACILITY.** A facility which is owned or operated by an agency of the State of Florida or Brevard County or which is operated, whether or not under contract with an agency of the State of Florida or Brevard County and which is utilized primarily for purposes of confining, detaining, housing, or separating from the general public any persons (whether adult or juvenile) who have been (i) convicted of a crime regardless of whether adjudication has been withheld; or (ii) awaiting trial on criminal charges in any jurisdiction; or (iii) involuntarily committed because of pending criminal matter regarding such person. The term CORRECTIONS FACILITY shall include any state, county, or private jail, prison, juvenile detention facility, juvenile assessment or assignment center or similar facility regardless of the name by which such facility is known. The term CORRECTIONS FACILITY shall exclude City of Palm Bay Police Department facilities.

**COURT.** An unoccupied open space on the same lot with the principal building and fully enclosed on at least three (3) adjacent sides by walls of the principal building.

**COURTESY NOTICE.** A notice of a public hearing, not required by law, mailed at the City's discretion to property owners within five hundred (500) feet of property which is the subject of the public hearing.

**CREMATORIUM.** A crematory is a facility containing one or more combustion units, known as cremators, used solely for the cremation of human bodies within appropriate containers. Cremators are usually made of high-grade steel plate and lined inside with heavy refractory tile or brick. Most cremators have a variety of automatic controls and use gas for heating the cremator.

**CRITICAL FACILITY.** Hospitals, nursing homes, police stations, fire stations, and emergency operation centers that are needed for flood response activities before, during, or after a flood; and public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood; and structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic or water-reactive materials. The term includes facilities that are assigned Risk Category III and Risk Category IV pursuant to the Florida Building Code, Building.

**CRITICAL ROOT ZONE (CRZ).** The circle surrounding a tree to be protected on a development site whereby barriers shall be erected to protect the tree's roots from impacts during construction. This shall be calculated by taking the DBH of the tree and multiplying by twelve (12). This is the diameter in inches of the CRZ, centered on the tree. The CRZ for all existing palms shall be three (3) feet from trunk.

**CROSS-SECTION SLOPE (STREET).** The slope of pavement perpendicular to the centerline.

**CUL-DE-SAC.** A street with an intersection on one end and a closed turning area on the other.

**CULVERT.** Any structure not classified as a bridge which provides an opening under the driveway for the passage of storm water.

**CURB.** A concrete border forming part of a gutter along the edge of a pavement.

**CURB AND GUTTER SECTION.** A curb section constructed integrally with gutter.

**CUSTOMER.**

- (1) Any person present at an adult entertainment establishment or sexually-oriented business, other than operators or workers, regardless of whether the person has given or paid any consideration to be present at the adult entertainment establishment or sexually-oriented business and regardless of whether the person has paid any money for goods or services at or to the adult entertainment establishment or sexually-oriented business; or
- (2) Any person, excluding a worker or operator, who has paid, or has offered, agreed, been solicited, or had someone else offer or agree on that person's behalf to pay any consideration, fee, or tip to an operator or worker of an adult entertainment establishment or sexually-oriented business.

**CUT.** A portion of land surface or area from which earth has been removed or will be removed by excavating; the depth below original ground surface of excavated surface.

**CUT AND FILL.** A process of earth moving by excavating part of an area and using the excavated material for adjacent embankments or fill areas.

**DAM.** A barrier to confine or raise water for storage, detention or diversion, to create a hydraulic head, to prevent erosion downstream, or for retention of soil or other debris.

**DAMAGE.** Any displacement, disturbance, or destruction, that injures, breaks, impairs or causes harm in any way to city property or other improvements that shall require repair or replacement to create a condition equal to or greater than the condition prior to the occurrence of the damage.

**DATUM.** A plane, level or line from which heights and depths are calculated or measured and referenced to the USGS, National Geodetic Vertical Datum (NGVD), 1929.

**DAY CARE CENTERS/CHILDCARE NURSERIES.** See CHILDCARE FACILITIES definition.

**DBH (DIAMETER AT BREAST HEIGHT).** A measurement of diameter taken at a point that is fifty-four (54) inches above the surface of the ground at the base of the tree. In the case of a tree with multiple main branches, the DBH shall be the sum of the DBH of all branches at breast height.

**DENSITY, GROSS.** The total number of residential dwelling units or equivalent residential units within a residential project, or within a residential parcel contained within a project, divided by the total acreage of the project or parcel. Unless otherwise specified, all references to density in the Land Development Code refer to gross density.

**DESIGNATED PUBLIC UTILITY.** Any agency which operates a well or wells under public franchise or ownership to provide potable or raw water to the public for consumption.

**DESIGN FLOOD.** The flood associated with the greater of the following two areas:

- (1) Area with a floodplain subject to a one percent (1%) 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.** 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 (2) feet.

DESIGN HIGHWATER. The elevation of the water surface as determined by the flow conditions of the design floods.

DESIGN PLAN. Site plans, related descriptions and drawings that are produced before an improvement is installed, placed, replaced or constructed within a right-of-way or easement.

DESIGN STORM. A selected rainfall pattern of specified amount, intensity, duration, and frequency that is used as a basis for design.

DETENTION. To the collection and storage of surface water for subsequent controlled discharge at a rate which is less than the rate of inflow.

DETENTION TIME. The theoretical time required to displace the contents of a tank or unit at a given rate of discharge (volume divided by rate of discharge).

DETENTION VOLUME. The volume of water equal to the difference between overflow elevation and control elevation of a discharge structure times the average area of open surface storage (at the control elevation) behind the discharge structure.

DEVELOPABLE ACREAGE. The total acreage within a Planned Unit Development, which may exclude designated wetlands and conservation area.

DEVELOPED AREA. An area maintained and occupied by a commercial or private entity.

DEVELOPED PUBLIC PARK. Any officially named city owned, county owned, state owned or federally owned park.

DEVELOPED PUBLIC SCHOOL. Any school including a charter school which is owned, operated or approved by the City of Palm Bay or the Brevard County School Board, or the Florida Schools of Excellence.

DEVELOPER. Any person or business entity who engages in development or development activity either on their own behalf or as the agent of an owner of property.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

DEVELOPMENT AGREEMENT. Shall be defined as stated in §163.3221, F.S., as may be amended.

DEVELOPMENT PLAN. The total site plan of a planned unit development drawn in conformity with the requirements of this subchapter. The development plan shall specify and clearly illustrate the location, relationship, design, nature, and character of all primary and secondary uses, public and private easements, structures, parking areas, public and private roads and common open space.

DEVELOPMENT SCHEDULE. A comprehensive statement showing the type and extent of development to be completed within the various practicable time limits and the order in which development is to be undertaken. A development schedule shall contain an exact description of the specific buildings, facilities, common open space, and other improvements to be developed at the end of each time period.



**DIRECT DISCHARGE.** Discharge of storm- water through a control structure to the receiving water body.

**DISCHARGE/DISCHARGE POINT.** The point of outflow of water from a project, site, aquifer, drainage basin or facility.

**DISCHARGE STRUCTURE.** A structural device through or over which water is discharged from a stormwater management system.

**DISTURBED AREA.** The area of land disturbed by development or construction.

**DOCKS AND PIERS.** A platform extending from a seawall or the shore which is used to secure or provide access to boats. A dock or pier is attached or supported by piles or pillars and has no sides or roof.

**DRAIN.** A buried pipe or other conduit (closed drain) or a ditch (open drain) for carrying off surface water or groundwater.

**DRAINAGE.** Swales, ditches, storm sewers, seepage basin, culverts, side drains, retention or detention basins, streets, cross drains, canals and other facilities used to manage stormwater.

**DRAINAGE FACILITY.** The whole or any part of the drainage system.

**DRAINAGE PLAN.** The detailed analysis required to evaluate the environmental qualities of the project's affected area, the potential and predicted impacts of the proposed activity on affected waters, and the effectiveness and acceptability of these measures proposed by the applicant for reducing adverse impacts.

**DRAINAGE SYSTEM.** The system through which water flows; it includes all watercourses, water bodies, and wetlands.

**DRAWDOWN.** Lowering of the water surface (in open channel flow), water table or piezometric surface (in ground water flow) resulting from a withdrawal of water.

**DRINKING ESTABLISHMENT.** Is a place devoted primarily to retailing and drinking alcoholic beverages. The words "drinking establishment" shall include the words "bar," "saloon," "tavern," "pub," "barroom," "bottle club," "cocktail lounge," "lounge," and "cabaret."

**DRIVE-THROUGH SERVICES/FACILITIES.** Any place or premises where transactions take place between customers within an automotive vehicle and employees either within or outside of a business establishment.

**DRIVEWAY.** A prepared path for a vehicle giving ingress or egress from a roadway to an abutting property line.

**DRIVEWAY PERMIT GUIDELINES.** A document describing the process and providing drawings and illustrations, containing the technical specifications and details for the construction of driveways and related infrastructure in the public right-of-way.

**DRY RETENTION.** A water storage area with the bottom elevation at least one (1) foot or more above the wet season water table elevation. Retention storage percolates into the ground and evaporates rather than being discharged to receiving waters.

**DUPLEX.** A residential structure that is divided into (2) units, with a separate entrance for each unit. Each unit may allow one (1) family to reside within.



- DURATION.** When referring to rainfall, duration means the period of time from beginning of a rainfall event to the end of a rainfall event.
- DWELLING, EFFICIENCY.** A dwelling unit within a multiple family complex or hotel/motel consisting of not more than one (1) habitable room together with a kitchen or kitchenette and sanitary facilities.
- DWELLING, MOBILE HOME.** As defined in §723.003, F.S., a mobile home is a residential structure, transportable in one or more sections, which is 8 body feet or more in width, over 35 body feet in length with the hitch, built on an integral chassis, designed to be used as a dwelling when connected to the required utilities, and not originally sold as a recreational vehicle, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. Mobile homes are commonly referred to by the sales industry as “manufactured homes” if fabricated after June 15, 1976.
- DWELLING, MULTIPLE-FAMILY.** A residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.
- DWELLING, SINGLE-FAMILY.** A detached dwelling unit other than a mobile home, designed for and occupied by one (1) family only. A tiny home that is anchored to the ground or placed on a foundation with skirting and connected to the City of Palm Bay water and sewer distribution system may be considered as a SINGLE-FAMILY DWELLING.
- DWELLING, TOWNHOUSES.** A one-family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one (1) or more fire-resistant walls.
- DWELLING UNIT/LIVING UNIT.** One (1) room, or rooms, connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.
- EASEMENT.** Authorization by a property owner to allow a non-possessing interest in the land by another person or entity whereby a partial use of the land is granted for a specific purpose, such as public or private utilities, drainage, sanitation, ingress or egress or other public or private uses. An easement restricts but does not abridge the rights of the fee owner.
- EDUCATIONAL INSTITUTION.** A premises or site upon which there is an institution of learning for minors, whether public or private, which conducts regular classes and/or courses of study required for eligibility to certification by, accreditation to, or membership in the State Department of Education of Florida, Southern Association of Colleges and Secondary Schools, or the Florida Council of Dependent Schools. The term EDUCATIONAL INSTITUTION includes a premises or site upon which there is a nursery school, kindergarten, elementary school, junior high school, senior high school, Charter school, or any special institution of learning, a vocational institution, professional institution, an institution of higher education, a community college, junior college, four (4) year college or university.
- EDUCATIONAL SERVICE ESTABLISHMENT.** Any school primarily devoted to giving instruction in vocational, professional, technical, industrial, musical, dancing, dramatic, artistic, linguistic, scientific, religious, athletic or other special subjects.

**ELECTRONIC GAMING ESTABLISHMENT.** Means a business operation, whether a principal use or accessory use, where persons utilize electronic machines or devices, including but not limited to, computers and gaming terminals, to conduct games of chance and/or a game promotion pursuant to § 849.094, F.S., including sweepstakes, and where cash, prizes, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such redeemed or distributed items are determined by the electronic games played or by predetermined odds. This term includes, but is not limited to internet cafes, internet sweepstakes cafes, cybercafés or sweepstakes cafes. This definition is applicable to any ELECTRONIC GAMING ESTABLISHMENT, whether or not the electronic machine or device utilized: (a) is server-based; (b) uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries; (c) uses software such that the simulated game influences or determines the winning or value of the prize; (d) selects prizes from a predetermined finite pool of entries; (e) uses a mechanism that reveals the content of a predetermined sweepstakes entry; (f) predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed; (g) uses software to create a game result; (h) requires deposit of any money, coin, or token, or the use of any credit card, debit card, prepaid card, or any other method of payment to activate the electronic machine or device; (i) requires direct payment into the electronic machine or device, or remote activation of the electronic machine or device; (j) requires purchase of a related product, regardless if the related product, if any, has legitimate value; (k) reveals the prize incrementally, even though it may not influence if a prize is awarded or the value of any prize awarded; (l) determines and associates the prize with an entry or entries at the time the sweepstakes is entered; or (m) a slot machine or other form of electrical, mechanical, or computer game. It is the intent of this definition to classify any mechanism utilized at any ELECTRONIC GAMING ESTABLISHMENT that seeks to avoid application of this definition through the use of any subterfuge or pretense whatsoever. ELECTRONIC GAMING ESTABLISHMENTS do not include ARCADE AMUSEMENT CENTERS, regulated pursuant to § 849.161, F.S., or the official Florida Lottery.

**ELEVATION.** The height in feet expressed in relation to mean sea level and referenced to the USGS, National Geodetic Vertical Datum (NGVD), 1929.

**EMBANKMENT.** A man-made deposit of soil, rock or other material used to form an impoundment.

**EMERGENCY.** Any condition constituting an imminent or existing danger to life or property caused by nature, accident, or wear and tear that results in an interruption of any public service, i.e., electrical, telecommunications, water, sewer, and the like, or that impedes the use of roads, streets, or other public rights-of-way and easements.

**EMERGENCY CLOSURE.** A street or portion of a street closed temporarily as may be necessary for public health, safety, and welfare.

**EMERGENCY STORM SHELTER.** A shelter that provides a safe refuge from storms that produce high winds or floods.

**ENCROACHMENT.** The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

**ENGINEER.** Any engineer licensed by the State of Florida.

**ENTITY.** Any proprietorship, partnership, corporation, limited liability company, association, business trust, joint venture, joint-stock company or other for profit or not for profit organization by whatever name, title, or description.

**ENVIRONMENT.** The sum total of all the natural external conditions that may act upon an organism or community to influence its development or existence.

**EQUIPMENT SALES, RENTAL, LEASING.** Establishments primarily engaged in selling, renting, or leasing farming, construction equipment, industrial trucks, portable toilets, lawn care equipment, and similar equipment.

**EROSION.** The wearing or washing away of soil by the action of wind or water.

**EROSIVE VELOCITY.** That velocity of water in a stream, channel, canal, ditch, and the like which, when exceeded, will cause erosion of the banks or existing land.

**ESCORT.** Any person who, for commercial or pecuniary gain, compensation or tips, agrees to, offers to go, or goes to any place, including, but not limited to, a business, hotel, motel, residence, boat, vessel, motor vehicle, or other mode of transportation to do any of the following acts:

- (1) Act as a companion or date for, or converse with a customer;
- (2) Engage in commercial bodily contact with another person;
- (3) Engage in a private performance;
- (4) Engage in adult modeling or act as an adult model;
- (5) Display specified anatomical areas, strip naked, or go topless; or
- (6) Engage in any specified sexual activity.

Nothing in this definition shall be construed to legalize prostitution or other conduct prohibited by this Code or other law. Workers of a licensed adult-performance establishment for whom worker records are maintained pursuant to this chapter are excluded from the definition of escort when engaged in the expressive display of specified anatomical areas at a licensed adult-performance establishment.

An escort who is a paid employee type worker of an escort service for whom taxes and social security payments are withheld and paid by the escort service, and who is not an independent contractor, is not required to obtain his or her own sexually oriented business license for activities conducted pursuant to employment with the escort service.

**ESCORT SERVICE.** A person, business, establishment, or place operated for commercial or pecuniary gain, which advertises as an "escort", "escort service" or "escort agency" or otherwise offers or advertises that it can furnish escorts, a private performance, or adult models; or offers or actually provides, arranges, dispatches, or refers workers or themselves to act as an escort or engage in a private performance for a customer. An affirmative defense to an allegation that any person, business or establishment or entity is acting as an escort service is that it is a bona fide dating or matching service which arranges social matches or dates for two (2) persons who each wish to meet a compatible companion when neither of said persons solicits, accepts, or receives any financial gain or any monetary tip, consideration, or compensation for the meeting or date is not an escort service.

**ESCROW.** A deed, a bond, money or a piece of property delivered to a third person to be delivered by him/her to the grantee only upon fulfillment of a condition.

**ESTABLISHMENT.** Any place, site, or premises, or portion thereof, upon which any person, corporation, or business entity of any type conducts activities or operations for commercial or pecuniary gain including, but not limited to, any place, site or premises from where an escort service dispatches or refers workers to other locations or at which an escort service receives business calls from customers.

**ESTATE.** A large, individually owned piece of land containing a residence.

**EVENT.** The specific storm which is, or is to be, considered in the design of a stormwater management system.

**EXCAVATION/EXCAVATE.** Any operation in which earth, rock, mineral, or other material in the ground is moved, removed, or otherwise displaced by means of any tools, equipment, or explosives, and includes, without limitation, grading, trenching, digging, ditching, dredging, drilling, driving in, auguring, tunneling, scraping, tree and root removal, cable or pipe plowing, pile driving, wrecking, razing, moving, or removing any improvement or mass of material, but does not include the tilling of the soil for agricultural purposes.

**EXCAVATOR.** Any person that sells, or offers for sale, whether directly or indirectly, any mineral resources or any earth materials excavated in the city, or any person who excavates in the city any mineral resources or earth materials other than incidental excavation directly related to foundation preparation for an approved building, structure or surface drainage.

**EXFILTRATION.** On-site retention of storm- water accomplished below ground. Stormwater runoff is collected for temporary storage and infiltration.

**EXISTING.** The average physical condition of the land and buildings on site immediately before development or redevelopment commences.

**EXISTING BUILDING/EXISTING STRUCTURE.** For floodplain management purposes, existing buildings/structures shall mean any buildings and structures for which the “start of construction” commenced before September 3, 1980.

**FAMILY.** One (1) or more persons living together as one housekeeping unit , provided that unless all members are related by blood, marriage, or adoption, no such family shall contain over six (6) persons (stepchildren and foster children under state-approved care shall be deemed to be part of a natural blood related family). The term FAMILY shall not be construed to mean a fraternity, sorority, club, monastery, or convent, boardinghouse, or nursing home.

**FAMILY DAY CARE HOME:** An occupied residence in which childcare is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether operated for profit or not. Household children under 13 years of age, when on the premises of the family day care home or on a field trip with children enrolled in childcare, shall be included in the overall capacity of the licensed home. Family day care homes are classified by capacity as follows:

**A. Small Family Day Care Home:**

1. A maximum of four (4) children from birth to 12 months of age.
2. A maximum of three (3) children from birth to 12 months of age, and other children, for a maximum total of six (6) children.

3. A maximum of six (6) preschool children if all are older than 12 months of age.
4. A maximum of ten (10) children if no more than five (5) are preschool age and, of those five (5), no more than two (2) are under 12 months of age.

B. Large Family Day Care Home:

1. A maximum of eight (8) children from birth to 24 months of age.
2. A maximum of twelve (12) children, with no more than four (4) children under 24 months of age.
3. Has at least two (2) full-time childcare personnel on the premises during the hours of operation. One of the two (2) full-time childcare personnel must be the owner or occupant of the residence.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA). The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

FEDERAL HIGHWAY. Any roadway having an official federal highway number or an interstate highway, including, but not limited to, U.S. Highway No. 1 (Dixie Highway NE) and Interstate 95.

FENCE. A barrier serving as an enclosure or boundary.

FILL. Soil, consolidated or unconsolidated material, deposited on land or in water.

FINAL PLAT. The final map of all or a portion of a subdivision which is presented for final approval.

FINAL DEVELOPMENT PLAN. The final authorization of a development project drawn in conformity with the Preliminary Development Plan and the requirements of this LDC; the authorization of which must be granted prior to issuance of any permit required to initiate development. For the purposes of this LDC, the final development plan approval is the final development order.

FINAL DEVELOPMENT PLAN APPLICATION. The application for approval of the development plan and for approval of the required exhibits as specified in this chapter.

FIRST FLUSH. The first portion of runoff generated by a rainfall event and containing the main portion of the pollutant load resulting from the storm.

FLAG LOT. See LOT, FLAG.

FLOOD/FLOODING. A general and temporary rise in the level of any water body, watercourse, or wetland which results in the partial or complete inundation of normally dry land 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. Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair.

FLOOD HAZARD AREA. The greater of the following two (2) areas:

- (1) The area within a floodplain subject to a one percent (1%) or greater chance of flooding in any year.

(2) The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

**FLOOD INSURANCE RATE MAP (FIRM).** The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY (FIS).** 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.

**FLOOD ROUTING.** Determining the changes in the rise and fall of flood water in a lake or as it proceeds downstream through a channel, natural stream or reservoir.

**FLOOD STAGE.** The stage at which the overflow of the natural banks of a lake or stream begins.

**FLOODPLAIN ADMINISTRATOR.** The office or position designated and charged with the administration and enforcement of this ordinance (may be referred to as the Floodplain Manager).

**FLOODPLAIN DEVELOPMENT PERMIT or APPROVAL.** 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 the City's Floodplain Management Ordinance.

**FLOODWAY.** The channel of a river or other riverine 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 (1) foot.

**FLOODWAY ENCROACHMENT ANALYSIS.** An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

**FLOOR AREA.** The sum of the gross horizontal areas of the several floors of a building or buildings measured from exterior faces of exterior walls or from the centerline of walls separating two (2) attached buildings. The required minimum floor area within each district shall not apply to accessory uses; however, the floor area of accessory uses may be computed as part of the area of the principal use.

**FLOOR AREA RATIO (FAR).** A measure of intensity for non-residential development calculated by dividing the gross floor area of the non-residential buildings on the site by the gross non-residential acreage (converted to square feet) of the development site. For vertical mixed-use developments, it shall be divided by the total gross acreage of the entire development site (including residential and non-residential).

**FLORIDA BUILDING CODE.** 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.

**FLORIDA-FRIENDLY LANDSCAPING™.** A program, developed by the University of Florida's Institute of Food and Agricultural Sciences (UF/IFAS), that promotes sustainable alternatives for landscaping, provides guidance on environmentally friendly landscape practices that use water more efficiently, and reduces pollution in Florida Waters.



- FOOD.** All substances commonly used for human consumption as food, beverage, confectionery, or condiments, whether simple, mixed, or compound, and all substances or ingredients used in preparation thereof.
- FOUNDATION.** Supporting parts upon which the manufactured or mobile home is placed, which meet all local, state and federal standards.
- FRANCHISE.** An initial authorization, or contracts, or renewal thereof issued by the city, whether designated as a franchise, permit, license, resolution, ordinance, contract, certificate, agreement or otherwise, that authorizes any person to use any right-of-way or easement.
- FRANCHISEE.** A person who has been granted a franchise by the governing body of the city.
- FREEBOARD.** A vertical distance between the elevation of the design highwater and the top of the bank, control structure, dam, or levee.
- FREQUENCY OF STORM (DESIGN STORM FREQUENCY).** The anticipated period in years that will elapse, based on average probability of storms in the design area, before a storm of a given intensity or total volume will recur or the probability that a storm of a given intensity or total volume will occur in any given year; thus a twenty-five (25) year storm can be expected to occur on the average one (1) every twenty-five (25) years or have a 1/25 (4%) chance of occurring in any given year.
- FRONT ENTRANCE.** The principal access to a building or that area of a property which faces the public or private street or access way.
- FUNCTIONALLY DEPENDENT USE.** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.
- GIRDER.** A structural element used to support the sides or roof of a structure.
- GOLF COURSE.** A tract of land for playing golf, improved with trees, greens, fairways, hazards, and which may include clubhouses and shelters. A miniature golf course or putt-putt type course shall not be considered a golf course.
- GOVERNMENT ESTABLISHMENTS.** Establishments used by federal, state, county, or city agencies to provide services to the public. Typical uses include public libraries, government offices, and similar uses.
- GRADE.** The slope of a road, channel, pipe, drain, or natural ground. The finished surface of a canal bed, roadbed, top of embankment or bottom of excavation; any surface prepared for the support of construction such as paving or the laying of conduit pipe, etc.
- GRADIENT.** The change of elevation, velocity, pressure or other characteristics per unit length; slope.
- GRADING.** Any stripping, cutting, filling, stockpiling, or any combination thereof, including the land in its cut and fill condition.
- GRID SYSTEM.** A series of designated north-south parallel lines intersecting a second set of east-west parallel lines within one (1) square mile area (i.e., section), as indicated on the "official property numbering maps."



- GROSS FLOOR AREA.** The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two (2) buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than five (5) feet.
- GROUND COVER.** Plants that are low growing, form a dense mat of foliage, and spread easily by stolons, runners, or rhizomes.
- GROUNDWATER.** Water beneath the surface of the ground whether or not flowing through known and definite channels.
- GROUNDWATER TABLE.** The free surface of the groundwater, that surface subject to atmospheric pressure under the ground, generally rising and falling with the season, the rate of withdrawal, the rate of restoration, and other conditions. It is not a static condition.
- GROUP HOME FACILITY.** Shall have the same meaning as set forth in § 393.063, F. S. - a licensed residential facility which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of its residents. The capacity of such a facility shall be at least 4 but not more than 15 residents.
- GROWTH MANAGEMENT DIRECTOR.** The official charged with the administration, interpretation, and enforcement of the Land Development Code.
- GRUBBING.** The removal of existing underbrush and vegetation from land using methods such as roto chopping and mulching in place which leave all trees and topsoil intact. This does not include the ordinary mowing of grass.
- GUTTER.** A manmade channel for draining of stormwater at the edge of a pavement.
- HAZARDOUS CONSTITUENTS.** Those chemicals and substances listed in Appendix A of Ordinance 89-13, which is not codified in within the LDC but is on file and available for reference in the office of the City Clerk.
- HAZARDOUS MATERIALS.** Those chemicals or substances that are physical hazards or health hazards as defined and classified in the Florida Building Code and the Florida Fire Prevention Code, whether the materials are in usable or waste condition.
- HEDGE.** A row of bushes or small trees planted close together in such a manner as to form a boundary or barrier.
- HEIGHT OF BUILDING.** The vertical distance from the established average sidewalk or street grade or finished grade at the building line whichever is the highest, to:
- (1) The highest point of a flat roof;
  - (2) The deck line of a mansard roof;
  - (3) The average height between the peak and eave of gable, hip, and gambrel roofs.
- HIGHEST ADJACENT GRADE.** The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

**HIGHWAY, LIMITED ACCESS.** A freeway, or expressway, providing a trafficway for through traffic, in respect to which owners or occupants of abutting property on lands and other persons have no legal right to access to or from the same, except at such points and in such manner as may be determined by the public authority having jurisdiction over such trafficway.

**HISTORIC STRUCTURE.** Any structure that has been officially designated as such at the national level. For floodplain purposes, 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.

**HOME OCCUPATION.** An occupation conducted entirely in a residential dwelling unit.

**HOSPITAL.** A building or group of buildings, having room facilities for one (1) or more overnight patients, used for providing services for the inpatient medical or surgical care of sick or injured humans, and which may include related facilities such as laboratories, outpatient departments, training facilities, central service facilities, and staff offices, provided, however, it is subordinate to the main use and must be an integral part of the hospital operations.

**HOTEL.** A building in which lodging, or boarding and lodging, are provided and offered to the public for compensation, and which ingress and egress to and from all rooms are made through an inside lobby or office supervised by a person in charge at all times. As such, a hotel is open to the public, in contradiction to a boarding or lodging house, apartment hotel, or multiple dwelling.

**HYDRAULIC CONDUCTIVITY.** See PERMEABILITY.

**IMPACT-GENERATING LAND DEVELOPMENT ACTIVITY (FAIR SHARE IMPACT FEES).** Land development that increases the demand on capital park, police or fire facilities/equipment.

**IMPERVIOUS SURFACE.** A surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. The term includes most conventionally surfaced streets, roofs, sidewalks, parking lots, and similar structures.

**IMPERVIOUS SURFACE RATIO (ISR).** The Impervious Surface area divided by the Site area.

**IMPOUNDMENT.** Retention of water by artificial means.

**IMPROVED STREET.**

- (1) Any street that has been accepted for maintenance by the City Council;
- (2) A street presently maintained by the city or some other public;
- (3) A city approved, private street built to all government-approved specifications not dedicated by plat or otherwise for public use which is properly maintained; or
- (4) A street which is being constructed, reworked or improved pursuant to a road acceptance agreement with the city so long as:
  - (a) The agreement has not been breached;
  - (b) The other party to the agreement has not through its conduct called into question its financial ability to perform its obligations thereunder; and
  - (c) The agreement has not been invalidated, terminated or otherwise discharged.

**IMPROVEMENT.** Any physical changes made to land within rights-of-way and easements by placing streets, sidewalks, bicycle facilities, roadbeds, culverts, drains, sluices, ditches, water storage areas, waterways, embankments, slopes, retaining walls, guardrails, bridges, parks, squares, plazas, curbs, gutters, manholes, vaults, buried cables, conduit, wires, ground watering systems, water mains, sanitary sewer facilities, traffic-control devices, street name signs, signs of any kind, security lights, street lights, landscaping, permanent control points (PCP), permanent reference markers (PRM), concrete monument reference markers, or any similar property owned or controlled by the city for public use. It shall include but not be limited to any aerial lines and underground lines that are designed to transport electric current, telecommunications, Community Antenna Television or any other service lines — and all appurtenances, pole lines, poles, railways, ditches, sewers, water, heat or gas mains, liquid transmission lines, pipelines, fences, gasoline tanks and pumps, duck banks, or conduit of any kind or other structures, hereinafter referred to as an improvement.

**INDIRECT DISCHARGE.** Discharge of stormwater from a system by other than a control structure.

**INDIRECT RUNOFF.** That portion of runoff that contributes to the total runoff that enters the receiving system by indirect means, i.e., grassed area, not directly connected to the receiving system.

**INDUSTRIAL.** Any activity involving the mechanical, or chemical treatment of any commodity, including the assembly, packaging, blending, canning, bottling, or processing of any items. Changing any commodity in composition, form, size, shape, texture, or appearance is deemed to be an industrial process. The word “industrial” shall include the word manufacturing.

**INFILL DEVELOPMENT** shall mean the process of developing vacant or under-used parcels within existing urbanized areas that are mostly built-out and what is being built is in effect "filling in" the gaps.

**INLET.** The opening into a storm sewer system for the entrance of surface storm runoff.

**INSTITUTIONAL USES.** A nonprofit or quasi-public use or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

**INVASIVE VEGETATION.** All Class I invasive plant species, as established annually by the Florida Invasive Species Council. Trees and/or vegetation which characteristically becomes nuisance overgrowth and outcompetes native vegetation, altering ecosystems.

**INVERT.** The lowest point on the inside of a sewer or other conduit.

**INOPERABLE VEHICLE.** A vehicle which cannot be driven upon the public or private streets for reasons including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

**JUNK YARD.** A lot or land area where used or second hand materials are bought, sold, exchanged, stored, baled, packaged, packed, disassembled, or handled including but not limited to scrap iron and other metals, cloths, paper, rags, plumbing fixtures, rubber tires and bottles. The term junk yard does not include the terms automobile wrecking yard and salvage yard.

**KENNEL.** Any land or structure where dogs and other common household pets are kept, sheltered, boarded, trained, or bred for compensation, or a non-profit establishment for the rescue, rehabilitation, and adoption of common household pets. Pet Day Care establishments are classified as PERSONAL SERVICE.

**LAND.** The earth, water, air, above, below or on the surface, and includes any vegetation, improvements or structures.

**LANDING BOARD (PIGEONS).** A device placed on a pigeon aviary for the intake of birds into any loft or aviary.

**LAND CLEARING.** The removal of trees and brush from the land by the scraping of the topsoil with heavy equipment.

**LANDLOCKED.** The condition of a permanent water body in which, under normal rainfall conditions, it has no definitive, surface or conduit outfall to the ocean.

**LANDSCAPED AREAS.** Those areas containing, but not limited to, grass, ground covers, shrubs, vines, hedges, trees, berms and complementary structural landscape architectural features, such as rocks, fountains, sculpture, decorative walls and tree wells.

**LARGE VEHICLE.** Any vehicle(s) not classified as Class 1, Class 2, or Class 3 and exceeding 15,000 pounds Gross Vehicle Weight as outlined by the Federal Motor Carrier Safety Administration.

**LAW ENFORCEMENT OFFICER.** An officer who is on official duty for any law enforcement agency.

**LEED.** The Leadership in Energy and Environmental Design Rating System of the U.S. Green Building Council.

**LETTER OF MAP CHANGE (LOMC).** 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). 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). 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). 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). 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.** A qualitative measure that represents the collective factors of speed, travel time, traffic interruption, freedom to maneuver, safety, driving comfort and convenience, and operating costs provided by a highway facility under a particular volume condition. Levels of service vary from A to F. "Level of service C" shall mean a roadway condition as determined and established by the 2002 Quality/Level of Service (QLOS) Handbook as updated on August 21, 2007, Florida Department of Transportation.

**LICENSEE.** For the purpose of the Adult Entertainment Code, a licensee is any person, corporation, partnership, or other entity whose application for an adult entertainment establishment or sexually-oriented business license has been granted and any person, corporation, partnership or other entity who owns or operates or controls the establishment or business.

**LIGHT-DUTY TRUCK.** As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of forty-five (45) square feet or less, which is:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or
- (2) Designed primarily for transportation of persons and has a capacity of more than twelve (12) persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

**LIMIT OF DEVELOPMENT.** A line to be drawn on a site plan which indicates a boundary beyond which only hand clearing of underbrush and invasive vegetation may occur. There shall also be no storage of materials or equipment beyond this line.

**LINING.** Impervious material such as concrete, clay, plastic, etc., placed on the sides and bottom of a ditch or channel and other water bodies to prevent or reduce the seepage of water through the sides and the bottom or prevent erosion.

**LITTORAL VEGETATION.** Vegetation acclimated to various water levels which aids in limiting erosion, protecting water quality and enhances the aesthetics of a lake or pond.

**LITTORAL ZONE** The transitional area between land and waters of a lake or pond.

**LIVESTOCK.** Domestic animals raised for use or for sale; such as fowl, ducks, geese, turkeys, horses, cows, mules, donkeys, pigs, chickens, goats and other animals commonly found on farms.

**LIVING AREA.** The minimum floor area of a dwelling as measured by its outside dimensions and exclusive of carports, porches, sheds and attached garages.

**LIVING SHORELINE.** A riparian area managed with restoration techniques that use natural material such as oyster reef, mangroves, and marsh grasses to stabilize the area, prevent erosion, and protect property. The construction or placement of materials typically occurs within state waters, which include public lands located- waterward of the mean high-water line.

**LOADING SPACE, OFF-STREET.** Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space.

**LOCAL ROAD.** Any street or road not designated as a collector, arterial, or limited access street. The primary function of a local street is to serve the adjacent property by providing the initial access to the roadway network. These facilities are characterized by short trip lengths, low speeds, and small traffic volumes. Through traffic on these facilities be discouraged. A local road that is not considered as part of the City's major transportation system should be considered as minor streets.

**LODGING HOUSE.** See ROOMING HOUSE.

**LOFT (PIGEONS).** Any house, dovecote, structure, or enclosure for the keeping and housing of any kind of pigeon.

**LOT.** A tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development. Includes the words "plot," "parcel," or "tract," and may consist of:

- (1) A single lot of record;
- (2) A portion of a lot of record;
- (3) A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record;
- (4) A parcel of land described by metes and bounds.

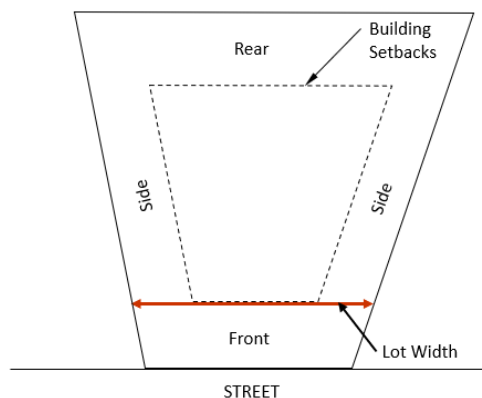
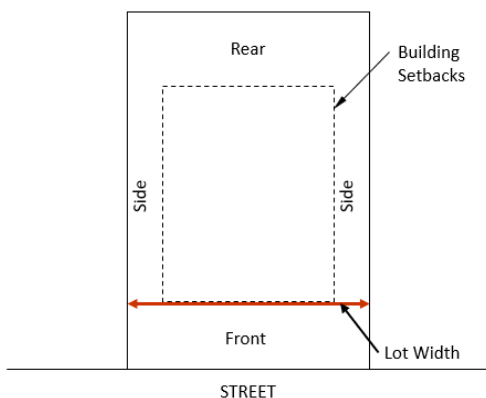
**LOT AREA.** The total area within the boundary lines of a lot, excluding any street right-of-way.

**LOT, CORNER.** A lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred and twenty degrees (120°).

**LOT COVERAGE.** That portion of the lot that is covered by buildings and structures including pavement.

**LOT DIMENSIONS.**

- (1) Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
- (2) Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard.



**LOT, FLAG.** A lot characterized by a long access road or driveway leading back to the main part of the lot.

**LOT, INTERIOR.** A lot other than a corner lot with only one (1) frontage on a street.

**LOT LINE.** The boundary line of a lot.

**LOT OF RECORD.** A lot whose existence, location and dimensions have been legally recorded or registered in a deed or on a plat prior to the effective date of the Zoning Code (Chapter 173).

**LOT, THROUGH.** A lot other than a corner lot with frontage on more than one (1) street. Through lots abutting two (2) streets may be referred to as double-frontage lots.

**LOW IMPACT DEVELOPMENT (LID).** An approach to land development which uses systems that mimic natural processes resulting in the infiltration, evapotranspiration or use of stormwater, which in turn protect water quality and associated aquatic habitat.

**LOWEST FLOOR.** The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the Florida Building Code or ASCE 24.

**MAJOR RECREATION EQUIPMENT.** Boats and boat trailers, travel trailers, pickup campers or coaches designed to be mounted on motor vehicles, tent trailers, racing and recreational cars and/or motorcycles not licensed for use on public streets and highways; similar devices or structures; and cases or boxes and trailers designated or used for transporting recreational equipment, whether or not they contain such equipment.

**MANGROVE.** Protected trees which include the rooted trees and seedlings of the following species, but only when having a coastal or estuarine association: Red Mangrove (*Rhizophora mangle* L.), White Mangrove (*Laguncularia racemosa* Gaertn.), Black Mangrove (*Avicennia germinans* (L.)L.), Buttonwood Mangrove (*Conocarpus erecta* L.) Removal or trimming of mangroves must be approved through Florida Department of Environmental Protection's (FDEP) permitting process and must be conducted by a certified arborist with special certification for mangrove trimming and removal.

**MANGROVE.**

(1) Rooted trees and seedlings of the following species, but only when having a coastal or estuarine association:

- (a) Red mangrove (*Rhizophora mangle* L.)
- (b) White mangrove (*Laguncularia racemosa* Gaertn.)
- (c) Black mangrove (*Avicennia germinans* (L.)L.)
- (d) Buttonwood mangrove (*Conocarpus erecta* L.)

(2) An assemblage of one (1) or more of the following species:

- (a) Black mangrove (*Avicennia nitida*);
- (b) Red mangrove (*Rhizophora mangle*);
- (c) White mangrove (*Languncularia racemosa*); and
- (d) Buttonwood (*Conocarpus erecta*).

**MANUFACTURED HOME.** A mobile home fabricated on or after June 15, 1976, in an offsite manufacturing facility for installation or assembly at the building site, with each section bearing a seal certifying that it is



built in compliance with the federal Manufactured Home Construction and Safety Standard Act. . For purposes of the Land Development Code, a manufactured home placed on a mobile home lot is a mobile home. The term MANUFACTURED HOME does not include a “recreational vehicle” or “park trailer”.

MANUFACTURING. See INDUSTRIAL definition.

MARGINAL ACCESS STREETS. Minor streets which are parallel to and adjacent to arterial streets and highways; and which provide access to abutting properties and protection from through traffic.

MARINA. An establishment that provides storage (both wet and dry), servicing, rental, fueling and securing of watercraft and may also include the provision of food, beverages, entertainment, laundry, retail facilities, and similar accessory uses.

MEDICAL, RECYCLING FACILITY. Any activity involving the sterilization and destruction of medical waste, including the disposal of hazardous materials generated by hospitals, nursing homes, dental clinics, and pharmacies other types of industrial and commercial companies.

MEDICAL WASTE. Any solid waste that is generated in the diagnosis, treatment, or immunization of human beings or animals as defined by The Medical Waste Tracking Act of 1988. Medical Waste excludes hazardous waste and household waste.

METES AND BOUNDS. A method describing a parcel of land by reference to course (direction) and distance around the tract or by reference to natural or record monuments (either natural features or adjoining tracts).

MINING. See EXCAVATION.

MINOR STREETS. Those which are used primarily for access to abutting properties.

MIXED-USE shall mean the combination of two (2) or more land uses, of which at least thirty-five (35%) percent of the building or project consists of non-residential uses, within a single building (vertical mixed-use) or within a single project in separate buildings (horizontal mixed-use), with such uses planned in a coordinated manner under a single development plan. Eligible uses for meeting the definition of mixed-use include residential, office, commercial, and industrial uses. The following land uses are not eligible: parks, golf courses, schools, and public facilities (fire stations, utility substations, etc.). For a development to qualify as a "mixed-use" development, the secondary use may not be reserved for use only by the principal user (e.g., a residents-only gym or an employee cafeteria).

MOBILE FOOD VENDOR. A person who prepares, dispenses, or otherwise sells food from a motorized vehicle or vehicle-mounted trailer used for the operation of food service activities.

MOBILE HOME. See DWELLING, MOBILE HOME.

MOBILE HOME/MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two (2) or more manufactured/mobile home lots for rent or sale.

MODEL DISPLAY GROUP (i.e., early start homes). Two or more model homes (see definition of MODEL HOME) each erected or placed on a separate single lot that meets the minimum requirements for a parcel in the zoning district in which located, for purposes of promoting sales of units for construction or emplacement elsewhere. The lots used in a model display group must be abutting lots.

**MODEL HOME.** A finished residential unit for which a certificate of occupancy has been obtained but is utilized as an example of a product offered for sale to purchasers (by a realtor, builder, developer or contractor). A model home is required to be open to the public and shall, therefore, meet accessibility (ADA) requirements.

**MODULAR BUILDING.** A building that is factory constructed in its entirety, in units, or components and then placed or assembled on a building site. They are installed on permanent foundations, meet the standards of the Florida Building Code (FBC), and bear the insignia of the Department of Community Affairs (now under the oversight of the Department of Business and Professional Regulation). The Land Development Code does not differentiate between modular homes and conventional homes.

**MOTEL.** A building in which lodging, or boarding and lodging, are provided and offered to the public in contradistinction to a boarding or lodging house, or a multiple-family dwelling; the same as a hotel, except that the buildings are usually designed to serve tourists traveling by automobile, ingress to rooms need not be through a lobby or office, and parking usually is adjacent to the dwelling unit.

**NATURAL FLOW.** The flow patterns of storm- water runoff over the land in its pre-development state; elements of natural drainage include overland flow, depressions, natural watercourses, etc.

**NATURAL SYSTEMS.** Systems which pre- dominantly consist of or use those communities of plants, animals, bacteria, and other life systems which naturally occur on the land, in the soil or in the water.

**N.A.V.D. 88.** The North American Vertical Datum of 1988.

**NEW CONSTRUCTION (FLOODPLAIN and STORMWATER MANAGEMENT).** Structures for which the “start of construction” commenced on or after September 3, 1980, and includes any subsequent improvements to such structures.

**NGVD 29.** The National Geodetic Vertical Datum as corrected in 1929 and is a vertical control used as a reference for establishing varying elevations.

**NONCONFORMITY.** Any lot, use of land, use of structure and premises or characteristics of any use which was lawful at the time of enactment of the Zoning Code (Chapter 173) but which does not conform with the provisions of the district in which it is located.

**NUMBERING SYSTEM.** A uniform method of assigning and coordinating the addresses of buildings and properties based on a designated grid system contained in the official “property numbering maps.”

**NURSING HOME/CONVALESCENT HOME.** An extended or intermediate care facility licensed or approved to provide full time convalescent or chronic care to more than one (1) person, who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves. Also known as a “long-term care facility” or “extended care facility.”

**OCCUPANT.** Any person, firm, entity, partnership, trust, corporation, association or other organization who is occupying or leasing a building or other property for a period exceeding thirty (30) days.

**OCCUPIED.** The use of a structure or land for any purpose, including occupancy for residential, business, industrial, manufacturing, storage and public use.

**OFF-LINE.** The storage of a specified portion of the stormwater in such a way so that subsequent runoff in excess of the specified volume of storm- water does not flow into the area storing the initial stormwater.

- OFFICE, GENERAL.** An office for the conduct of business of the following or related activities, medical and dental, law, engineering, real estate, insurance, accounting, chiropractic, architectural, technical and consultants in these related fields. Contractors' offices may be deemed GENERAL OFFICES only if there is no manufacturing, fabrication, production, processing, assembling, cleaning, testing, repair, or storage of materials, goods, equipment or products; or the sale or delivery of any materials, goods, equipment or products physically located on the premises. This term does not include a PAIN-MANAGEMENT CLINIC.
- OPEN-AIR STORAGE.** An area other than in a structure enclosed by four walls and a roof, such as a garage or utility shed, that conceals it from public view shall be deemed to be open-air storage. Placement of an article under a carport or on a porch that is not so enclosed shall be considered open-air storage.
- OPEN SPACE.** Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment.
- OPERATOR.** For the purpose of the Adult Entertainment Code, an operator is any person who engages in or performs any activity which is necessary to or which facilitates the operation of a sexually-oriented business or an adult entertainment establishment including, but not limited to, the licensee, manager, owner, doorman, bouncer, bartender, disc jockey, sales clerk, ticket taker, movie projectionist, DVD operator, dispatcher, receptionist, attendant or supervisor.
- UTFALL.** The point, location or structure where stormwater runoff discharges to a receiving body of water.
- OUTLET.** A point of stormwater disposal from a stream, river, lake or artificial drain.
- OVERFLOW.** A pipeline or conduit device together with an outlet pipe that provides for the discharge of portions of storm sewer flows into receiving water, or other points of disposal after a device has allowed the portion of the water which can be handled by the storm sewer lines be carried by.
- OVERFLOW ELEVATION.** Design elevation of a discharge structure at which, or below which, water is contained behind the structure, for that which leaks out, or bleeds out, through a control device down to the control elevation.
- OWNER.** Any and all persons, firms, entities, partnerships, trusts, corporations, associations or other organizations who own the fee title to, or have an undivided interest in, any building or property which is subject to the provisions of the LDC.
- PAIN-MANAGEMENT CLINIC.** Any facility, clinic, office, professional office or business which advertises in any medium for any type of pain-management services provided the facility, clinic, office or business is required to register with Florida Department of Health as a pain-management clinic. Any facility, clinic, office, professional office or business that employs a physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications provided the facility, clinic, office or business is required to register with Florida Department of Health as a pain-management clinic. Any facility, clinic, office, professional office or business which is required to register with the Florida Department of Health as a pain-management clinic. Pain management clinics are not allowed in the City.
- PALM.** Unbranched evergreen tree with a crown of long feathered or fan-shaped leaves. This shall include only true palms which are classified as Florida-Friendly by the University of Florida.

**PARK.** A tract of land within any jurisdiction which is kept for ornament or recreation, and which is maintained as public property including, but not limited to, a playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas or other similar public land.

**PARK TRAILER.** Shall be as defined in § 320.01, F.S., as may be amended from time to time.

**PARKING AREA.** Any area, excluding public rights-of-way, used for the purpose of maneuvering, parking, loading, storing or display of vehicles, including driveways, aisles, parking spaces, back-out areas, and other areas used for outdoor sales, display or storage of merchandise or equipment.

**PAVED.** Provision of a surface that is smoothly graded, hard surfaced and adequately drained for vehicular use.

**PEAK DISCHARGE.** The maximum instantaneous flow from a given storm condition at a specific location.

**PEDESTRIAN WAY (PEDWAY).** A transportation facility designed for use by pedestrians which may also be used by other forms of nonmotorized transportation.

**PERCOLATION.** The movement of water through soils.

**PERCOLATION RATE.** The rate usually expressed as a velocity at which water moves through saturated granular material.

**PERMANENT POOL.** That portion of a wet detention pond, which normally holds water, for example: between the normal water level and the pond bottom, excluding any water volume claimed as wet detention treatment volume.

**PERMEABILITY.** The property of a soil which allows the seepage of fluids through its interconnected void spaces, or more simply, the permeability describes how water flows through a soil. Units commonly used are cm/sec. for laboratory work, or ft/day for the design of engineering works.

**PERMITTEE.** Any person having been granted a right-of-way and easement use permit by the city. The word PERMITTEE shall include all persons acting in behalf of the person to whom a permit has been issued.

**PERSON.** A firm, association, organization, governmental body, partnership, trust, company, or corporation as well as an individual.

**PERSONAL SERVICES.** See SERVICE ESTABLISHMENT, PERSONAL.

**PERVIOUS.** Allowing movement of water.

**PET DAY-CARE FACILITY.** A personal service facility where domesticated animals are supervised and cared for during the day.

**PHASE.** A specified portion of the planned unit development that may be developed as an independent entity that is delineated in the final development plan or preliminary plat and specified within the development schedule.

**PIGEON.** A bird of the order Columbidae and includes racing pigeon, carrier pigeon, homing pigeon, fancy pigeon and sporting pigeon.

**PIGEON AVIARY.** An accessory use structure used for the keeping and housing of racing, homing, and 'fancy' or seamless banded pigeons.

**PLANNED UNIT DEVELOPMENT (PUD).** A zoning designation of an area of land developed as a single entity, or in approved phases in conformity with a Preliminary Development Plan and PUD Agreement by a developer or group of developers acting jointly, which is master planned to provide for a variety of residential and non-residential uses and common recreation and open space.

**PLAT.** A map or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision and other information in compliance with the requirement of all applicable sections of this part and of any local ordinances.

**POLICE CHIEF.** The Chief of Police of the City of Palm Bay, Florida.

**POLLUTANTS.** Dredge spoil, solid wastes, incinerator residue, sewage, garbage, sewage sludge, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, and industrial, municipal and agricultural waste discharged into water.

**POLLUTION.** The presence in waters of the state of any substances, contaminants or man-made or man-induced impairment of waters or alteration of the chemical, physical, biological, or radiological integrity of water in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property or which unreasonably interfere with the enjoyment of life of property, including outdoor recreation unless authorized by applicable law.

**POST-DEVELOPMENT CONDITION FOR STORMWATER RUNOFF.** Topography, vegetation, rate, volume, direction and pollution load of storm- water or groundwater flow that will exist after development.

**PRE-DEVELOPMENT CONDITION FOR STORMWATER RUNOFF.** Topography; vegetation; rate, volume, direction and pollution load of storm- water or groundwater flow existing prior to development.

**PRE-EXISTING TOWERS AND PRE-EXISTING ANTENNAS.** Any communications tower or communications antenna for which a building permit has been issued prior to April 1, 1998, including permitted communication towers or antenna that have not yet been constructed, so long as such permits are valid and in effect.

**PRELIMINARY DEVELOPMENT PLAN.** The conceptual plan provided as part of a planned development zoning designation. An approved preliminary development plan may authorize a change in the allowable use of land or a building and may include conceptual and conditional approvals where a series of sequential approvals are required before action authorizes commencement of construction or land alteration.

**PRELIMINARY PLAT.** A map indicating the proposed layout of a development and related information that is submitted for preliminary approval by City Council. A preliminary plat shall not be recorded with the County Clerk of Courts.

**PRIMARY COMMERCIAL ZONING DISTRICT.** The Neighborhood Commercial District (NC), Community Commercial District (CC), Highway Commercial District (HC), General Commercial District (GC), Restricted Commercial District (RC), and Planned Commercial Development District (PCD).

**PRINCIPAL BUILDING OR STRUCTURE.** A building in which is conducted the principal use of the lot on which it is situated. In a residential district any dwelling shall be deemed to be the principal building on the lot on which the same is situated. Each multiple-family unit shall be considered as a principal building. In a commercial or industrial district, any principal structure for private business or businesses shall be deemed

to be the principal building on the property on which it is located. An attached carport, shed, garage, or any other structure with one or more walls or a part of one wall being a part of the principal building and structurally dependent, totally or in part, on the principal building shall comprise a part of the principal building and be subject to all regulations applied to the principal building. A detached and structurally independent carport, garage, or other structure shall conform to the requirements of an accessory building. A detached and structurally independent garage, carport or other structure conforming as an accessory building may be attached to the principal building by an open breezeway.

**PRIVATE PERFORMANCE.** Modeling, posing, or the display or exposure of any specified anatomical area by a worker to a customer while the customer is in an area not accessible during such display to all other persons in the establishment or, while the customer or worker is in an area which is not on the premises of the establishment, or in which the customer or worker is totally or partially screened or partitioned during such display from the view of persons outside of the area.

**PRIVATE SCHOOL.** As defined under § 1002.01, F.S., with registration required as set forth in § 1002.42, F.S.

**PROFESSIONAL ENGINEER (PE).** A person in the United States who has achieved a registration through an examination process by which the State of Florida Board of Engineering Licensing, (Department of Business and Professional Regulation) determines and certifies that person has achieved a minimum level of competence pursuant to Chapter 471, F.S. This process protects the public by preventing unqualified individuals from offering engineering services.

**PROJECT.** The particular structures and improvements to a site proposed by an applicant on a particular land area which may be part of a common plan of development and shall include the subdivision of land.

**PROTECTED TREE.** Those hardwood trees which have from six (6) to less than twelve (12) inches DBH, and which are not otherwise exempted. This shall also include all mangroves and palms, as defined herein.

**PUBLIC IMPROVEMENTS.** Those improvements required for use by the general public, including but not limited to streets, sidewalks, streetlights, drainage, preservation areas, easements, rights-of-way, street signs, and water and sewer facilities.

**PUBLIC OUTDOOR SPACE.** An area dedicated for the use of passive outdoor activity.

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

**PUBLIC USE.** Any use of land or structures owned and operated by a municipality, county, state or the federal government or any agency thereof and of a public service or purpose.

**PUBLIC UTILITY FACILITY.** Any equipment or structures necessary for conducting a service by a government or public utility including telephone, electric, and cable television lines, poles, equipment, and structures; water or gas pipes, mains, valves or structures; sewer pipes, valves or structures; and pumping stations.



“Major public utility facilities” include electric substations, major sewer pumping facilities, supply yards, and similar facilities used for the provision of public utilities.

**PUBLIC WORKS MANUAL.** The document which outlines the Engineering design criteria and permitting procedures within the city.

**RAINFALL INTENSITY.** The rate at which rain is falling at any given instant, usually expressed as inches per hour.

**RATE.** Volume per unit of time.

**RECEIVING BODIES OF WATER.** Any water bodies, watercourses, and wetlands into which surface waters flow.

**RECHARGE.** The inflow of water into a project, site, aquifer, drainage basin or facility.

**RECREATION, INDOOR.** An indoor commercial facility that provides indoor sports, games, entertainment, or similar indoor recreational activities. Typical uses within this category include indoor theaters, driving ranges, batting cages, bowling alleys, arcade/amusement centers, fitness centers, sports centers, and similar uses, excluding dance clubs. The term does not include ELECTRONIC GAMING ESTABLISHMENTS or DANCE CLUBS.

**RECREATION, NATURE.** Passive recreational facilities which typically include campgrounds, fishing and wildlife preserves, nature study areas, and similar facilities.

**RECREATION, OUTDOOR.** An outdoor commercial facility that provides outdoor recreation activities such as outdoor amusement parks, driving ranges, batting cages, go-cart tracks, outdoor skating facilities, miniature golf courses, and similar uses.

**RECREATIONAL VEHICLE (RV).** A unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

**RECREATIONAL VEHICLE PARK/RV PARK.** A parcel of land under single ownership, where sites are offered for rent for the temporary placement of recreational vehicles, as defined in this chapter, being used for travel, recreation, or vacation purposes.

**REGIONAL TRANSPORTATION CENTER.** Public transportation facilities including bus stations, railway stations, or a multi-model combination of both uses.

**REGISTERED LAND SURVEYOR.** A land surveyor properly licensed and registered in the State of Florida as defined in F.A.C. 5J-17, as may be amended from time to time.

**REPLACEMENT TREE.** A tree required to be replanted for each “protected tree” approved for removal, at planting they shall have a DBH of at least two and a half (2-1/2) inches, minimum three (3) feet of clear wood, minimum height of eight (8) feet, and shall be the same species being removed or another canopy species approved by the City Manager or designee.

**REQUIRED SETBACK LINE.** An imaginary line running parallel to a front, side or rear property line, which establishes the rear edge of a yard or open area in which no building, structure or use may be placed or established, unless otherwise permitted herein.

**RESIDENTIAL AREA.** Any area zoned for residential, including the Rural Residential District (RR), Estate Residential District (RE), Suburban Residential Estate District (SRE), Single-Family Residential Districts (RS-1, RS-2, and RS-3) Residential Mobile Home District (RMH), Residential Transition District (RT-10), Multiple-



Family Residential Districts (RM-15 and RM-20), Mixed-Use District (MU), and Planned Unit Development Districts (PUD) which permit residential uses.

**RESOURCE-BASED OPEN SPACE AREA.** Resource-based open space areas are intended to protect and enhance environmental systems and may include up to 50% of the designated wetlands, protected uplands, or any other environmental feature including native landscaped buffers; unless expressly excluded from the Developable Acreage.

**REPLAT.** A revision to a recorded plat when any change affects any street layout boundary geometry or area reserved thereon for public use, or any lot line; or if it affects any plat legally recorded prior to the adoption of any regulations controlling subdivisions.

**RESTAURANT/EATING ESTABLISHMENT.** Any building or structure or portion thereof, in which food is prepared and served for pay to any person not residing on the premises.

**RESTORATION TREE.** A tree required to be replanted for each six (6) inches DBH of "specimen tree" approved for removal, at planting they shall have a DBH of at least five (5) inches, minimum four (4) feet of clear wood, minimum height of fifteen (15) feet, and shall be the same species being removed or another canopy species approved by the City Manager or designee.

**RETAIL ESTABLISHMENT.** An establishment where goods are displayed and offered for purchase directly by the intended consumer or user of such goods. Goods generally include but shall not be limited to apparel, shoes, appliances, art supplies, automotive supplies, camera and photography supplies, furniture, guns and ammunition, hardware supplies, toys, crafts, jewelry, lawn and garden supplies, plants, musical instruments and supplies, office equipment, office supplies, paint, wallpaper, sound systems, televisions, flowers, tobacco, candy, nut and confectionery shops, sporting goods, and similar items. The term retail establishment shall not be interpreted to include pawn shops, adult entertainment facilities, or flea markets. See also EQUIPMENT SALES, RENTAL, LEASING.

**RETAIL FLOOR AREA.** The sum of the gross horizontal areas of the several floors of a building which is open to consumers to inspect or purchase commodities or merchandise that are on display or sale.

**RETENTION.** The collection and storage of runoff without subsequent surface discharge to surface waters.

**RETENTION/DETENTION AREA (DRY).** Water storage area with bottom elevation at least one (1) foot above seasonal high groundwater table elevation.

**RETENTION/DETENTION AREA (WET).** Water storage area with bottom elevation lower than one (1) foot above seasonal high groundwater table elevation.

**RETENTION STRUCTURE.** A natural or artificial basin that functions similar to a detention structure except that it maintains a permanent stormwater runoff.

**RETROFITTING.** To improving the quality of urban stormwater runoff to whatever degree is achievable. The improvement can include the existing system modification, the addition of new structures or stormwater management practices, or changes in activities or land uses.

**RIGHT-OF-WAY.** An interest in land granted, conveyed, dedicated, acquired for city purposes, or devoted to vehicular or pedestrian traffic. This shall include but not be limited to land in which the state, county or

city owns fee simple title, or has established any type of ownership thereof or interest in any land utilized by the city for vehicular or pedestrian traffic or other purposes.

**RIGHT-OF-WAY AND EASEMENT USE PERMIT.** The document issued by the City Manager or designee that authorizes permittees to install and construct improvements as described in Chapter 176, Streets, Parking, and Loading, of the LDC.

**RIPRAP.** The use of man-made or natural materials placed on earth surfaces for protection against the action of water.

**ROAD.** Includes streets, sidewalks, alleys, highways, and other ways open to travel by the public, and includes all areas within the right-of-way in which such ways are located, including easements.

**ROADWAY.** The portion of a road providing the traveled way and the adjacent shoulders.

**ROOMING HOUSE.** A building other than an apartment, hotel, motel or motor lodge where, for compensation and by prearrangement for definite periods, lodging, meals or lodging and meals are provided for three (3) or more persons.

**ROUTING.** Storing, regulating, diverting or otherwise controlling the peak flows of stormwater runoff through a collection system according to some predetermined plan or design.

**RUNOFF.** The portion of precipitation that flows from a drainage area on the land surface, in open channels or in stormwater conveyance systems.

**RUNOFF COEFFICIENT.** A decimal number used in the Rational formula which defines the runoff characteristics of the drainage area under consideration. It may be applied to an entire drainage basin as a composite representation or may be applied to a small individual area such as a (1) residential or commercial lot.

**SAND DUNES.** Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

**SALVAGE YARD.** A lot or land area where used or wrecked automobiles are bought, sold, exchanged, stored, disassembled, or handled including but not limited to scrap iron and other metals, and rubber tires and any associated recycling of these materials. The term "salvage yard" includes automobile wrecking yard but does not include junk yard.

**SATELLITE DISH ANTENNA.** Any parabolic or spherical antenna which receives television or other signals from orbiting satellites or other devices. This term does not include any television or communications system regulated as a public utility.

**SCREENING.** A method of visually shielding or obscuring one (1) abutting or nearby structure or use from another by fencing, walls, berms or densely planted vegetation.

**SEAMLESS BAND (PIGEONS).** A plastic or metal identification band that contains a series of letters or numbers that is permanently attached to the pigeon at birth. The band is issued by a nationally recognized birding association and is to remain with the animal throughout its natural life.

**SEASONAL HIGH GROUNDWATER TABLE ELEVATION.** The highest level of the saturated zone in the soil in a year with normal rainfall.

**SECURITY DWELLING.** A dwelling unit used solely for a security guard or caretaker for a commercial or industrial use.

**SEDIMENT.** Solid material, whether mineral or organic, that is in suspension, is being transported, or has moved from its site or origin by air, water, or gravity.

**SEDIMENT FACILITY.** Any structure or area which is designed to hold runoff water until suspended sediments have settled.

**SELF STORAGE FACILITY.** A structure containing separate, individual, and private dead- storage spaces of varying sizes up to a maximum of 300 square feet which are leased or rented on individual leases for varying periods of time.

**SEMI-PUBLIC USE.** Any use of land or buildings owned and operated by an individual, firm, corporation, lodge or club, either as a profit or nonprofit activity, for a public service or purpose. This shall include privately owned utilities, transportation, recreation, and cultural activities and services.

**SERVICE ESTABLISHMENT, BUSINESS.** Establishments primarily engaged in rendering services to business establishments and individuals on a fee or contract basis, such as advertising services, blueprinting services, computer and data processing services, detective agencies and security services, insurance agencies, personnel services, photography, art and graphics services, building maintenance, employment services, and printing services with no use or storage of noxious chemicals.

**SERVICE ESTABLISHMENT, INTENSIVE.** An establishment that provides carpet cleaning, pest control/exterminating services, industrial-type cleaning and laundry, dry cleaning plants, printing and publishing plants, sign painting establishments, wholesale photo processing, and other similar service uses where personal customer visits to the establishment are not commonly necessary. If the activity involves the use or production of noxious chemicals, it shall be classified as INDUSTRIAL use.

**SERVICE ESTABLISHMENT, PERSONAL.** A use intended to provide services to a person, their pets or their apparel, including such uses as barber shops, beauty shops, spas, tailors, shoe repair, laundry pickup stations, pet day care facilities, and other related activities. The term also includes premises where the principal use is the repair and general service of common home items such as musical instruments, sewing machines, jewelry, televisions and radios, bicycles, washing machines, vacuum cleaners, power tools, electric razors, refrigerators and lawnmowers.

**SEXUAL ENCOUNTER BUSINESS.**

- (1) Any person or entity which for any form of consideration or remuneration or which charges an admission fee and provides a place for the purpose of providing, encouraging or allowing three (3) or more persons to engage in any specified sexual activity among themselves or with other persons.
- (2) The following shall be presumed not to be a sexual encounter business:
  - (a) A bona fide private club whose membership as a whole engages in social nudism or naturalism as in a nudist resort or camp and at which specified sexual activities do not occur;
  - (b) A state licensed sexual therapist; or
  - (c) A bona fide hotel or motel licensed by the state.

**SEXUALLY ORIENTED BUSINESS.** A commercial bodily contact establishment, escort service, or sexual encounter business. A business shall be a sexually oriented business, whether services are provided on the premises of an establishment or on an out-call basis at any other place and regardless of whether such

business is licensed under this chapter. A business with a sexually oriented business license shall be presumed to be a sexually-oriented business. An individual operating a sexually-oriented business is subject to the provisions of this chapter notwithstanding the fact that services are being provided at or from a residence, motor vehicle, vessel or any other location and a license pursuant to this chapter is required unless the individual is a paid employee for whom taxes and social security payments are withdrawn and paid by the licensed establishment, worker records are maintained, and the individual is not an independent contractor.

**SHARROW.** Shared lane markings, or "Sharrows" are pavement markings used to indicate a shared environment for bicycles and motor vehicles.

**SHOPPING CENTER.** A commercially owned development with twenty-five thousand (25,000) gross square feet or greater of building area and with at least one hundred (100) parking spaces.

**SHRUB.** A bushy, woody plant, usually with several permanent stems, and a mature height of less than ten (10) feet.

**SIDEWALK.** A prepared path, usually paved, along the side of a road for the use of pedestrians.

**SIGN.** Any device to inform or attract the attention of persons not on the premises on which the sign is located; provided, however, that the following shall not be included in the application of the regulations herein:

- (1) Signs not exceeding one (1) square foot in area and bearing only property numbers, postbox numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
- (2) Flags and insignia of any governmental level except when displayed in connection with commercial promotion;
- (3) Legal notices, identification, informational, or directional signs erected or required by governmental bodies;
- (4) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or flashing lights;
- (5) Signs directing and guiding traffic and parking on private property but bearing no advertising matter.

**SIGNS.** The following are definitions for terms primarily found in Chapter 178.

**AGGREGATE.** When used in reference to the total allowable sign area, the total available display area of all sides or portions of a sign shall constitute the aggregate sign area.

**ALTER.** This term shall include, but not be limited to, the addition of sign surface area, the changing or relocation of light source or the relocation of an outdoor advertising display from one position to another. This term shall include any and all structural changes in the sign, but shall not include the changing of copy on a sign, including a sign which is designed as a changeable copy sign.

**APERATURE SIZE.** See SIGN SURFACE AREA.

**BASE.** This term shall include, but not be limited to, the bottom support surface of any sign where it meets the ground.

**BEACON LIGHT.** Any outdoor high intensity light which consists of one or more beams capable of being directed in any direction or directions, capable of being revolved automatically, or capable of having any part thereof revolve automatically, or which flashes.

**BUILDING FRONTAGE.** The linear length of a building facing a public street right-of-way, exclusive of alleys.

**COPY.** The letters, colors, text or other graphics displayed upon the sign surface area.

**ERECT.** Build, construct, attach, hang, place, suspend or affix, and shall include the painting of wall signs.

**ESTABLISHMENT.** An establishment is any commercial, industrial, institutional, educational, office, social, business, or financial entity.

**FASCIA.** A horizontal construction component that is used to cap the ends of a structural roof truss.

**FRAME.** The outermost corners or edges of a sign cabinet (see also SIGN CABINET).

**GOVERNMENTAL BODY.** The city, county, state or government of the United States, and any branch, agency, board or department thereof.

**GROUND LEVEL.** Ground level shall mean the finished grade at the base of a sign structure.

**GROWTH MANAGEMENT DEPARTMENT.** The City Department that administers and enforces the Land Development Code and the Florida Building Code.

**GROWTH MANAGEMENT DIRECTOR.** The City officer or other designated authority, or their duly authorized representative, in charge of the Growth Management Department.

**HEIGHT.** The vertical distance between the uppermost portion of a sign and ground level.

**LUMENS.** A quantifiable measure of light.

**MAINTAIN.** Maintain shall include general servicing and upkeep in a safe and operable condition and free from excessive wear and tear.

**NOTICE.** Written notification given by certified mail delivery or to the last known address of the person to be notified, or by hand delivery to such person and, if such notification related to a violation of Chapter 178 (Signs) of the LDC, the physical posting of written notification on the sign structure or real property on which the sign is located. If certified mail delivery or hand delivery is not possible, then an advertisement in any regularly published newspaper in the City shall suffice.

**OWNER.** The person owning the fee simple title to the property upon which a sign is located for which a permit is required.

**PARAPET.** The vertical wall section that extends above a roof.

**PERMITTEE.** The owner of a sign for which a permit is required.

**PERSON.** Any individual, firm, partnership, association, corporation or other legal entity.

**PLACEMENT.** The location that a sign occupies on a lot or building.

**PREMISES.** A lot or parcel of land or combination of contiguous lots or parcels under single ownership.

**PUBLIC or PRIVATE WAY.** Any public or private thoroughfare utilized for vehicular or pedestrian traffic.

RELOCATE. Any change in the position of a sign from its original location.

REPLACE. Rebuild, enlarge or change in size, structure or lettering other than repainting, or repair to electrical apparatus.

SIDEWALK. The paved portion of a right-of-way specifically designed for pedestrian traffic.

SIGN.

(1) Any permanent or temporary object, which is visible from a public place, including public roadways, and which is designed to attract attention to the subject matter of its copy or image. Specifically excluded from this definition is works of art, flags or emblems of any nation, state or political subdivision.

(2) SIGNS include the following defined classes of signs:

(a) PERMANENT SIGNS. Signs made of durable material and fixed to a building, supporting structure, or the ground in such a manner as to be immobile without the use of extraordinary means, such as disassembly. The following types of signs shall be permanent signs:

(i) ANIMATED SIGN. Any sign with physical action or motion, or giving the appearance thereof, through the use of illumination wind or other mechanical means. Animated signs shall include flashing or oscillating signs and swinging signs, sky trackers and shall exclude electronic message signs and time or temperature units.

(ii) AWNING SIGN. A roof-like structure extending and supported from the exterior wall of a building and which is composed of non-rigid materials (except for the supporting framework) upon which a sign is indelibly drawn, painted or printed.

(iii) BENCH SIGN. A bench whose primary purpose is collateral with providing transportation service to the public upon which a sign is indelibly drawn, painted or printed.

(iv) BILLBOARD SIGN. Any freestanding sign, which may, without limitation, be a sign having changeable copy sign or an Electronic Message Sign, which identifies or advertises a use, establishment, product, activity or service not sold, produced, manufactured, located, provided or furnished on the parcel on which the sign is located (or which identifies a use, product, activity or service which is only incidentally sold or available on that parcel). Billboard Signs may be illuminated or non-illuminated and include Digital Billboards.

(v) DIRECTORY SIGN. Any sign that states the name or occupation of the occupants of a structure or gives the use of the structure, including office building directories, houses of worship directories and apartment house directories.

(vi) ELECTRONIC MESSAGE SIGN. A non-billboard Illuminated Sign emitting an illuminated message, image or design created electronically by any light source, light emitting diodes ("LEDs"), bare electric bulbs, luminous tubes, fiber optics, or any other combination of light sources creating a message. This definition shall include time, temperature and date signs. Each message on the sign must be displayed for a minimum of (8) eight seconds and all static message changes shall be completed within one (1) second. Each display must have a light sensing device that will adjust the brightness, as ambient light conditions change. An Electronic Message Sign which has copy which

moves continuously or appears to be moving, flashing, changes color, pulses or alternates shall be considered an Activated Sign.

(vii) **MARQUEE SIGN.** Any sign which is attached to, or hung from, a permanent, roof-like structure which is supported by a building wall and which projects out from the building line usually, but not necessarily, over a public right-of-way such as a sidewalk.

(viii) **MONUMENT SIGN.** Any on-premises, freestanding sign supported by structures or supports in or upon the ground and independent of support of any building(s) and which has a maximum height of ten (10) feet. A monument sign may be a directly illuminated sign, electronic message sign, or indirectly illuminated sign.

(ix) **POLE SIGN.** A freestanding sign supported by one (1) or more poles in or upon the ground.

(x) **PYLON SIGN.** Any sign, other than a portable sign, which is supported by structures or supports in or upon the ground and independent of support from any building and having eight (8) feet or more ground clearance when measured from the grade at the base of the sign to the bottom of the sign face. The structural elements of a pylon sign shall not exceed one and one-half (1½) feet in diameter.

(xi) **ROOF SIGN.** Any sign that is erected, constructed or maintained on the roof of a building or structure above the eaves, or above mansards, parapets, or other similar architectural features of buildings or structures which are capable of supporting signs.

(xii) **TRANSIT SHELTER SIGN.** Any sign that is attached to a shelter on or abutting a public right of way, which shelter is intended for use in connection with public transportation.

(xiii) **WALL SIGN.** A sign which is attached to or erected against the wall of a building with its face in a parallel plane to the plane of the building façade or wall. This definition shall include the painting of a sign on a wall surface. For a building façade with multiple heights or roof lines, the wall sign shall not project more than five (5) feet above the parapet of a roof line that is more than 50% of the length of the building façade. Any wall sign contrary to this requirement shall be considered a roof sign.

(xiv) **WAYFINDING SIGN.** A sign that provides information regarding the location of nearby establishments in Commercial or Industrial Zone property that do not have frontage on an Arterial or Major Collector street. Wayfinding signs must be located on private property with written permission of the property owner and may not be erected in any public right-of-way. More than one entity may co-locate on a Wayfinding sign. The property for an establishment using a Wayfinding sign shall be located within 2,640 feet (1/2 mile) of said sign.

(b) **TEMPORARY SIGN.** Any sign that is not a permanent sign.

(i) Temporary signs shall only be installed or placed with the express consent of the occupant or owner of the premises.

(ii) Temporary signs may only be placed on privately owned property.

(iii) Temporary signs shall follow the guidelines as outlined per each zoning district in the appendixes below.



(iv) The following types of signs shall be temporary signs:

- a. A-FRAME SIGN. A sign consisting of two (2) sign faces connected at the top with either hinges or fixed fastening devices.
- b. BANNER SIGN. Any sign intended to be hung either with or without frames, possessing characters, letters, illustrations or ornamentations applied to paper, plastic or fabric of any kind, and shall include flags, and streamers.
- c. CONSTRUCTION SIGN. Any temporary sign erected between the time of issuance of a building permit and the issuance of a certificate of occupancy and located on the premises where construction is taking place, indicating the description of the project, the names and telephone numbers of the architects, engineers, landscape architects, contractors, or similar artisans, and the owners, financial supporters, sponsors and similar persons having a role or interest in the structure or project.
- d. FEATHER SIGNS. A sign supported by a single monopole with an affixed, cloth-like material that moves and flexes with the wind.
- e. FREESTANDING FRAME SIGN. Any self-supporting two-sided sign with a total sign area of no more than sixty-four (64) square feet and which has a maximum height not exceeding eight (8) feet.
- f. FUTURE IMPROVEMENT SIGN. Any sign which describes proposed development to take place on the premises.
- g. HUMAN SIGN HOLDER. Any sign that is supported, in whole or in part by a person.
- h. INFLATED SIGN. A sign constructed from nonporous material, which is inflated with air or any lighter-than-air gas. Included in this definition are inflated signs which represent the form of a person, place or thing. Aircraft which may meet this definition are not considered inflated signs.
- i. PORTABLE SIGN. Any sign not permanently erected on a premises and which may be moved readily from place to place; except that this definition shall not apply to Vehicle Signs or signs displayed through, but not on, windows.
- j. REAL ESTATE SIGN. Any sign used solely for the purpose of offering the sale or lease of the premises or building on which the sign is located.
- k. VEHICLE SIGN. Any sign erected upon a vehicle wherein the principal purpose of the vehicle is not general transportation, but merely the support of the sign itself. Signs mounted upon taxis, buses, or other modes of general public transportation when in the course of their normal service are excluded from this definition.
- l. WINDOW SIGN. A window sign is one that lets light or air through to the habitable part of the building and which is painted on, attached to, or visible through a window. A window sign does not include the display of merchandise.

(c) ABANDONED SIGN. Any:

- (i) sign which through age or obsolescence no longer conforms to the structural or maintenance specifications of Chapter 178; or
- (ii) pole, pylon or structure expressly installed for the purpose of affixing a sign which bears no sign or copy for a period of twelve (12) consecutive months; or
- (iii) sign which displays information which incorrectly identifies the business, owner, lessor, or principal activity conducted on the site; or
- (d) ACTIVATED SIGN. Any sign which:
  - (i) contains or uses for illumination any light, lighting device or lights which change color, flash or alternate, or change appearance of said sign or any part thereof automatically, except electronic message signs;
  - (ii) contains moving parts as part of its normal operation;
  - (iii) depicts or contains copy which moves or appears to be moving.
- (e) DIGITAL BILLBOARD. Any Billboard Sign utilizing digital message technology, capable of changing the static message or copy on the sign electronically. A Digital Billboard may be internally or externally illuminated. A Digital Billboard shall contain static messages only, and shall not have animation, movement, or the appearance or optical illusion of movement, of any part of the sign structure. Each static message shall not include flashing or the varying of light intensity. Digital Billboards shall be operated in accordance with Rule 14-10.004(3), F.A.C. Digital billboards shall not be considered as Animated, Activated or Flashing type lighting.
- (f) FLASHING SIGN. Any sign on which all or any portion of the electrical lighting device(s) on such signs go on and off at alternate intervals. Any revolving Illuminated Sign shall be considered a Flashing Sign for purposes of Chapter 178. Digital billboards shall not be considered Flashing Signs for purposes of this Chapter.
- (g) GOVERNMENT SIGN. Any sign erected by or at the direction of a public official in the performance of such official's office or duty.
- (h) ILLEGAL SIGN. An unpermitted sign which was not lawfully erected or a permitted sign not constructed in accordance with the representations set forth in the permit documents or a sign constructed in violation of city codes.
- (i) ILLUMINATED SIGN. Any sign using an artificial light source.
- (j) INTERIOR SIGN. A sign which is located in the interior of a structure or which is located outside a structure but, because of the sign's placement, design or orientations is not visible to persons from a location other than the parcel on which the sign is located. Interior signs are not regulated by this Chapter.
- (k) REVOLVING SIGN. Any sign so erected or constructed as to periodically or continuously change the direction toward which any plane containing the display surface area is oriented.
- (l) SNIPE SIGN. Any sign made of nondurable material and which is attached in any way to a utility, tree, fence post or any other similar object, or inserted with one or more stakes into the ground.

(m) **SUBDIVISION SIGN.** Any permanent sign located at the entry of a subdivision or neighborhood, mobile home park, townhouse, or other planned residential development.

**SIGN CABINET.** The self-supporting structural or non-structural frame that contains the sign face.

**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 NUMBER.** For the purpose of determining the number of signs, a sign shall be construed to be a single display surface or device containing elements organized, related, and composed to form a single unit. In cases where material is displayed in a random or unconnected manner, or where there is reasonable doubt as to the intended relationship of such components, each component or element shall be considered to be a single sign. A sign with sign surface on multiple sides of such sign shall be construed as a single sign, and the total area of such sign shall be the area computed on a single side of the sign.

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

**SIGN SURFACE AREA.** The total area of each sign face which may be used to display copy, including background, but not including the frame and structural supporting elements. The sign surface area shall be computed for the entire area within the periphery of a geometric form, or combination of geometric forms. The surface area of the sign shall be measured from the outside edges of the sign or the sign frame, whichever is greater. The sign area shall include the total of a single side of a sign surface upon which copy could be placed. Where a sign is composed of individual letters, characters or symbols applied directly to a building, canopy, marquee, mansard, fascia, façade, parapet, awning, the area of the sign shall be the smallest geometric shape which will enclose all of the letters, characters or symbols. The area of a multi-faced sign shall be the total area of each sign face.

**SIGN UNIT.** Any display or display device containing elements organized, related or composed to form a single unit. Where the display of any elements is in a random manner without any organized relationship of elements, each element shall be considered a separate sign. A double-faced sign shall be considered a single sign.

**STREET FRONTAGE.** The length of the property line for a single parcel which runs parallel to and along each public right-of-way (exclusive of alleys) it borders.

**WALL.** The surface of the exterior of a principal building exposed to the public view within a single plane, inclusive of windows or doors.

**ZONING DISTRICT.** The various zoning districts as established and described in the zoning regulations set forth in the Palm Bay Land Development Code.

**SITE.** Any tract, lot or parcel of land or combination of tracts, lots, or parcels of land which are in one ownership, or are contiguous and in diverse ownership where development is to be performed as part of a unit, subdivision, or project.

**SLOPE.** A degree of deviation of a surface from the horizontal; measured as a numerical ratio, percentage, or in degrees. Expressed as a ratio, the first number is the horizontal distance and the second is the vertical distance, such as two to one (2:1). A two to one (2:1) slope is a fifty percent (50%) slope.

**SMALL EVENT SPACE.** An assembly, gathering, or meeting space, to include clubs, lodges, recreational groups, and similar uses, containing less than five thousand (5,000) square feet of floor area, which are solely confined to indoor spaces with their occupancy being subject to applicable Building and Fire Codes. Any outside spaces will require a Special Event Permit.

**SMALL TREE.** Those native or Florida-Friendly tree species, often referred to as understory, which have an average mature height of no less than fifteen (15) and no more than twenty-five (25) feet, under local climactic conditions.

**SOIL.** The unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.

**SPECIAL EVENT.** Any sale, grand opening, photo shoot, party, holiday celebration, bazaar, concert or other performance, fair, carnival, tent revival, fundraising event, art festival, race, tour, rally, parade, bicycle run, demonstration, contest, exhibition, block party, outdoor display or similar event or occurrence, including the use of tents, or other devices or structures to conduct, advertise or promote any such event occurring on the city or non-city-owned lands or in a public right-of-way such as a public or non-public street, shared-use path, or other public place or building, parking lot, vacant lot, where the event would substantially inhibit the usual flow of pedestrian or vehicular travel or which occupies any public area or building so as to preempt use of the said area by the general public for its intended use or which deviates from the established use of said area or building, but such term does not include the following:

- (a) An event or function held within or on the grounds of a private residence or on the common areas of multifamily residential development, and which event or function is of private and nonprofit nature; or
- (b) Any use or activity specifically approved by a development permit issued by the city or specifically permitted by the Land Development Code.

**SPECIAL FLOOD HAZARD AREA.** An area in the floodplain subject to a one percent (1%) 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.

**SPECIFIED ANATOMICAL AREAS.** Editor's note: The source of definitions of terms used below is The New Webster's Medical Dictionary (Bolander, 1991). The definitions of terms are a material part of this chapter and apply to the use of the term each time it is used in this chapter.

(1) Any of the following:

- (a) The male or female genitals;
- (b) The male or female pubic area;
- (c) The vulva;
- (d) The anus;
- (e) The penis;

- (f) The scrotum;
  - (g) The cleavage of the buttocks;
  - (h) The buttocks;
  - (i) The anal cleft;
  - (j) The anal cleavage;
  - (k) The areola on the breast of a female;
  - (l) The nipple on the breast of a female; or
  - (m) The female breast below a line immediately above the top of the areola said line running horizontal across the top of the entire breast, but shall not include any portion of the cleavage between the human female breasts typically exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided that the areola is not exposed;
- (2) Body paint, body dyes, tattoos, liquid latex whether wet or dried, dental floss, G-Strings, thongs, and similar coverings shall not be considered an opaque covering.

**SPECIMEN TREE.** Those native trees which have a DBH of twelve (12) inches or greater and which are not otherwise exempted.

**SPECIFIED CRIMINAL ACT.**

- (1) A violation of this chapter;
- (2) Any felony not otherwise specified in this definition;
- (3) An offense under Chapter 794, F.S. (Sexual Battery);
- (4) An offense under Chapter 796, F.S. (Prostitution);
- (5) An offense under Chapter 800, F.S. (Lewdness; Indecent Exposure);
- (6) An offense under Chapter 826, F.S. (Bigamy; Incest);
- (7) An offense under Chapter 847, F.S. (Obscene Literature; Profanity);
- (8) An offense under Chapter 775, §§ 775.21 et.seq., F.S. (Sexual Predators Act); or
- (9) An offense against an analogous federal statute.

**SPECIFIED SEXUAL ACTIVITIES.** Editor's note: The sources of definitions of terms used below are (1) Taber's Cyclopedic Medical Dictionary, T.A. Davis Co., Philadelphia, 1997 (ed. 18); (2) Oxford Dictionary of the English Language (multi-volume); (3) Florida Statutes. The definitions of terms are a material part of this chapter and apply to the use of the term each time it is used.

- (1) Human genitals in a state of sexual stimulation, arousal or tumescence;
- (2) Acts of human anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellatio, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sapphism, sexual intercourse, sodomy, urolagnia, or zoerasty;

- (3) Fondling or other touching of human genitals, pubic region, any part of the buttocks, anus or female breast;
- (4) Oral, anal, or vaginal penetration by, or union with, the sexual organ or any other part of the body of another;
- (5) Anal or vaginal penetration of another or oneself with any object;
- (6) The handling or fondling of the sexual organ of another for the purpose of masturbation directly or through a medium; or
- (7) Excretory functions as part of or in connection with any of the activities set forth in divisions (1) through (6) above.

**STANDARD INDUSTRIAL CODE (SIC).** A publication printed by the U.S. Government Printing Office which classifies and defines industries and commercial activities.

**START OF CONSTRUCTION.** The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual **START OF CONSTRUCTION** means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, or 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.

**STORAGE CAPACITY.** The volume of water which can be impounded by the structure below the emergency spillway crest and above the wet season water table.

**STORM SEWER.** A conduit that carries stormwater.

**STORM FREQUENCY.** The time interval between major storms of predetermined intensity and volumes of runoff which storm drainage systems and such appurtenant structures are designed and constructed to handle hydraulically without surcharging and back flooding, e.g., a five (5) year, ten (10) year or twenty-five (25) year storm.

**STORMWATER.** Any surface runoff and drainage of water from land surfaces, including both impervious and pervious areas.

**STRADDLE DANCE.**

- (1) The use by a worker of any part of his or her body to touch the genital or pubic area of another person, or the touching of the genital or pubic area of any worker by another person; or the straddling of the legs of a worker over any part of the body of a customer at the establishment, regardless of whether there is a touch or touching; or the use by a worker, of any part of his or her body to touch the genital, pubic region, buttock, anus or female breast of another person while at the establishment, or the

touching of the genital, pubic region, buttock, anus or female breast of any worker by a customer while at the establishment.

- (2) Conduct shall be a STRADDLE DANCE regardless of whether the "touch" or "touching" occurs while the worker is displaying or exposing any specified anatomical area.
- (3) Conduct shall also be a STRADDLE DANCE regardless of whether the "touch" or "touching" is direct or through a medium.
- (4) The terms "lap dance," "table dance," and "face dance" are included within the term STRADDLE DANCE.

**STREET.** Any dedicated public or private access way such as a street, road, highway, boulevard, parkway, circle, court or cul-de-sac, including all of the land lying between the right-of-way lines as delineated in a plat showing such streets, whether improved or unimproved, but shall not include those access ways such as easements and rights-of-way intended solely for limit utility purposes such as for electric power lines, telephone lines, water lines, drainage and sanitary sewers and easements of ingress and egress. All publicly dedicated streets shall connect with existing public streets or other publicly dedicated streets.

**STREET CURB.** The lateral side of the pavement determined by either a vertical or a sloped section.

**STREET RIGHT-OF-WAY LINE.** The property line which bounds the-right-of-way set aside for use as a street.

**STRUCTURE.** See BUILDING.

**SUB-BASIN.** A physical division of a larger basin associated with one reach of the storm drainage system.

**SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the building or structure before the damage occurred.

**SUBDIVIDER.** The owner of record, or their authorized representative, of a tract of land that is to be used as a subdivision within the scope of Chapter 177.

**SUBDIVISION.** The division of a parcel of land, whether improved or unimproved, into three (3) or more contiguous lots, parcels, tracts, tiers, blocks, sites, units, or any other division of land shown on a Plat map.

**SUBMERGED LANDS.** Submerged lands include, but are not limited to, tidal lands, islands, sandbars, shallow banks and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters. Privately owned submerged lands may be utilized for the calculation of density and intensity of residential and commercial development.

**SUBSTANTIAL IMPROVEMENT.** Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a five (5)–year period, the cumulative cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the improvement or repair is started. For each building or structure, the five (5)–year period begins on the date of the first improvement or repair of that building or structure subsequent to March 4, 2014. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:



(1) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.

(2) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

**SURFACE WATER.** All water the surface of which is exposed to the atmosphere.

**SUSPENDED SOLIDS.** Solids either floating or suspended in water.

**SWALE.** A natural or manmade open drainage depression in which storm water may flow.

**SWALE.** Per §403.803, F.S., a swale is a manmade trench which has a top width-to-depth ratio of the cross-section equal to or greater than six to one (6:1), or side slopes equal to or greater than three (3) feet horizontal to one (1) foot vertical; contains contiguous areas of standing or flowing water only following a rainfall event; and is planted with or has stabilized vegetation suitable for soil stabilization, stormwater treatment, and nutrient uptake; and is designed to take into account the soil erodibility, soil percolation, slope, slope length, and drainage area so as to prevent erosion and reduce pollutant concentration of any discharge.

**SWALE DRIVEWAY.** A driveway whose surface is depressed in elevation to form a swale.

**SWIMMING POOL.** Any portable pool or permanent structure containing a body of water eighteen (18) inches or more in depths intended for recreational purposes, but not including an ornamental reflecting pool or fish pond or other type of pool regardless of size, unless it is located and designed so as to create a hazard or to be used for swimming or wading.

**TEMPORARY CLOSURE.** A street or portion of a street closed for less than thirty (30) days.

**TEMPORARY TELECOMMUNICATIONS TOWER.** Any telecommunications tower constructed and operating in conjunction with a permitted special event. These facilities are also known as cellular on wheels (cows) for their mobility. Emergency towers used to aid in post-disaster relief efforts also fall in this category.

**TEMPORARY STORAGE UNIT.** Portable storage containers typically utilized temporarily for the storage of furniture, clothing, or other personal belongings, as part of the process of household moving or as part of a household's intent to store items offsite at a commercial storage location. This definition does not include storage units authorized by the Florida Building Code pursuant to § 553.73, F.S.

**TERRACE.** A hard, semi-hard, or improved surfaced area directly adjacent to a principal building at or within three (3) feet of the finished grade and not covered by a permanent roof.

**THRIFT STORE.** A store to which people bring items that they no longer want (such as old clothes, shoes, and equipment) to have them sold. The person who brought it to the store doesn't necessarily have to receive a portion of the money paid for it; the item(s) could simply be donated. For the purpose of this LDC, thrift stores are considered retail establishments.

**TIME OF CONCENTRATION.** The time required for storm runoff to flow from the most remote point of a drainage area to the outlet or point under consideration. It is not constant but varies with the depth of flow, grades, and conditions of conduit or channel.

**TINY HOME.** A dwelling to be used as permanent housing with permanent provisions for living, sleeping, eating, cooking, and sanitation. A tiny home is considered a single-family residential structure when anchored to the ground or placed on a foundation with skirting and connected to the City of Palm Bay water and sewer distribution system. ~~A tiny home must have a minimum living area of one hundred and twenty (120) square feet and must be certified to meet ANSI A119.5 standards. A tiny home exceeding four hundred (400) square feet shall meet the Federal Manufactured Home Construction and Safety Standards and shall have a United States Department of Housing and Urban Development label. [MOVED TO ZONING CHAPTER]~~ Tiny homes shall only be permitted in a planned unit development (PUD).

**TOPOGRAPHICAL SURVEY.** A graphical or digital depiction which has for its major purpose the determination of the configurations (relief) of the surface of the earth (ground) and the location of natural and artificial objects therein. Of the facts of size, shape, identity, geodetic location, or legal location determined by direct or remote sensing methods.

**TOURIST COURT.** A group of tourist accommodation units under one (1) ownership or on one (1) tract of land providing facilities for overnight guests or for longer periods of time, and with cooking or eating facilities within the individual units.

**TOWNHOUSE.** See DWELLING, TOWN-HOUSES.

**TRACT.** A parcel of land of no particular size or shape, that can be divided by subdivision into smaller units. TRACT may also refer to a parcel of land platted for purposes including but not limited to, retention areas, right-of-way, landscape or recreational areas.

**TRAILER.** Any vehicle without motive power designed to be coupled to or drawn by a motor vehicle and constructed so that no part of its weight or that of its load rests upon the towing vehicle.

**TRAVEL TRAILER/.** Per §320.01, F. S., a vehicular portable unit, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motorized vehicle. It is primarily designed and constructed to provide temporary living quarters for recreational, camping, or travel use. It has a body width of no more than 8 ½ feet and an overall body length of no more than 40 feet when factory-equipped for the road.

**TREE.** Any self-supporting woody plant which is of a species having an average mature height of fifteen (15) feet or greater and having trunks which can be maintained in a clean condition with over five (5) feet of clear wood measured from the ground at maturity. This shall also include palms with at least four and one-half (4½) feet of clear wood.

**TRUCK FARMING.** Farms where crops are grown specifically to be retailed. This is typically an operation with rows of crops that are harvested by trucks that drive between or alongside the crops.

**TURFGRASS.** Any species of grassy living groundcover which resists mowing and foot traffic, typically installed as sod, seeds, or plugs.

**UNDEVELOPED AREA.** An area not maintained or occupied by either a commercial or a private entity.

**UNDUE HARDSHIP.** A hardship that generally occurs when the physical characteristics of a property are such that it cannot be used for any such purpose permitted by this Land Development Code. A hardship may be

created by the surroundings, shape, or topographical conditions particular to that specific property. However, the hardship cannot be self-imposed, or the result of the property owners' own action.

**URGENT CARE CENTER.** Facility intended to provide medical care for an illness, injury or condition serious enough that a reasonable person would seek care right away but not life-threatening.

**VACANT.** A building or parcel of land which is neither occupied nor used or is in an inoperative state for a period of six (6) months.

**VACATION OF STREET.** Relinquishing all or part of the property right of the public previously established by plat or dedication for street or road right-of-way purposes.

**VARIANCE.** A variance is a relaxation of the terms of the Land Development Code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Chapter would result in undue hardship.

**VEGETATION.** All plant growth, especially trees, shrubs, vines, ferns, mosses, and grasses.

**VEHICLE AND MAJOR RECREATIONAL EQUIPMENT REPAIR, HEAVY.** This term shall include all mechanical engine overhaul or repair, and body work and painting of vehicles or major recreational equipment.

**VEHICLE AND MAJOR RECREATIONAL EQUIPMENT REPAIR, LIGHT.** Establishments that include any of the following: sale and service of spark plugs, tires, and batteries; replacement of fan belts, brake fluids, light bulbs, fuses, floor mats, tires, windshield wipers and blades, and mirrors; fluid replacement; greasing and lubrication; emergency repair of wiring; minor adjustment not involving removal of the head of crankcase and grinding valves; battery recharging; and safety inspections.

**VEHICLE.** Any self-propelled vehicle or conveyance designed and used for the purpose of transporting or moving persons, animals, freight, merchandise or any substance. The phrase shall include passenger cars, trucks, buses, motorcycles, scooters and station wagons, commercial vehicles, but shall not include tractors, construction equipment, or machinery or any device used for performing a job except as stated above.

**VOLUME.** Occupied space, measured in cubic units.

**WALL.** A structure forming a physical barrier which is so constructed that less than fifty percent (50%) of the vertical surface is open to permit the transmission of light, air, and vision through such surface in a horizontal plane.

**WAREHOUSE.** A building used primarily for the storage of goods and materials.

**WATER/COMMUNITY WATERS.** Any and all water on or beneath the surface of the ground or in the atmosphere. It includes the water in any watercourse, water body, 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 BODY.** Any natural or artificial pond, lake, reservoir, or other area which ordinarily or intermittently contains water and which has a discernable shoreline.

**WATER QUALITY.** To describe the chemical, physical and biological characteristics of water usually in respect to its suitability for a particular purpose.

**WATER-DEPENDENT USE.** A use which can only be carried out on, in, or adjacent to water and the location or access is needed for:

- (1) Waterborne transportation (such as moorage, fueling, and servicing of boats);
- (2) Recreation (active recreation such as swimming, boating, or fishing; passive recreation such as viewing or walking); or
- (3) Marine research or education (such as viewing, sampling, recording information, conducting experiments, teaching).

**WATER-RELATED USE.** A use which:

- (1) Provides goods or services that are directly associated with water dependent uses (supplying materials to, or using products of, or offering commercial or personal services to water dependent uses); or
- (2) If it were not located near the water, would experience a public loss of quality in the goods and services offered (evaluation of public loss of quality will include consideration of economic, social, and environmental consequences of the use).

**WATER RESOURCES.** A supply of ground water and water in a given area.

**WATER TABLE.** The boundary between the zone of saturation and the zone of aeration. The water table varies with such factors as tides, amount of rainfall, and evaporation.

**WATERCOURSE.** Any natural or artificial stream, creek, channel, ditch, canal, waterway, gully, ravine or wash in which water flows in a definite direction, either continuously or intermittently, and which has a definite channel, bed or banks.

**WATERSHED.** The region drained by or contributing water to a stream, lake or other body of water.

**WATERSHED MANAGEMENT.** Use, regulation and treatment of water and land resources of a watershed to accomplish stated objectives.

**WEIR.** A device for measuring or regulating the flow of water.

**WELL.** Any excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed when the intended use of such excavation is to conduct groundwater from a source bed to the surface by pumping, natural flow or other method.

**WELLFIELD.** An area of land which contains one (1) or more than one (1) well for obtaining water.

**WET DETENTION.** The collection and temporary storage of stormwater in a permanently wet impoundment in such a way as to provide for treatment through physical, chemical and biological processes with subsequent gradual release of storm- water.

**WETLANDS.** Those areas saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a dominance of vegetation adapted for life in saturated soil conditions. For the purposes of these regulations, wetlands are those areas which meet the criteria of both (1) and (2) as follows:

- (1) Those areas which support a dominance of wetland vegetation types listed in the rules of the Florida Department of Environmental Protection;

(2) Those areas associated with soil types as mapped in the latest edition of the soil survey of Brevard County by the United States Department of Agriculture Soil Conservation Service.

**WIDTH OF DOCKS AND PIERS.** The distance from one outer edge of the dock or pier to the other outer edge of the dock or pier, including support posts, if any. Similarly, when measuring for compliance with square footage requirements the marine facilities shall be measured from outer edge to outer edge to include roofing and support posts.

**WIDTH OF WATERWAY.** The distance measured perpendicular to the centerline of such waterway from the mean or ordinary high-water line on one shore thereof to the mean or ordinary high water line on the opposite shore thereof. If either shore consists of a bulkhead or seawall, the width of such waterway shall be measured from the seawall or bulkhead.

**WHOLESALE TRADE.** Establishments or places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional or professional business users; or acting as agents or brokers and buying merchandise for such individuals or companies.

**WORKER.** For the purpose of the Adult Entertainment Code, a worker is a person who works, performs, or provides services at an adult entertainment establishment or at or for a sexually-oriented business, irrespective of whether said person is paid a salary or wage and shall include, but is not limited to, employees, independent contractors, subcontractors, lessees, or sub-lessees who work or perform at an adult entertainment establishment or at or for a sexually-oriented business. An operator is a type of worker.

**YARD, REQUIRED.** An open space on the same lot with a principal building which is unoccupied and unobstructed by building or structures from the ground to the sky from the property line to the setback line except as otherwise provided in this definition:

(1) **FRONT YARD, REQUIRED.** The area extending across the entire width of the lot between the front lot line and the front setback line. The distance shall be measured perpendicular to the front lot line.

(2) **SIDE YARD, REQUIRED.** The area extending along the side lot line from the required front yard to the required rear yard and lying between the side lot line and the side setback line. The distance to be measured perpendicular to the side property line.

(3) **REAR YARD, REQUIRED.** The area extending across the entire width of the lot between the rear lot line and the rear setback line. The distance to be measured perpendicular to the rear property line.

**ZERO-LOT LINE SINGLE-FAMILY DETACHED DEVELOPMENTS.** Residential developments of single-family detached dwelling units where the dwelling units are placed on one (1) side lot line, but where no two (2) dwelling units share a common side lot line.

## **§ 171.002. ABBREVIATIONS AND ACRONYMS**

**AASHTO.** The American Association of State Highway and Transportation Officials.

**API.** The American Petroleum Institute.

ASTM. The American Society for Testing and Materials.

CFR. Code of Federal Regulations.

CLOMR. Conditional Letter of Map Revision.

CO. Certificate of Occupancy.

DBH. Diameter at Breast Height.

DER. Department of Environmental Regulation.

FAA. Federal Aviation Administration.

FCC. Federal Communications Commission.

FDEP. Florida Department of Environmental Protection

FDOT. Florida Department of Transportation

FEMA. Federal Emergency Management Agency.

FIRM. Flood Insurance Rate Map.

FIS. Flood Insurance Study.

FDOT. The Florida Department of Transportation.

FEMA. Federal Emergency Management Agency.

LOMC. Letter of Map Change.

LOMA. Letter of Map Amendment.

LOMR. Letter of Map Revision.

LOMR-F. Letter of Map Revision Based on Fill.

MTWCD. Melbourne-Tillman Water Control District.

NACE. The National Association of Corrosion Engineers.

OSHA. The Occupational Safety Health Act.

PCP. Permanent Control Point.

PE. Professional Engineer.

PUD. Planned Unit Development.

PRM. Permanent Reference Monument.

SJRWMD. St. Johns River Water Management District.

SIC. Standard Industrial Code.

UL. Underwriters Laboratories, Inc.

USGS. The United States Geological Survey.