

# Chapter 27 - UNIFIED LAND DEVELOPMENT REGULATIONS<sup>[1]</sup>

## ARTICLE I. - IN GENERAL<sup>[2]</sup>

### Sec. 27-1. - Reserved.

### Sec. 27-2. - Title.

This Code shall be entitled and may be cited as the "Unified Land Development Code of Neptune Beach, Florida" and may be referred to herein as the "Code."

(Ord. No. 2004-10, § 1, 10-4-04)

### Sec. 27-3. - Authority.

This Unified Land Development Code is enacted pursuant to the requirements and authority of the Local Government Comprehensive Planning and Land Development Regulation Act, F.S. § 163.3202, the general powers as outlined in F.S. Ch. 166, as may be amended from time to time, and the Code of Federal Regulations (CFR) for the National Program Code of Federal Regulations (CFR) for the National Flood Insurance Program: 44 CFR Parts 59, 60, 65, and 70.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2011-25, § 1, 12-5-11; Ord. No. 2012-11, § 2, 12-4-12; Ord. No. 2013-01, § 2, 5-6-13)

### Sec. 27-4. - General applicability.

Except as specifically provided, the provisions of this Code shall apply to all development in the city, and no development shall be undertaken without prior authorization pursuant to this Code.

(Ord. No. 2004-10, § 1, 10-4-04)

### Sec. 27-5. - Exceptions.

- (a) *Previously issued development permits.* The provisions of this Code and any amendments thereto shall not affect the validity of any lawfully issued and effective development permit if:
- (1) The development activity authorized by the permit has been commenced prior to the effective date of this Code or any amendment thereto, or will be commenced after the effective date of this Code but within six (6) months of issuance of the building permit; and
  - (2) The development activity continues without interruption (except because of war or natural disaster) until the development is complete, and a city building inspection occurs at least once every six (6) months. If the development permit expires, any further development on that site shall occur only in conformance with the requirements of this Code or amendment thereto.
- (b) *Previously approved development orders.* Projects with development orders that have not expired at the time this Code or an amendment thereto is adopted, and on which development activity has commenced or does commence and proceeds according to the time limits in the regulations under which the development was originally approved, must meet only the requirements of the regulations in effect when the development plan was approved. If the development plan expires or is otherwise invalidated, any further development on that site shall occur only in conformance with the requirements of this Code or amendment thereto.

(Ord. No. 2004-10, § 1, 10-4-04)

## Sec. 27-6. - General description of the code.

Chapter 27 contains unified land development regulations for the City of Neptune Beach. This Code is an integrated and unified set of procedures, conditions, and requirements which all development in the city must follow. Every attempt has been made to make this Code as easy as possible for interested Residents, developers, and local government staff to use.

For organizational purposes, this Code is divided into eighteen (18) different articles. A description of each article follows:

Article I contains general provisions necessary to determine the applicability of the Code and to ensure its legal validity.

Articles II and III presents the mechanisms for the administration of this Code.

Article IV defines what uses are allowable and at what density or intensity, and article IV-B addresses cannabis-dispensing businesses.

Article V contains provisions for accessory structures and uses that are permitted along with principal uses as described in the previous article.

Article VI describes under what conditions and how the concurrency requirements shall be met. In order for the concurrency requirements to be met, each development proposal must show that, adopted levels of service for certain public facilities and services will not be degraded by the impact of the development.

The next three (3) articles describe whether any portions of a proposed development must remain totally or partially free of development activity.

Article VII addresses measures to protect potable water wellfields, article VIII outlines measures to protect floodplains, the habitat of threatened and endangered species, and wetlands; and article IX provides for the protection of certain trees and installation of landscaping.

Once the developable portions of the site have been determined, the next question is how the actual development will be designed and what improvements will be required.

Articles X through XIV contain minimum standards for streets, utilities, stormwater, parking, and solid waste, which have been made as flexible as possible, for controlling the design of the development to maximum public benefit.

Article XV provides standards and prohibitions relating to signs.

Article XVI formerly provided the mechanisms for architectural review, while article XVII formerly described the requirements for historic preservation.

The last article, article XVIII, provides conditions for nonconforming lots, structures, uses, and signs.

Measures for protecting floodplain have been moved to chapter 30 of this code.

(Ord. No. 2004-10, § 1, 10-4-04)

## Sec. 27-7. - General findings.

- (a) *Statutory requirement.* F.S. Ch. 163, pt. II, requires Neptune Beach to adopt a single code of development regulations which is consistent with and in furtherance of the goals, objectives, and policies of the adopted comprehensive plan.
- (b) *General public need.* Controlling the location, design and construction of development within the city is necessary to maintain and improve the quality of life in the city. The districts and regulations contained herein are designed to regulate the traffic circulation on public streets and highways; to provide adequate light, air and open spaces; to promote civic amenities of natural, and cultural importance and of beauty and visual interest. Additionally, they are designed to regulate density of population and thus prevent the overcrowding of land in order to facilitate the provision of adequate

community facilities and services such as water, sewer, parks, and similar city functions as outlined in the comprehensive plan.

*(Ord. No. 2004-10, § 1, 10-4-04)*

#### **Sec. 27-7.1. - Adoption of comprehensive plan**

The Comprehensive Plan for the City of Neptune Beach, (~~City of Neptune Beach Comprehensive Growth Management Plan~~) a copy of which is filed in the office of the city clerk on the date Ordinance No. 90-6-9 2021-13 was is passed, is hereby has been approved and adopted as the comprehensive plan to guide the future development and growth of the City of Neptune Beach, Florida, as mandated by the Community Planning Act in Local Government Comprehensive Plan and Land Development Regulation Act, F.S. Ch. 163, pt. II.

*(Ord. No. 2004-10, § 1, 10-4-04)*

#### **Sec. 27-8. - Relationship of this Code to the comprehensive plan.**

The Local Government Comprehensive Planning and Land Development Regulation Act, F.S. Ch. 163, pt. II, provides that local governments adopt a comprehensive plan and land development regulations that implement the adopted comprehensive plan. The standards and provisions in this chapter have been designed to implement the comprehensive plan for Neptune Beach, as may be amended from time to time. When an amendment to the comprehensive plan creates inconsistency with this Code, then this Code shall be amended, as provided for in this Code, so as to be consistent with the amended comprehensive plan.

*(Ord. No. 2004-10, § 1, 10-4-04)*

#### **Sec. 27-9. - Relationship of this Code to other regulations.**

In addition to meeting the regulations contained in this Code, proposed developments shall comply with all applicable regulations of federal, and state, and county agencies and the St. Johns River Water Management District. In all cases, the strictest of the applicable standards shall apply.

*(Ord. No. 2004-10, § 1, 10-4-04)*

#### **Sec. 27-10. - Relationship of specific provisions in Code to general provisions in Code.**

More specific provisions of this Code shall be followed in lieu of more general provisions that may be more lenient than or in conflict with the more specific provisions. In all cases, the strictest of the applicable standards shall apply.

*(Ord. No. 2004-10, § 1, 10-4-04)*

#### **Sec. 27-11. - Incorporation by reference.**

The following materials are incorporated into and made part of this Code by reference:

- (1) The most current effective dated Flood Insurance Rate Map for Neptune Beach, as may be amended, Community Panel Number 120079 0001 D; having the effective date of April 17, 1989 from time to time.
- (2) The map identified by the title, "Zoning Map; Neptune Beach, Florida", which shows the boundaries and designations of the districts provided for in article IV, as amended from time to time.

*(Ord. No. 2004-10, § 1, 10-4-04)*

## **Sec. 27-12. - General rules of interpretation.**

In the interpretation and application of this Code, all provisions shall be construed in favor of the objectives and purposes of the city and deemed neither to limit, nor repeal any other powers granted under state statutes.

(Ord. No. 2004-10, § 1, 10-4-04)

## **Sec. 27-13. - Responsibility for interpretation.**

In the event that any question arises concerning any provision or the application of any provision of this Code, the city manager, or designee shall be responsible for such interpretation and shall look to the comprehensive plan for guidance. This responsibility for interpretation shall be limited to standards, regulations, and requirements of this Code, but shall not be construed to include interpretation of any technical codes adopted by reference in this Code, nor be construed as overriding the responsibilities given to any commission, board or official named in other sections or articles of this Code.

(Ord. No. 2004-10, § 1, 10-4-04)

## **Sec. 27-14. - Interpretation of terms and words.**

- (a) Words importing the masculine gender shall be construed to include the feminine and neuter.
- (b) Words in the singular shall include the plural and words in the plural shall include the singular, when not inconsistent with the text.
- (c) The word "shall" is mandatory; "may" is permissive.
- (d) The word "and" means must include, "or" allows for alternatives.
- (e) Words used in the present tense include the future, when not inconsistent with the text.

(Ord. No. 2004-10, § 1, 10-4-04)

## **Sec. 27-15. - Definitions.**

For the purpose of this Code, certain terms and phrases are defined. Where words or terms are not defined, they shall have their ordinarily accepted meanings or such as the context may imply. Words and phrases that apply to more than one (1) article or division are defined below and shall have the meaning ascribed to them, except where the context clearly indicates a different meaning:

*Abut* means to physically touch or border upon; or to share a common property line.

*Access* means an approach or entry to or exit from a property.

*Accessory apartment* means a dwelling unit on the same lot as a single-family or two-family (duplex) residence. See section 27-340, contained in an owner-occupied building or premises comprising three (3) or less dwelling units, including garage apartments and single-family type buildings used as apartments and sharing a common entrance.

*Accessory structure* means a subordinate structure customarily incidental to and located upon the same lot occupied by a principal structure, to include, but not limited to, gazebos, permanent storage buildings, noncommercial greenhouses, detached garages, accessory apartments in a garage or other freestanding building, playhouses, and other buildings not designed or intended for habitation such as, satellite dish antenna, radio antenna, and or television antennae, swimming pools, hot tubs, and similar structures, and fences, walls and hedges.

*Accessory use* means a use of land or of a structure or portion thereof customarily incidental and subordinate to the principal use of the land or of the structure and located on the same parcel with the principal use.

**Accessway** means a public or private roadway, providing access onto a right-of-way (ROW) with a paved street, such as a public or private street, driveway, or alley.

**Addition** means an extension or increase in floor area or height of a building or structure.

**Adjacent** means being separated by a common border, or by a road, street or natural feature, but otherwise visually and/or physically connected.

**Adult arcade amusement center** means a business: (1) that is located on the "premises" of a facility that is licensed by the State of Florida pursuant to F.S. Ch. 550; (2) that operates adult arcade amusement machines; and (3) that is licensed under this chapter.

**Adult congregate living facility (ACLF)** means a type of residential care facility as defined in F.S. Ch. 400, Pt. II.

**Adult day care** means a licensed facility as defined in F.S. Ch. 400, Pt. IV.

**Adult entertainment and service** means any an adult arcade, adult theater, adult bookstore/audio video store, adult motel, or adult dancing establishment; or other establishment or business operated for commercial gain that profits from the delivery of nude or semi-nude entertainment as defined in Section 4-26, where an employee, operator, or owner exposes his or her specified anatomical area for viewing patrons, including but not limited to, massage establishments, whether or not licensed pursuant to F.S. Ch. 480 tanning salons, modeling studios, or lingerie studios.

**Aggrieved or adversely affected person** means any person or local government that will suffer an adverse effect to an interest protected or furthered by the local government comprehensive plan, including interests related to health and safety, police and fire protection service systems, densities or intensities of development, transportation facilities, health care facilities, equipment or services, and environmental or natural resources. The alleged adverse interest may be shared in common with other members of the community at large but must exceed in degree the general interest in community good shared by all persons. The term includes the owner, developer, or applicant for a development approval.

**Agricultural stands** means either tents (including canopies) or mobile units, including trailers, for the sale of unprocessed agricultural products, to include fresh fruits and vegetables, including legumes.

**Aisle** means the accessway by which cars enter and depart parking spaces.

**Alcoholic beverages** include, beer and malt beverages, wine, and liquor, as defined by F.S. Chs. 563, 564 and 565, respectively.

**Alley** means a special type of street that provides a secondary means of access to lots (section 27-476).

**Alteration** means any change in size, shape, character or use of a building or structure, or any change in the electric, plumbing, heating/ventilation/air conditioning (HVAC), or gas systems.

**Alteration, major of a historically significant structure** means work that will change the original appearance of a historically significant building or structure located within a historic district, as defined in this article, including, but not limited to the following:

- (1) Installation or removal of metal awnings or metal canopies.
- (2) Installation or removal of all decks or porches above the first floor level.
- (3) Installation or removal of all decks or porches that face public rights-of-way.
- (4) Installation of an exterior door or door frame, or the infill of an existing exterior door opening.
- (5) Installation or removal of any exterior wall, including the enclosure of any porch or other outdoor area with any material other than insect screening.

- (6) The installation or relocation of wood, chain-link, masonry (garden walls) or wrought iron fencing, or the removal of masonry (garden walls) or wrought iron fencing.
- (7) The installation or removal of all fire escapes, exterior stairs or ramps for the handicapped persons with disabilities.
- (8) Painting unpainted masonry including stone, brick, terra-cotta and concrete.
- (9) Installation or removal of railings or other wood, wrought iron or masonry detailing.
- (10) Abrasive cleaning of exterior walls.
- (11) Installation of new roofing materials, or removal of existing roofing materials.
- (12) Installation or removal of security grilles, except that in no case shall permission to install such grilles be completely denied.
- (13) Installation of new exterior siding materials, or removal of existing exterior siding materials.
- (14) Installation or removal of exterior skylights.
- (15) Installation of exterior screen windows or exterior screen doors.
- (16) Installation of an exterior window or window frame or the infill of an existing exterior window opening.

*Alteration, minor of a historic structure* means work that is not ordinary maintenance as defined in this article but that will not result in a change to the original appearance, as defined in this article.

*Alteration of a watercourse* means 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, slow, restrict, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood (Ref. 27-519).

*Amenity* means a natural, historic or manmade feature which enhances or makes more attractive or satisfying a particular property.

*Animated sign* means any sign or part of a sign, including the advertising message, which changes physical position by any means of movement.

*Apartment* means a dwelling unit contained in a building comprising two (2) or more dwelling units, each of which has an entrance to a hallway or balcony in common with at least one (1) other dwelling unit.

*Appeal* means a request for a review of the floodplain administrator's interpretation of any provision of this chapter or of chapter 30, or a request for a floodplain variance. Appeals of other administrative, legislative, and quasi-judicial decisions are addressed in division 7 of article III of chapter 27.

*Art project* means a mural, illustration, painting or sculpture that is approved by the city council as art that enhances the commercial district.

*ASCE 24*. A standard titled "Flood Resistant Design and Construction" that is referenced by the Florida Building Code. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

*Automatic changeable message device* means any sign, which through a mechanical, electrical, solar, or other power source is capable of delivering messages, which rotate or appear to rotate, change or move at any time and in any way, including tri-vision or any multi-prism sign faces.

*Awning or canopy* means any shelter, supported partially or entirely from the exterior wall of a building.



*Bar, saloon or tavern* means any establishment devoted primarily to the sale and on-premises consumption of malt, vinous or other alcoholic beverages.

*Base flood* means the flood having a one (1) percent chance of being equaled or exceeded in any given year, also known as the 100-year 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). [Also defined in FBC, B, Section 1612.2.]

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

*Bed and breakfast* means a commercial establishment housed in a building or part thereof, other than a motel or hotel, that offers overnight accommodations and a breakfast for a daily charge and which also serves as the primary residence of the operator or owner.

*Bikeway (section 27-476)* means any transportation facility which is specifically designated for bicycle use, whether or not such facility is designated for the exclusive use of bicyclists or is to be shared with other vehicles.

*Billboard* means a type of permanent freestanding sign, where the bottom of the sign is at least twenty (20) feet above the ground and which is at least two hundred (200) square feet in area.

*Block* means a parcel of land usually bounded on all sides by streets or other transportation routes such as railroad lines, or by physical barriers such as waterbodies or public open space, and not traversed by a through street.

*Boarding (lodging, rooming) house* means a building or part thereof, other than a hotel, motel, or restaurant, where lodging and/or meals are provided for compensation.

*Boatyard* means a facility for the construction or major repair of watercraft including overhaul of hull, engines and other major components.

*Breezeway* means a roofed, open-sided passageway, for connecting a principal structure to an accessory structure.

*Bufferyard* means an area of land, together with specific type and amount of planting thereon and any structures which may be required between land uses to eliminate or minimize conflicts between them.

*Buildable area* means the portion of a lot remaining after required yards have been provided.

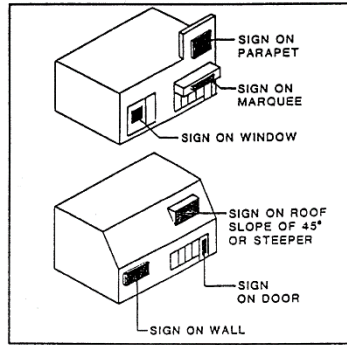
*Building* means any structure, either temporary or permanent, having a roof impervious to weather and used or built for the shelter or enclosure of persons, animals, chattels or property of any kind. This definition shall include tents, awnings, cabanas or vehicles situated on private property and serving in any way the function of a building; but it does not include screened enclosures not having a roof impervious to weather.

*Building elevation* means the intervening distances above the crown of the road in front of the building curb level at which the ground or first floor of a building is erected.

*Building, principal* means a building in which is conducted, or in which is intended to be conducted, the main or principal use of the lot on which it is located.

*Building setback* means the minimum horizontal distance between the front, rear, or sidelines of the lot and the front, rear, or sidelines of the structure.

*Building sign* means a type of permanent sign displayed upon or attached to any part of the exterior of a building, including walls, windows, doors, parapets, marquees, and roof slopes of forty-five (45) degrees or steeper (see Figure 27-57615-1).



**Figure 27-57615-1**

*Bus or other transportation terminal* means any establishment that offers transportation to a group of persons. Freight or truck terminals and similar uses shall not constitute a use under this definition.

*Business school* means an establishment offering to the public, for a consideration, instruction in administration, accounting, bookkeeping, computer use, typewriting and other skills for use in commercial or service activities.

*Capacity, available* means that portion of the design capacity that can be reserved on a first-come first-serve basis.

*Capacity, design* means the maximum level of service that the public facility is capable of providing at the adopted level of service standard.

*Capacity, improvement* means added facility capacity that will result from capital improvements made by the city or by a developer.

*Capacity, reserved* means that portion of the design capacity that has been reserved for valid concurrency certificates and for developments that were issued a development permit prior to April 1, 1990.

*Capacity, used* means that portion of the design capacity that is allocated for and serves existing development.

*Capital improvement* includes the purchase, construction, or improvement of a public facility which has an estimated cost of twenty-five thousand dollars (\$25,000.00) or more.

*Capital improvements element* means that part of the comprehensive plan.

*Car sales or motor vehicle sales* means a lot or group of contiguous lots, used for the storage, display, and sales of new and used automobiles. The term shall not be construed to include the storage, display, or sale of motorhomes or similar vehicles or boats.

*Car wash* means establishments primarily engaged in washing cars or in furnishing facilities for the self-service washing of cars.

*Champion trees* are those trees that have been identified by the state division of forestry as being the largest of their species within the state or by the American Forestry Association as the largest of their species in the U.S.

*Change of occupancy* means a discontinuance of an existing commercial activity or residency and the establishment of a new commercial activity or permanent residency.

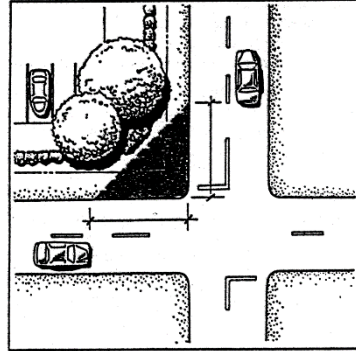
*Change of use* means any use which substantially differs from the previous use of a building or land as discussed in Chapter 3 of the Florida Building Code.

*Child day care* means a licensed facility which during a part of a twenty-four-hour day regularly gives care to unrelated children, as discussed in the F.S. § 402.302.



*Clear cutting* means the removal from a parcel of land of all natural vegetation such as trees, shrubs and vines.

*Clear visibility triangle* means that area formed by connecting a point on each curbline or edge of pavement to be located at the distance from the intersection of the street centerlines as required, and a third line connecting the two (2) points as depicted in [Figure 27-15-42](#).



[Figure 27-15-42](#)

*Clinic* means an establishment where patients, who are not lodged overnight, are admitted for examination and treatment by one (1) person or a group of persons practicing any form of medical care, whether such persons are medical doctors, chiropractors, osteopaths, chiropodists, naturopath, optometrists, dentists, or any such profession, the practice of which is legal in the State of Florida.

*Coastal building zone* means the land area from the seasonal high water line to a line one thousand five hundred (1,500) feet landward from the coastal construction control line.

*Coastal construction control line*- The line established by the State of Florida pursuant to F.S. § 161.053, and recorded in the official records of the community, which defines that portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge, storm waves or other predictable weather conditions.

*Coastal high hazard area*. 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. [Note: The FBC,B defines and uses the term "flood hazard areas subject to high velocity wave action" and the FBC, R uses the term "coastal high hazard areas."]

*College, university, community college* means a degree-granting establishment, accredited or qualified for accreditation by the Southern Association of Colleges and Schools, providing formal academic education and generally requiring for admission at least a high school diploma or equivalent academic training, including colleges, community colleges, universities, technical institutes, seminaries, and professional schools (architectural, dental, engineering, law, medical, etc.). Accessory uses under this definition include but are not limited to, dormitories, cafeterias, bookstores, libraries, classrooms, administrative offices, research facilities, sports arenas and auditoriums.

*Commercial vehicle* means any motor vehicle licensed by the state as a commercial vehicle, any vehicle designed for a commercial or industrial function, or any vehicle marked with commercial advertising.

*Community center* means a building or lands open to the public and used for recreational, social, educational, and cultural activities, usually owned and operated by public or nonprofit group or agency.

*Comprehensive plan* means the current comprehensive plan, as amended that the City of Neptune Beach adopted pursuant to F.S. Ch. 163, Pt. II, including all elements and sub-elements, and not including the text, maps, figures and tables prepared to support the adopted comprehensive plan.

*Concurrency* means a condition where development has, or will have, the necessary public and/or private facilities and services at the adopted level of service standard concurrent with the impacts of the development.

*Concurrency certificate* means a certificate that indicates whether the proposed development is exempt from concurrency requirements or whether there is adequate capacity for concurrency if the proposed development is approved or approved with conditions.

*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.

*Condominium* means a building or group of buildings in which units are owned by one (1) or more persons and in which there is appurtenant to each unit an undivided share in common elements.

*Cul-de-sac (section 27-476)* means a local street that terminates in a vehicle turnaround.

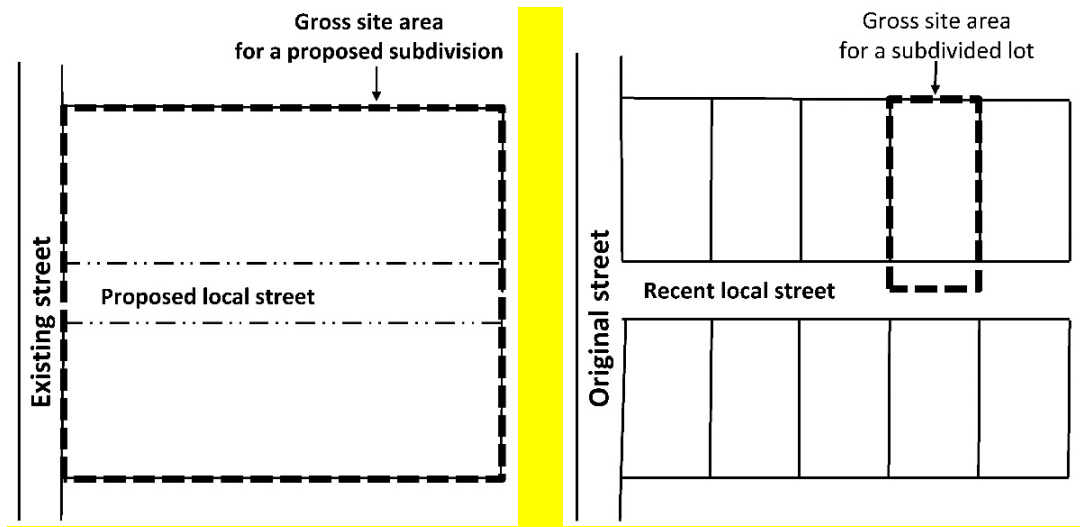
*Day* means a working day, unless a calendar day is indicated.

*Day spa* means any business that provides beauty, cosmetic and therapeutic services, administered by licensed professionals in which the customers are not lodged overnight. Day spas at a minimum shall include nonsurgical cosmetic treatments, periodic medical cosmetic treatments and massage therapy pursuant to F.S. Ch. 480. Other allowable services are limited to tanning, hair styling, facials, waxing, body wraps, salt scrubs, skin exfoliations, manicures and pedicures.

*Demolition* means the act or process of demolishing; to tear down, destroy, raze or remove all or a significant portion of a building or structure, and including partial demolition.

*Density* means the ratio of the number of dwelling units to the gross site area of the lands on which such dwelling units are located. Where used in the ULDC, density shall mean gross density. Gross density includes all of the land within a particular area, excluding nothing.

- For new development and significant redevelopment, gross site area means the entire site area, including land that will become streets and open spaces, but excluding any existing rights-of-way (see Figure 27-15-3).
- For buildings on lots that have already been subdivided and streets have already been created, gross site area means the entire lot area plus one-half the width of the adjoining public right-of-way (see Figure 27-15-3).



**Figure 27-15-3**

**Design flood.** The flood associated with the greater of the following two (2) areas: [Also defined in FBC, B, Section 1612.2.]

- (1) Area with a floodplain subject to a one (1) percent or greater chance of flooding in any year; or
- (2) Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

**Design flood elevation.** 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. [Also defined in FBC, B, Section 1612.2.]

**Detached garage** means a single story, accessory building that is located at least ten (10) feet from the principal structure, designed and used for the storage of motor vehicles (see Ord. No. 2001-08).

**Developable land** means all of a parcel of land except lands lying within proposed public rights-of-way; marshlands, swamps, floodplains, easements, or other environmentally sensitive lands where local, state or federal regulations otherwise prohibit development; and bodies of water such as ponds, lakes and reservoirs, either natural or manmade.

**Developed (section 27-445)** means that point in time when the building and site have received final inspections and certificates of occupancy issued.

**Developer** means any person who engages in or proposes to engage in a development activity as defined in this Code either as the owner or as the agent of a property owner.

**Development** means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, utility improvements, grading, paving, excavating, drilling operations, or permanent storage of materials. **Development or development activity** explicitly includes any of the following activities:

- (1) Construction, clearing, filling, excavating, grading, paving, dredging, mining, installing utilities, drainage, water management systems, drilling or otherwise significantly disturbing the soil of a site;

- (2) Building, installing, enlarging, replacing or substantially restoring a structure, impervious or semi-impervious surfaces, or water management system and including the long-term storage of materials;
- (3) Subdividing land into two (2) or more parcels;
- (4) Removal of protected trees;
- (5) Erection of a permanent sign unless expressly exempted;
- (6) Changing or expanding any the use of a site so that the need for off-street parking is increased (see Article XIII), or trips per day are increased; and
- (7) Construction, elimination, or alteration of a driveway onto a public street.

*Development order* means the approval of a preliminary or final development plan in accordance with article III. A development order is not a development permit as defined by this code.

*Development permit* means an official administrative document of the city which authorizes the commencement of construction or land alteration without need for further application and approval. Development permits include: All types of construction permits (plumbing, electrical, foundation, mechanical, and so forth, in addition to the building permit itself), grading and clearing permits, septic tank permits, tree removal permits, sign permits, resurfacing permits, etc.

*Development plan* means in order to obtain development orders, preliminary and final development plans must be submitted to Neptune Beach in accordance with division 2 of article III of chapter 27.

*Divided roadway (section 27-473)* means any roadway where the travel lanes are divided to protect environmental features or avoid excessive grading. In the case of a divided roadway, the design standards shall be applied to the aggregate dimensions of the two (2) street segments.

*Drip line (section 27-445)* means the vertical line running through the outermost portion of the tree crown extending to the ground.

*Duplex (two-family residence)* means a building on a single lot containing two (2) dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a. A common stairwell exterior to both dwelling units may be provided.

*Dwelling* means a building, or a portion of a building, designed exclusively for residential occupancy, including single-family, two-family (duplex), townhouses, and multifamily, but not including hotels, motels or boarding houses.

*Dwelling unit* means a single housing unit providing complete, independent living facilities for one (1) housekeeping unit, including permanent provisions for living, sleeping, eating, storage or preparation of food and sanitation. This definition includes site built homes and modular homes manufactured under the Florida Manufactured Building Act and certified by the Florida Department of Community Affairs as complying with the structural requirements of the Standard Building Code.

*Easement* means the right to use the real property of another for a specific purpose. For purposes of this code, it shall be approved by the City of Neptune Beach, and must adhere to F.S. 177.081 (3).

*Electronic game promotions* means a business which, conducts giveaways through drawings by chance conducted in connection with the sale of a consumer product or service, sweepstakes, and game promotions that do not otherwise violate Florida law. This includes but is not limited to, electronic equipment used to display the results of a drawing by chance conducted in connection with the sale of a consumer product or service or game promotion by simulating a game or games ordinarily played on a slot machine. It also includes the conduction of drawings by chance conducted in connection with the sale of a consumer product or service and game

promotions, and to regulate all operators who utilize electronic equipment for that purpose in accordance with the provisions of F.S. §§ 849.0935 and 849.094, regardless of whether said operators are required to register with the State of Florida pursuant to F.S. § 849.094.

**Emission control facility** means a facility specifically operated for the testing of the emission control system of a motor vehicle (automobile, truck, or semi truck).

**Encroachment.**

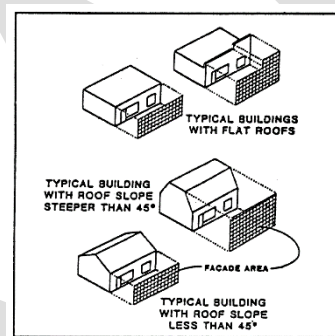
(1) For purposes of article IV of chapter 27, encroachment means the allowable extension of certain building features into a front, side, and rear yard, and where specifically permitted in the Central Business District, over a public sidewalk (see section 27-235).

(2) For purposes of chapter 30, encroachment means the placement of fill, excavation, buildings, permanent structures, accessory structures, or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

**Endangered species** means any flora or fauna that is so designated in Section 39.27.003, Florida Administrative Code or in 50 CFR 17.11-12.

**Existing building and existing structure.** Any buildings and structures for which the "start of construction" commenced before March 15, 1977. [Also defined in FBC, B, Section 1612.2.]

**Facade area** means the area of a building within a two-dimensional geometric figure coinciding with the outer edges of the walls, windows, doors, parapets, marquees, and roof slopes greater than forty-five (45) degrees of a building which is owned by or under lease to a single occupant (see Figure 27-576-215-4).



**Figure 27-576-215-4**

**Family** means one (1) or more persons occupying and living in a single dwelling unit; provided that unless all members are related by law, blood, adoption or marriage, no family shall contain more than four (4) unrelated persons. Domestic servants are excluded.

**Family amusement arcade** means a business which, in addition to a food and beverage business for which it possesses state and local licenses, also operates an integrated arcade business that complies with F.S. § 849.161(1)(a)1., catering primarily to families and minors.

**Federal Emergency Management Agency (FEMA).** The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

**Final development order** means the final authorization of a development project; the authorization which must be granted prior to issuance of a development permit as defined for purposes of this Code. (The final development order authorizes the project, whereas a development permit authorizes specific components of the project, such as building construction, parking lot installation, landscaping, and the like.) For purposes of this Code the final development plan approval is the final development order.

*Final development plan* means a completed drawing, sketch, site plan, construction drawings or schematic or any other related documents either drawn or written that has been certified by a registered surveyor or engineer if applicable, that shows the intended use of the property and design features pertinent to its potential development, and is completed for approval.

*Financial services* include banks, savings and loan associations, loan companies, mortgage brokers, stockbrokers and similar institutions.

*Five-year schedule of capital improvements* means that schedule adopted as part of the comprehensive plan.

*Flood or flooding* means a temporary partial or complete inundation of normally dry land from: (1) the overflow of inland or tidal waters; or (2) the unusual and rapid accumulation of runoff or 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. [Also defined in FBC, B, Section1612.2.]

*Flood hazard area.* The greater of the following two (2) areas: [Also defined in FBC, B, Section1612.2.]

- (1) The area within a floodplain subject to a one (1) percent or greater chance of flooding in any year.
- (2) The area designated as a flood hazard area on the community's Flood Hazard Map, or otherwise legally designated.

*Flood Insurance Rate Map (FIRM).* The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section1612.2.]

*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. [Also defined in FBC, B, Section1612.2.]

*Floodplain administrator.* The office or position designated and charged with the administration and enforcement of the ordinance from which this chapter derives (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 chapter 27, article VIII.

*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. [Also defined in FBC, B, Section1612.2.]

*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.

*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.

*Footprint* means the shape of a building's base area within the perimeter of a building's foundation.



*Freestanding sign* means any sign, which is incorporated into or supported by structures or supports in or upon the ground, independent of support from any building. Freestanding sign includes pole sign, pylon sign, ground sign or monument sign.

*Frontage* means ~~all the length of property abutting on one (1) side of a street a private or public right of 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.

*Functionally water-dependent use* means a use which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as docking, loading and unloading of cargo or passengers, ship building and ship repair, or processing seafood. The term does not include long-term storage or related manufacturing uses.

*Funeral establishment* means a facility as defined in F.S. Ch. 470.

*Future land use map* means the map adopted as part of the comprehensive plan depicting the land use designations throughout the city that may be amended from time to time.

*Garage* means a building or space used for the storage of motor vehicles.

*Garage, parking* means a building or portion thereof designed or used for temporary parking of motor vehicles.

*Garage apartment. (Ord. No. 2001-10) See "Accessory structure".*

*Gas station, automotive or service station* means any building, structure, or land used for the dispensing, sale or offering for sale at retail of any automotive or alternative fuels, oils or accessories with or without any automotive servicing.

*Geometric shape* means any of the following geometric shapes used to determine sign area: square, rectangle, parallelogram, triangle, circle or semi-circle.

*Grade* means a reference plane representing the average of finished ground level adjoining the building at all exterior walls. When the finished grade level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the property line or between the building and a point six (6) feet from the building, whichever is closer to the building.

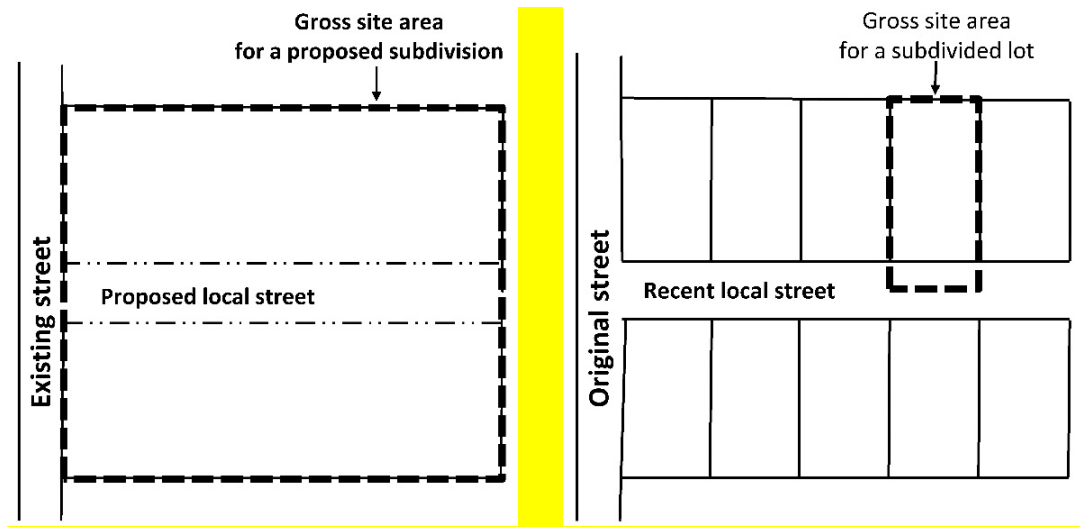
*Gross area* means the entire area, without exception.

*Gross density or density* (see definition of "density"). means the ratio of the total number of dwelling units to the gross site area.

*Gross floor area* means the sum of the gross horizontal area of all floors of a building measured from the exterior faces of the exterior walls.

*Gross site area* means: the total area of a lot or parcel, less any public right-of-way.

- For new development and significant redevelopment, gross site area means the entire site area, including land that will become streets and open spaces, but excluding any existing public rights-of-way (see Figure 27-15-3).
- For buildings on lots that have already been subdivided and streets that have already been created, gross site area means the entire lot area plus one-half the width of the adjoining public right-of-way (see Figure 27-15-3).



**Figure 27-15-3**

*Group home* means a dwelling unit licensed to serve clients of the HRS, providing a living environment for residents who operate as the functional equivalent of a family, including supervision and care by support staff as may be necessary to meet the physical, emotional, and social life needs of residents.

*Hedge* means a fence formed by a row of closely planted shrubs or bushes, typically of such species as English Privet, Indian Hawthorne, Ligustrum or other such evergreen species. This definition is not intended to include other closely planted species commonly referred to as flowering plants such as azaleas, roses, or other such plants that are not usually planted to establish a boundary or fence-like effect.

*Height, building* means the vertical distance measured from the greater of one (1) foot above the crown of the road in front of the building or proposed building or the average of the existing grade of the lot (prior to the addition of fill material). The lower point of reference for determining the height of a commercial or residential building in a flood zone that has site development characteristics governed by the coastal construction control line (CCCL) will be the minimum base flood elevation required for habitable space required as set by FEMA's Flood Insurance Rate Maps (FIRMs) and required by the Florida Administrative Code.

*Heritage tree* means any tree that because of its age, size, type, historical association or horticultural value is of special importance to the city.

*Historic district* means a geographical area designated pursuant to this article that contains one (1) or more landmarks and which may have within its boundaries or other buildings or structures, that while not of such historical, cultural, archaeological, or architectural significance as to warrant designation as landmarks, nevertheless contribute to the overall visual setting of or characteristics of the landmarks located within the district.

*Historic structure.* Any structure that is determined eligible for the exception to the flood hazard area requirements of the Florida Building Code, Existing Building, Chapter 11 Historic Buildings.

*Historically significant* means any structure or area that is listed on the National Register of Historic Places, the Florida Master Site File, or local registry.

*Home-based business* (See section 27-332).

*Home occupation* shall mean an accessory use conducted entirely and carried on by the members of the family residing therein, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.

*Hospital* means a facility as defined in F.S. Ch. 395, Pt. I.

*Hotel or motel* means a building or group of buildings in which rental units are offered to the public at a daily charge. The building or buildings may include such ancillary uses as a coffee shop, dining room, restaurant, meeting rooms, and similar uses intended as a service to the overnight guests. Multiple-family dwellings and rooming or boardinghouses, where rentals are for periods of a week or longer, shall not constitute a use under this definition.

*Household pet* means any domestic animal normally owned or kept as a pet, including cats, dogs, and other animals deemed by the city manager or designee to be appropriate as domestic pets. Poultry (as defined in chapter 6), hooved animals of any type, predatory animals, or any animals which are normally raised to provide food for people shall not be considered to be household pets.

*HRS* means the Florida Department of Health and Rehabilitative Services.

*Illuminated sign* means any sign which contains a source of light or which is designed or arranged to reflect light from an artificial source including indirect lighting, neon, incandescent lights, back-lighting, and also shall include signs with reflectors that depend upon automobile headlights for an image.

*Impervious surface and semi-impervious* means a surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes, but is not limited to, buildings, roofs, concrete, sidewalks, driveways, pools, and pavement areas, and semi-impervious surfaces such as compacted clay and other similar surfaces, such that the permeability and infiltration capacity is less than that of the existing, uncompacted, native soil subgrade.

*Improvement* means any manmade, immovable item which becomes part of, is placed upon, or is affixed to real estate.

*Intensification of use* means a change in a property, structure, or use resulting in increased requirements for parking, egress, occupancy load, or fire regulations, or expansion of electrical, mechanical or plumbing systems.

*Kennel* means any lot or premises on which three (3) or more dogs over four (4) months old are kept for boarding, training or sale.

*Kitchen* means an area equipped for food storage, preparation, and/or cooking in one (1) household.

*Land* includes the words marsh, water and swamp.

*Landmark* means a building or structure designated as such by an ordinance of city council, that is worthy of protection, rehabilitation, and restoration because of its historical, cultural, archaeological and/or architectural significance to the City of Neptune Beach, the county, state or nation.

*Laundromat* means a business that provides coin-operated washing, drying, and/or ironing machines for hire to be used by customers on the premises.

*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:

*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.

*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.

*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.

*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.

**Light manufacturing** means the manufacturing, fabricating or casting of individual components of a larger unit or a complete unit. All such processing and storage of materials must occur indoors and would not typically generate noise, vibration, smoke, dust or odor detectable at the property line. Light manufacturing shall be limited to the production of the following goods: Electrical instruments, office machines, precision instruments, electronic devices, optical goods, musical instruments, cabinet making, ceramics, apparel, light sheet metal products, plastic goods, glassware, pharmaceutical goods and food products, but not animal slaughtering or curing. However, light manufacturing excludes any uses that would require a multi-sector generic permit for stormwater discharge associated with industrial activity (MSGP).

*Performance standards:* All activities shall be in conformance with standards established by the county, state and federal government. Activities shall emit no obnoxious, toxic, or corrosive dust, dirt, fly ash, fumes, vapors or gases which can cause damage to human health, to animals or vegetation, or to other forms of property.

- (1) Any business that receives a special exception from the city council for light manufacturing must provide a landscape buffer that meets the requirements of subsection 27-459(3)b. of this Code, unless the business for which the special exception is granted already has a landscape buffer that was previously approved as part of the development review process.
- (2) Any use which requires a Title V General Permit or a non-Title V General Permit from the Florida Department of Environmental Protection's Air Resource Management Division is not eligible for special exception approval.
- (3) Light manufacturing facilities shall be limited to ten (10) employees or less.
- (4) The light manufacturing operation shall be self-contained inside the permanent structure and shall not be conducted outdoors, in order to minimize noise, glare, odor, etc.

**(5) Refer to section 23-60, Prohibited Substances.**

*Liquor license* means a license issued by the state for the retail sale, service, and on- or off-premises consumption of liquor, beer or wine.

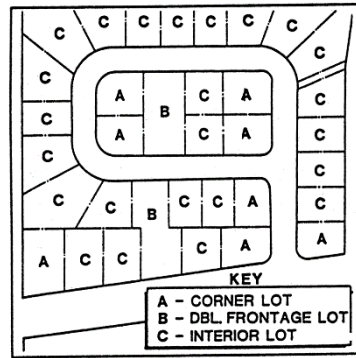
*Living area* means the area inside the walls enclosing the living unit, excluding service and utility areas, building storage areas, stair wells, or open or screened porches and patios.

**Loading space (section 27-536)** means a portion of the vehicle accommodation area or a portion of the principal building set aside for parking one (1) vehicle for the purpose of unloading or loading said vehicle.

**Local street (section 27-473)** means a roadway which provides direct access to abutting residential properties and is designed to carry no more traffic than is generated on the street itself and no more than one thousand six hundred (1,600) vehicles per day.

*Lot* means a parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purpose of transfer of title.

*Lot, corner* means a lot abutting upon two (2) or more streets at their intersections (see Figure 27-15-25).



**Figure 27-15-25**

*Lot, double frontage* means any interior lot having frontage on two (2) nonintersecting streets, as distinguished from a corner lot (see Figure 27-15-25), or oceanfront lots.

*Lot, interior* means a lot other than a corner lot (see Figure 27-15-25).

*Lot, width* means the distance measured in a straight line along the street right-of-way between the side lot lines as measured at the front building restriction line.

*Lot coverage* means the area of a lot or parcel of land that is occupied or covered by any impervious surface.

*Lot of record* means a parcel of land, the deed or plat of subdivision (which has been approved by the City of Neptune Beach) of which has been recorded in the Office of the Clerk of the Circuit Court of Duval County, Florida, or prior incorporation into the City, as of the effective date of this Code.

*Lowest adjacent grade* means the lowest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

*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. [Also defined in FBC, B, Section 1612.2.]

*Major deviation* means a deviation other than a minor deviation, from a final development plan, including any changes in use or concurrency.

*Major recreational equipment* means any large motorized or non-motorized vehicle used for recreational purposes, such as motorhomes, trailers, campers and camper shells, boats and trailers, converted buses and trucks, dune buggies and sand rails, and trailers, cases or boxes on wheels used to transport and/or store equipment, as well as any vehicle required to carry an "RV" tag or not licensed for legal street use.

*Market value.* The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this chapter, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, actual cash value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the property appraiser.

*Medical/dental clinic* means any establishment where patients, who are not lodged overnight, are admitted for examination and treatment by a person or persons affiliated with a group practicing various specialties of the healing arts, whether the persons are medical doctors, chiropractors,



osteopaths, chiropractors, naturopaths, optometrists, dentists, or any such profession, the practice of which is regulated by the state.

*Medical marijuana treatment center* means an establishment as defined and further set forth in F.S. § 381.986(8), that operates for the purpose of dispensing medical marijuana, as defined and further set forth in F.S. § 381.986.

*Mini-warehouse* means any personal storage building which is subdivided by permanent partitions into spaces with an exterior independent entrance under the exclusive control of the tenant thereof.

*Minor arterial (section 27-475)* means a roadway that connects and supports the principal arterial road system. Although its main function is still traffic movement, it performs this function at a lower level and places more emphasis on property access than does the principal arterial.

*Minor deviation* means a deviation from a final development plan that is necessary in light of technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process, including the following:

- (1) Alteration of the location of any road, walkway, islands, landscaping, or structure by not more than five (5) feet; excluding driveway connections to public streets.
- (2) Reduction of the total amount of open space by not more than five (5) percent, or reduction of the yard area or open space associated with any single structure by not more than five (5) percent; provided that such reduction does not permit the required yard area or open space to be less than that required by this Code.

*Minor replat* means the subdivision of a single lot or parcel of land into two (2) lots or parcels, or the subdivision of a parcel into two (2) or more lots solely for the purpose of increasing the area of two (2) or more adjacent lots or parcels of land, where there are no roadway, drainage or other required improvements, and where the resultant lots comply with the standards of this Code.

*Modular home* means a dwelling unit constructed in accordance with applicable building codes and that is substantially constructed in a manufacturing plant and transported to the building site for assembly on a permanent foundation.

*Motor vehicle service* means a building or lot where battery, tires and other repair services except body work or painting are rendered.

*Moving and storage facility* means any establishment that stores material not owned by the operator of the establishment to include mini-warehouses.

*Multifamily* means any building containing three (3) or more dwelling units.

*Multiple occupancy complex* means any commercial use consisting of a parcel of property, or parcel of contiguous properties, existing as a unified or coordinated project, with a building or buildings housing more than one (1) occupant.

*Net usable acreage* means the square footage of a parcel land that has the ability to be developed after factoring out such items as jurisdictional wetlands, easements, waterbodies or any other feature precluding development.

*New construction.* For the purposes of administration of this chapter and the flood-resistant construction requirements of the Florida Building Code, structures for which the "start of construction" commenced on or after March 15, 1977, and includes any subsequent improvements to such structures.

*Night club* means a restaurant, dining room, bar or other similar establishment providing food or refreshments, wherein paid floor shows or other forms of paid entertainment are provided for customers as part of the commercial enterprise. Night clubs are required to meet special requirements for assembly occupancies in the Florida Fire Prevention Code.

~~*Nonconforming development* means any structure or use of a structure which on the effective date of this Code does not conform to the provisions for the district in which said lot is located.~~



*Nonconforming lot of record* means any lot of record recorded prior to January 1, 1991 that which, on the effective date of this Code, or any date thereafter, does not conform to the lot area or width requirements established for the zoning district in which said lot is located. A lot of record recorded after January 1, 1991, will also be a nonconforming lot of record if the lot area or width requirements are later increased such that the lot no longer complies with the zoning district in which said lot is located.

*Nonconforming sign* means any sign so designated by section 27-707 of this Code.

*Nonconforming structure* means any structure that does not conform with the provisions of the zoning district where the structure is located due to noncompliance with the dimensional standards in chapters 27 or 30.

*Nonconforming use* means any use of a structure, or use outside a structure, that does not conform with the uses allowed for the parcel's zoning district or with density restrictions imposed by the adopted future land use map.

*Nonresidential district* includes the following zoning districts: C-1, C-2, C-3, CBD, and conservation.

*Notice of Commencement* means the formal notice that must be filed with the Duval County Clerk of Courts before improvements to real property begin, as described in F.S. § 713.13.

*Nursing home* means a facility as defined in F.S. Ch. 400, Pt. I.

*Oceanfront lot* means any parcel of land that abuts the Atlantic Ocean at the east property line.

*Office* means any establishment that conforms to the following characteristics:

- (1) No retail sales, display or storage of merchandise;
- (2) No manufacture, repair or work of a mechanical nature;
- (3) No machinery, except for normal office equipment such as typewriters, calculators and computers.

*Off-street loading* means loading spaces located beyond the public rights-of-way of a street or highway.

*Off-street parking* means parking spaces located beyond the public rights-of-way of a street or highway.

*Open space* means the total amount of open space between and around structures including necessary outdoor living space, outdoor recreation space, outdoor parking space, and streets in the project other than existing arterial streets-public rights-of-way.

*Ordinary maintenance* means work which does not require a construction permit and that is done to repair damage or to prevent deterioration or decay of a building, pavement, or structure, or part thereof as nearly as practicable to its originally permitted condition prior to the damage, deterioration, or decay.

*Original appearance* means that appearance (except for color) which closely resembles the appearance of either: (1) the feature on the building as it was originally built or was likely to have been built; or (2) the feature on the building as it presently exists so long as the present appearance is appropriate to the style and materials of the building.

*Outdoor living space* means the total outdoor area including required outdoor recreation space, but excluding buildings, garages, carports, driveways, roadways, stormwater management facilities, or parking areas. The outdoor living space is part of the required open space.

*Outdoor recreation space* means the total amount of usable area permanently set aside or designed specifically for recreation space for the development.

*Overlay district* means a district with special regulations that apply in addition to regulations in the base zoning district; see section 27-224, in which additional development restrictions or

protective measures are imposed in addition to the zoning district regulations which apply within the zone.

*Owner* means a person who, or entity which, alone, jointly or severally with others, or in a representative capacity (including without limitation, executor, personal representative or trustee) has legal or equitable title to any property in question, or a tenant, if the tenancy is chargeable under his lease for the maintenance of the property.

*Owner of record* means the person, corporation, or other legal entity listed as owner on the records of Duval County, Florida.

*Package liquor store* means any establishment where alcoholic beverages with an alcoholic content in excess of fourteen (14) percent are dispensed or sold in containers for consumption off the premises.

*Parcel* means a unit of land within legally established property lines.

*Park* means a tract of land, designated and used by the public for active and passive recreational purposes.

*Parking lot or vehicle accommodation area* means an area, or plot of ground, used for the storage or parking of motor vehicles, either for compensation or to provide an accessory service to a business, industrial or residential use.

*Parking space* means a portion of a parking lot in which one (1) motor vehicle is to be parked.

*Permanent sign* means any sign, which is designed, constructed, and intended for more than short-term use, including freestanding signs and building signs.

*Person* means an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two (2) or more persons having a joint or common interest, or any other legal entity.

*Pharmacy* means an establishment wherein the principal use is the dispensing of prescription and patent medicines and drugs and related products, but where nonmedical products such as greeting cards, magazines, cosmetics and photographic supplies may also be sold.

*Phasing* means the incremental staging of development.

*Plat, replat, amended plat, or revised plat* means a map or drawing upon which an exact representation of a subdivision of lands and other information is presented in compliance with the requirements of all applicable sections of this Code.

*Portable sign* means any sign which is manifestly designed to be transported by trailer or on its own wheels, including such signs even though the wheels may be removed and the remaining chassis or support structure converted to an "A" or "T" frame sign and attached temporarily or permanently to the ground.

*Portable storage unit* means any container designed for the storage of personal property which is typically rented to owners or occupants of property for their temporary use and which is delivered and removed by truck.

*Preliminary development order* means any preliminary order that grants, denies, or grants with conditions a development project or activity. A preliminary development order that grants approval does not authorize actual construction, mining or alterations to land and/or structures. A preliminary development order 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. For purposes of this Code preliminary development orders include future land use map amendments, comprehensive plan amendments which affect land use or development standards, preliminary development plan approval, and master plan approval.

*Preliminary development plan* means a conceptual drawing, sketch, or schematic or any other document either drawn or written, that shows the intended use of the property and design features pertinent to its potential development.

*Premises* means a building or structure and its associated grounds including parking lots, open spaces, recreational areas, and stormwater management facilities. ~~(Proposed definition)~~

*Principal arterial (section 27-475)* means a roadway that is part of an interconnected network of continuous routes serving transportation corridors or business areas with high traffic volumes and long trips, the primary function of which is to provide safe and efficient service for major traffic movements in which access is subordinate.

*Principal structure* means the primary dwelling unit or structure located on the lot that houses a principal use, and not any other accessory structure or building.

*Private club* means buildings or facilities owned or operated by a corporation, association, or persons for a social, educational, or recreational purpose; but not primarily for profit or to render a service that is customarily carried on as a business.

*Projected impact* means the calculated usage of a facility.

*Protected wellhead* means those wellheads with a permitted capacity of one hundred thousand (100,000) GPD or more.

*Public facility(ies)* includes any or all of the following: Roads, sanitary sewer, potable water, drainage, solid waste, and/or recreation and open space.

*Public park/recreation area* means a tract of land within a municipality or unincorporated area which is kept for ornament and/or recreation and which is maintained as public property.

*Quasi-judicial, (adj.)* means relating to a judicial act performed by an official who is not a judge. Quasi-judicial acts are subject to review by courts.

*Radio/television broadcasting studio* means a facility for the production and broadcast of radio and television shows including things as offices, dressing rooms, broadcast and taping studios, file rooms, set storage and related installations, but not including radio and television transmitting and receiving facilities, as defined in this Code.

*Rebranding of a sign* means any change or alteration in franchise identification or any distinguishing mark, color pattern, logo, symbol, trademark, name, word, phrase, sentence or any combination thereof used to identify, advertise or distinguish the brand, product or service available in or on the property.

*Recreation vehicle* means a vehicular-type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreation, camping, and travel use and including, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motorhomes.

*Recycling collection center* means a facility where recovered materials (generally newspapers, plastics, metals, glass and paper) are delivered for further processing (sorting, baling, condensing, etc.) for shipment to recovered material markets.

*Regulated tree* means any tree that is at least six (6) inches in diameter or two (2) feet in circumference, whichever is lesser at a point 4.5 feet above ground level and/or requires a permit for removal or relocation.

*Remove* means to relocate a building or structure on its site or to another site.

*Repair* means restoration of portions of a building to its condition as before decay, wear, or damage, but not including alteration of the shape or size of any portion.

*Repair (sign)* means to restore to the same condition or state after damage, dilapidation, decay, or partial destruction.

*Replacement stock (section 27-445)* means any immature tree, other than palm trees, with a minimum diameter of two (2) inches at ground level and having a height of at least four (4) feet.

*Residence, multifamily* means any residential structure containing three (3) or more separate dwelling units.

*Residence, single-family* means a structure containing one (1) dwelling unit, and not attached to any other dwelling unit by any means.

*Residence, two-family (duplex)* (See definition of "duplex").

*Residential treatment facility* means a facility other than a hospital, nursing home, or group care home, having one (1) or more supervisors residing on the premises and providing board, lodging, medication and other treatment and counseling for persons progressing from relatively intensive treatment for criminal conduct, delinquency, mental or emotional illness, alcoholism, drug addiction or similar conditions, as well as providing relatively intensive diagnostic or therapeutic services for alcoholism, drug abuse, mental illness, emotional problems, developmental disabilities or similar conditions for its residents. Nothing shall prevent a residential treatment facility from having outpatients. The residents are generally intending to return to full normal participation in community life.

*Restaurant, carry-out and delivery* means any establishment whose principal business is the sale of food and beverages to the consumer in a ready-to-consume state for consumption off-premises and whose principal method of operation includes pick-up by the customer or delivery by an employee.

*Restaurant, drive-in* means any restaurant defined in this article that also provides dedicated parking spaces where customers order food or beverages to be consumed in their vehicle.

*Restaurant, fast-food* means any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state for consumption either within the building or for carry-out with consumption off the premises, or where permitted, in adjoining outdoor seating, and whose principal method of operation includes service of foods, frozen desserts or beverages in edible containers or in paper, plastic, or other type of disposable containers.

*Restaurant, interior service* means any establishment whose principal business is the sale of foods and beverages to the customer in a ready-to-consume state and whose principal method of operation includes service by a restaurant employee at a table or counter at which said items are consumed on-premises, or where permitted, in adjoining outdoor seating. A cafeteria shall be deemed an interior service restaurant.

*Retail, furniture and appliance* means establishments primarily engaged in the retail sale of household or office furniture, appliances, floor coverings and miscellaneous furnishings.

*Retail, general* means any establishment that sells products at a retail level.

*Right-of-way* means the area of a highway, road, street, way, parkway, electric transmission line, gas pipeline, water main, or other such strip of land reserved for public use, whether established by prescription, easement, dedication, gift, purchase, eminent domain, or any other legal means. Dedication of right-of-way and any obligation to maintain it must be approved by the City of Neptune Beach, and must adhere to F.S. 177.081 (3).

*Roof line* means a horizontal line intersecting the highest point or points of a roof.

*Roof sign* means a sign placed above the roof line of a building or on or against a roof slope of less than forty-five (45) degrees.

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

*Sandwich board sign* means any self-supporting, A-shaped freestanding sign with only two (2) visible sides that are situated adjacent to a business.

*Seat* means (for the purposes of determining the number of off-street parking spaces) the number of chairs, stools or each twenty-four (24) inches of benches or pews, installed or indicated. For areas without seating, such as standing space, dance floors, bars, etc. each seven (7) square feet of floor space shall constitute a seat.

*Shopping center* means a group of retail stores or service establishments planned and developed as a unit by one (1) operator, owner, organization, or corporation for sale or for lease upon the site on which they are built.

*Short-term rentals* means the rental of a private dwelling, including, but not limited to, a single-family home, a townhouse, duplex, triplex, multifamily, condominium, or the like which is rented, leased or advertised for a term period less than twenty-eight (28) days. Short-term rentals shall be considered to be "commercial uses" as are motels, motor lodges, resort rentals, bed and breakfasts or tourist court uses.

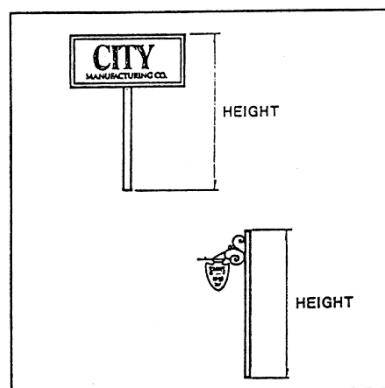
*Sign* means any identification, description, illustration, or device illuminated or non-illuminated, which is visible from any outdoor place, open to the public and which directs attention to a product, service, place, activity, person, institution, or business thereof, including any permanently installed or situated merchandise, or any emblem, painting, banner, pennant, placard, designed to advertise, identify, or convey information, with the exception of customary window displays, official public notices and court markers required by federal, state or local regulations; also excepting, newspapers, leaflets and books intended for individual distribution to members of the public, attire that is being worn, badges, and similar personal gear. Sign shall also include all outdoor advertising displays as described within Section 3108.1.1, Florida Building Code, and all signs shall conform to the requirements of Section 3108 of the Florida Building Code. The term shall exclude architectural features or part not intended to communicate information.

*Sign area* means the area within the smallest regular geometric shape which contains the entire sign copy, but not including any supporting framework, braces or supports.

*Sign copy* means the linguistic or graphic content, including trim and borders, of a sign.

*Sign face* means the part of a sign that is or may be used to display sign copy.

*Sign height* means the vertical distance from the finished grade at the base of the supporting structure to the top of the sign, or its frame or supporting structure, whichever is higher (see Figure 27-576-415-6).



**Figure 27-576-415-6**

*Sign structure* means any construction used or designed to support a sign.

*Single-family lot (section 27-445)* means an area of land not larger than five (5) acres in size, developed for and restricted to, a single-family residence.

**Site plan review**



**Snipe sign:** Any temporary, unpermitted, non-political, and non-religious sign of any material, including paper, plastic, cardboard, wood or metal when tacked, nailed or attached in any way to trees, poles, stakes, fences, the ground, or other objects where such sign may or may not be applicable to the present use of the property upon which such sign is located.

**Social, fraternal club and lodge** means a group of people formally organized for a common interest, usually cultural, religious or entertainment, with regular meetings, rituals and formal membership requirements, and includes Knights of Columbus, Masons, Moose, Elks, etc.

**Special exception** means a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to the number, area, location, or relation to the neighborhood, could promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare.

**Special flood hazard area.** An area in the floodplain subject to a one (1) percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zones A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 1612.2.]

**Species of special concern (section 27-422)** means any flora or fauna designated as such by the State of Florida.

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

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B Section 1612.2.]

**Story** means that portion of a building included between the upper surface of any floor and the upper surface of the next floor above it or the roof.

**Street, collector** means a road, which in addition to providing access to abutting properties, is designed primarily to connect local streets with arterials, as designated in the Neptune Beach Comprehensive Plan.

**Street, cul-de-sac (section 27-476)** means a local street no longer than 600-feet in length that terminates in a circular vehicle turnaround.

**Street, local (section 27-476)** means a roadway which provides direct access to abutting properties and is designed to carry no more traffic than is generated on the street itself and no more than one thousand six hundred (1,600) vehicles per day.

**Street, principal or minor arterial** means a part of the roadway system serving as a principal network for through traffic flow, including all state roads and any other roadway serving a similar function as designated in the Neptune Beach Comprehensive Plan.

**Structurally altered** means any change, except for repair or replacement, in the supporting members of a building, such as bearing walls, columns, beams or girders, floor or roof joists or trusses.

**Structure** means anything constructed, installed, or portable, the use of which requires a location on a parcel of land. It includes a movable structure while it is located on land which can be used for housing, business, commercial, agricultural, or office purposes either temporarily or permanently. It also includes, but is not limited to, buildings, walls, gates, monuments,



fountains, fences, billboards, swimming pools, poles, pipelines, transmission lines, tracks and signs.

Structure includes, but is not limited to, buildings, walls, gates, monuments and fountains.

*Subdivision* means any subdivision or re-subdivision of a subdivision, tract, parcel or lot of land into two (2) or more lots or parcels by means of mapping, platting, conveyance, change or rearrangement of boundaries. See subdivision requirements in division 3 of article III of chapter 27.

*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, over any five-year period, a cumulative total of fifty (50) percent of the market value of the building or structure before the damage occurred. [Also defined in FBC, B, Section 1612.2.]

*Substantial improvement.* Any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds, over any five-year period, a cumulative total of fifty (50) percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 1612.2.]

- (1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
- (2) Any alteration of a historic structure, provided the alteration will not preclude the structure's continued designation as a historic structure.

*Swimming pool* means a structure above or below ground level used for bathing, wading, or swimming purposes and being over twenty-four (24) inches deep at any point from the top of the structure wall to the bottom of the structure.

*Tandem parking space* means a parking space that abuts a second parking space in such a manner that vehicular access to the tandem space can be made only through the second parking space.

*Temporary sign* means any permitted sign, which is designed, constructed, and intended to be used on a short-term basis. A permanent sign with periodic changes to the message shall not be considered as a temporary sign.

*Temporary structure* means a subordinate structure that is intended to occupy a portion of the lot in which the principal structure resides, for only such time as the use is necessary and is further specified by this Code, to include but not limited to, portable storage units commonly referred to as PODS, canopies, tents, fences of a transient nature such as barricades.

*Theater* means an establishment offering live presentations or showing motion pictures to be viewed in an auditorium.

*Threatened species* means any flora or fauna that is so designated in Section 39-27.004, Florida Administrative Code or in 50 CFR 17.11-12.

*Townhouse* means a single-family dwelling constructed in a series or group of attached units in which each unit has its own front and rear access to the outside and no unit is located over another unit, with property lines and fire walls as required by the Florida Building Code, separating each unit.

*Trade school* means an establishment in which is offered, for compensation, instruction in a trade or craft, including but not limited to, carpentry, masonry, metal working, machinery repair and operation, welding, fabrication and the like.

*Tree (section 27-445)* means any living, self-supporting perennial plant which has a trunk diameter of at least four (4) inches measured three (3) feet above grade (at the base of the tree) and normally grows to a minimum overall height of fifteen (15) feet.

*Trees planted for harvest (section 27-445)* means all trees which have been planted, or shall be planted with the bona fide intention at the time of said planting to commercially harvest said trees in the future. These trees shall include, by way of illustration and not limitation, Christmas trees, slash pines, and pulpwood.

*Use* means the purpose for which land or water or a structure thereon is designated, arranged or intended to be occupied or utilized or for which it is occupied or maintained.

*Variance* means a grant of relief from any of the requirements of chapter 27, or the flood-resistant construction requirements of the Florida Building Code chapter 30, which permits construction in a manner that would not otherwise be permitted by chapters 27 or 30, to the extent allowed by the provisions of division 8 of article IV of chapter 27 the Florida Building Code, as may be allowed by law and approved by City Council.

*Vehicle sign* means any sign affixed to a vehicle.

*Veterinary clinic* means a facility that has been issued a premises permit to engage in the practice of veterinary medicine as provided for in F.S. Ch. 474.

*Vocational school* means an establishment in which is offered, for compensation, instruction in a vocation such as, but not limited to, barbering, cosmetology, hair styling, bartending and interior decorating.

*Watercourse*. A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

*Wellhead buffer zone* means all land within a one hundred-foot buffer around the wellhead protection zone as depicted in Figure 27-375-15-7.

*Wellhead protection zone* means all land within a two hundred-foot radius of an existing or designated protected wellhead as depicted in Figure 27-375-15-7.

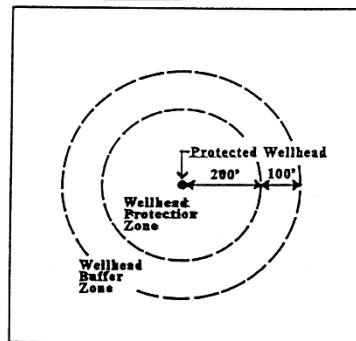


Figure 27-375-15-7

*Wetlands protection zone/wetlands, jurisdictional* shall have the same meaning as the definition of "wetlands" set forth in F.S. § 373.019(22), as may be amended from time to time. The delineation of jurisdictional wetland boundaries shall be made by professionally accepted methodology consistent with the unified state-wide methodology for the delineation of the extent of wetlands ratified by the state legislature pursuant to F.S. Ch. 373.

*Wholesale sales* means any establishment engaged in on-premises sales of goods primarily to customers engaged in the business of reselling the goods.

*Wind sign* means any device, including but not limited to, one (1) or more banners, flags, pennants, ribbons, spinners, streamers or captive balloons, or other objects or material fastened in such a

manner as to move upon being subjected to pressure by wind not specifically exempted by section 27-580 of this Code (see Figure 27-576-515-8).

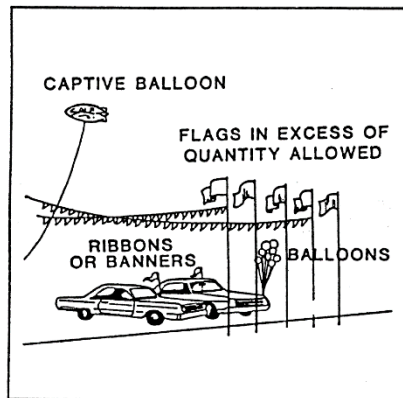


Figure 27-576-515-8

*Worship facility* means a building used primarily as a place wherein persons regularly assemble for religious worship, instruction or education, including churches, synagogues, temples, sanctuaries, chapels and cathedrals and buildings associated with same, such as parsonages, friaries, convents, fellowship halls, Sunday schools, and rectories. Parochial child day care centers and primary and/or secondary educational facilities that are owned or operated by an established worship facility shall be included in this definition.

*Written or in writing* means any representation of words, letters or figures, whether by printing or otherwise.

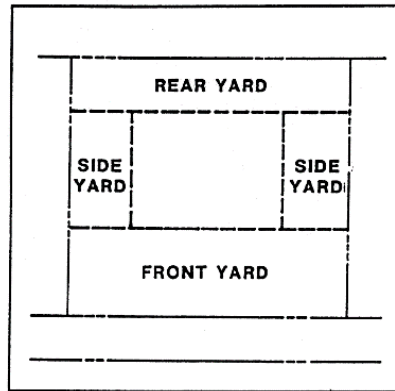
*Yard* means an open space on the same lot with a building or proposed building, unoccupied and unobstructed from the ground upward, except by trees or shrubbery or as otherwise provided herein.

*Yard, corner side* means the yard extending along the street upon which it has the largest exterior frontage. (See Figure 27-15-35.)

*Yard, front* means a yard that extends across the front of a lot between the lot lines, from the front line of any building or proposed building, excluding steps, to the front of the lot. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least exterior frontage. (See Figure 27-15-39.)

*Yard, rear* means a yard that extends across the rear of a lot between the side lot lines and measured between the rear line of the lot and the rear line of the building or proposed building, excluding steps and unenclosed porches. (See Figure 27-15-39.)

*Yard, side* means a yard between any building or proposed building and the side line of the lot, and extending from the front yard line to the rear building line, excluding steps.



**Figure 27-15-39**

*Year* means a calendar year, unless otherwise indicated.

*Zoning map* means that map adopted by reference in section 27-9.

*Zoning permit* means a permit that is issued by the city manager or designee after determining that the proposed use is consistent with the uses permitted in that zoning district.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2004-18, § 1, 12-6-04; Ord. No. 2005-03, § 1, 3-7-05; Ord. No. 2006-03, § 1, 3-6-06; Ord. No. 2006-06, § 1, 5-1-06; Ord. No. 2007-07, § 1, 6-4-07; Ord. No. 2008-10, § 1, 9-8-08; Ord. No. 2010-10, § 1, 7-12-10; Ord. No. 2010-14, § 3, 9-7-10; Ord. No. 2011-03, § 1, 2-17-11; Ord. No. 2011-09, § 1, 6-6-11; Ord. No. 2011-25, § 2, 12-5-11; Ord. No. 2012-11, § 2, 12-4-12; Ord. No. 2013-01, § 2, 5-6-13; Ord. No. [2015-14](#), § 1, 10-5-15; Ord. No. [2016-07](#), § 1, 7-6-16; Ord. No. [2017-16](#), § 1, 6-5-17; Ord. No. [2017-10](#), § 1, 7-5-17; Ord. No. [2017-32](#), § 2, 1-8-18; Ord. No. [2018-02](#), § 1, 4-2-18)

#### **Sec. 27-16. – ~~Reserved. Computation of required or permitted units.~~**

~~The computation of the number of required or permitted units will be by whole numbers only, and shall be based on the acreage of the parcel. No fractional units will be considered or added to the total permitted number of units.~~

(Ord. No. 2004-10, § 1, 10-4-04)

*[this section's content has been moved to section 27-242: "density calculations"]*

#### **Sec. 27-17. - Computation of time.**

The computation of time for deadlines or periods of time prescribed or allowed shall follow the rules as provided for in section 1-12 of the Code of Ordinances.

(Ord. No. 2004-10, § 1, 10-4-04)

#### **Sec. 27-18. - Fees.**

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice, and similar matters may be charged applicants for zoning permits, concurrency certificates, sign permits, tree permits, conditional use permits, special use permits, subdivision plat approval, zoning amendments, variances, application for appeals, and other administrative relief. The amount of the fees shall be established by resolution of the city council.

(Ord. No. 2004-10, § 1, 10-4-04)

### **Sec. 27-19. - Use of graphic renderings in Code.**

- (a) *Purpose.* Throughout this Code, graphic renderings are included to assist the user in understanding narrative portions of this Code, especially definitions.
- (b) *Effect upon Code.* No provision of this Code shall be held invalid by reason of deficiency in any such graphic.

(Ord. No. 2004-10, § 1, 10-4-04)

### **Sec. 27-20. - Abrogation.**

This Code is not intended to repeal, abrogate, or interfere with any existing easements, covenants, or deed restrictions duly recorded in the public records of the city or county.

(Ord. No. 2004-10, § 1, 10-4-04)

### **Sec. 27-21. - Severability.**

If any section, subsection, paragraph, sentence, clause, or phrase of this Code is for any reason held by any court of competent jurisdiction to be unconstitutional or otherwise invalid, the validity of the remaining portions of this Code shall continue in full force and effect.

(Ord. No. 2004-10, § 1, 10-4-04)

### **Sec. 27-22. - Effective date.**

This Code shall be effective on April 1, 1991, as later revised by Ordinance 2004-10 on {October 4, 2004}. Later amendments to this code become effective on the date stated in the amending ordinance or as provided by state law.

(Ord. No. 2004-10, § 1, 10-4-04)

### **Sec. 27-23. - Adopting disclosure procedures related to ex-parte communications with public officials.**

The city council of the city hereby adopts the following public disclosure process relating to elected and/or appointed public officials who hold positions on any board, council or commission charged with making recommendations and/or taking final action on any quasi-judicial proceeding.

Access permitted: Any person not otherwise prohibited by statute, Charter provision or ordinance may discuss with any local public official (elected and/or appointed) the merits of any matter on which quasi-judicial action may be taken by any board, council or commission on which the local public official is a member, so long as the following process is observed:

- (1) The substance of any exparte communication with a local public official (appointed and/or elected) which relates to quasi-judicial action pending before the official shall not be presumed prejudicial to the action if the subject of the communication and the identity of the person, group or entity with whom the communication took place is disclosed and made a part of the record before final action on the matter.
- (2) A local public official may read a written communication from any person. However, a written communication that relates to quasi-judicial action pending before a local public official shall not be presumed prejudicial to the action and such written communication shall be made a part of the record before final action on the matter.
- (3) Local public officials may conduct investigations and site visits and may receive expert opinions regarding quasi-judicial action pending before them. Such activities shall not be presumed prejudicial to the action if the existence of the investigation, site visit or expert opinion is made a part of the record before final action on the matter.

- (4) Disclosure made pursuant to subsections (1), (2) and (3) must be made during the public meeting, but prior to the vote being taken on such matters, so that persons who have opinions contrary to those expressed in the ex-parte communication are given a reasonable opportunity to refute or respond to the communication. This section shall not subject local public officials to F.S. Ch. 112, Pt. III, for not complying with this subsection.

*(Ord. No. 2004-10, § 1, 10-4-04)*

**Sec. 27-24. - Reserved. Encroachment and reduction of lot area.**

The minimum yards, parking spaces, open spaces, and lot area requirements contained in the Code for all buildings in existence at the time of passage of these regulations or for all buildings hereafter erected, shall not be encroached upon or considered as required yards, parking spaces or open space for any other building, except as hereinafter provided, nor shall any lot area be reduced below the requirements of these regulations except as provided in section 27-706.

*(Ord. No. 2004-10, § 1, 10-4-04)*

**Secs. 27-25—27-30. - Reserved.**



## ARTICLE II. - ADMINISTRATIVE AND ENFORCEMENT BODIES<sup>[3]</sup>

*Footnotes: --- (3) --- Editor's note— Ord. No. 2004-10, § 1, adopted Oct. 4, 2004, amended art. II in its entirety to read as herein set out. Former art. II, §§ 27-31—27-66, pertained to similar provisions, and derived from Ord. No. 91-1-5, § 2, 5-6-91; Ord. No. 1996-35, § 1, 1-6-97; Ord. No. 1997-23, § 1, 1-5-98; and Ord. No. 2003-01, § 1, 2-3-03.*

### DIVISION 1. - GENERALLY

#### Sec. 27-31. - Reserved.

#### Sec. 27-32. - Generally.

This article describes those administrative bodies that shall administer and enforce this Code (community development design board, code enforcement board, city staff, and the city council); describes membership requirements where appropriate; and outlines the functions, powers and duties of each with respect to this Code.

*(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 4, 9-7-10)*

#### Secs. 27-33—27-35. - Reserved.

### DIVISION 2. - COMMUNITY DEVELOPMENT DESIGN BOARD<sup>[4]</sup>

*Footnotes:*

*--- (4) ---*

*Editor's note— Section 5 of Ord. No. 2010-14, adopted Sept. 7, 2010 renamed div. 2, as set out herein. Formerly entitled "Planning and Development Review Board".*

#### Sec. 27-36. - Establishment.

In accordance with the Local Government Comprehensive Planning and Land Development Regulation Act, F.S. Ch. 163, Pt. D, the community development design board is hereby designated as the local planning agency. As such, the board is created to carry out the functions of a local planning agency pursuant to the requirements of F.S. Ch. 163, and to review and recommend action to the city council on: (i) special exceptions and land use policies; (ii) preliminary development plans (iii) variance requests; and (iv) administrative appeals.

*(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 5, 9-7-10)*

#### Sec. 27-37. - Purpose.

Zoning is the single most powerful legal enforcement of an overall urban concept, but alone it does not create beauty, aesthetic order or amenity. The purpose of this board is, therefore, to apply this Code and the comprehensive plan to preserve various elements of urban beauty and to require that new projects enhance existing values. Preservation of special local characteristics of site, aesthetic tradition, natural beauty, and redevelopment potential should be a high priority. The natural beauty of the beaches, the ocean, and the Intracoastal Waterway, for example, should only be enhanced. This board should act to promote the best interest of the community, in the effort to achieve these goals.

*(Ord. No. 2004-10, § 1, 10-4-04)*

## **Sec. 27-38. - Officers.**

- (a) *Appointment.* The board shall have seven (7) members appointed by the mayor subject to confirmation by resolution of the city council.
- (b) *Eligibility requirements.* The following conditions for eligibility for appointment to the board shall apply:
  - (1) *Place of residence.* Each member shall reside in the City of Neptune Beach.
  - (2) *City employees and members of the city council.* No member of the city council or employee of the city shall be eligible for membership on the board.
- (c) *Composition.* Any interested and eligible citizen as provided for above, may be appointed to the board, but those with experience or interest in the field of planning and zoning or historic preservation shall receive special consideration. Whenever possible, the board shall include at least one (1) each of the following:
  - (1) An architect or landscape architect;
  - (2) A person engaged in real estate sales or development;
  - (3) A natural or environmental scientist;
  - (4) An engineer; and
  - (5) An urban/regional planner.
- (d) *Terms of office.* Each member shall be appointed to not more than a three-year term. No person may serve more than two (2) consecutive three-year terms. Persons disqualified by this provision may be reappointed after one (1) year elapses after the expiration of the second term of service.
- (e) *Conditions for removal from board.* A member of the board shall be removed from the board and the member's office declared vacant by the city council under any of the following conditions:
  - (1) If the member fails to attend three (3) successive regular meetings.
  - (2) If the member moves outside of the city.
  - (3) If by majority vote, the city council declares without notice and without assignment of cause the removal of a member.
- (f) *Vacancies.* When a position becomes vacant before the end of the term, the mayor, subject to confirmation by majority vote of the city council, shall appoint a substitute member to fill the vacancy for the duration of the vacated term. A member whose term expires may continue to serve until a successor is appointed and qualified.
- (g) *Appointment of chair and vice-chair.* The members of the board shall annually elect, by majority vote, a chair, and vice-chair from among the members. The chair, or in the absence of the chair, the vice-chair, may administer oaths. The mayor may create and fill other offices as deemed necessary.
- (h) *Subcommittees.* The board may create whatever subcommittees it deems necessary to carry out the purposes of the board. The board may have a standing subcommittee that will serve as the historic preservation board for the city, as deemed necessary.
- (i) *Appointment of subcommittees.* The chair of the board shall appoint the membership of each subcommittee from the members of the board.
- (j) *Record keeping.* The city clerk shall serve as custodian of all board minutes.
- (k) *Compensation.* Members shall not be compensated, but may be paid for travel and other expenses incurred on board business under procedures prescribed in advance by the city council.
- (l) *Alternate members.* Three (3) alternate members may be appointed by the mayor, subject to confirmation by resolution of the city council, to serve on the board in the absence of board

members. Each alternate member shall be appointed for not more than one-year terms and may be reappointed for a total term limit of three (3) consecutive one-year terms.

- (m) *Training.* The board members shall have one (1) training session per year to be given by the city attorney or a seminar approved by the city manager, if budgeted by the city council.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2005-04, § 1, 3-7-05; Ord. No. 2010-14, § 6, 9-7-10; Ord. No. 2017-07, § 1, 6-5-17)

## **Sec. 27-39. - General functions, powers and duties.**

In general, the board shall have the following general functions, powers and duties:

- (1) With the prior approval of the city council, the board may use consultants as technical support to fulfill its functions and duties.
- (2) The board shall monitor and oversee the operation, effectiveness and status of this Code and recommend amendments to the city council that are consistent with the comprehensive plan.
- (3) Specifically, the board shall have the following functions, powers, and duties for long-range planning within the city:
  - a. The board shall review information necessary to assess the amount, direction, and type of development to be expected in the city.
  - b. Upon request by the city council, the board shall provide advice about specific planning, zoning, development, historic preservation, and land use issues and policies.
  - c. The board shall keep the city council and the general public informed and advised on the planning, zoning, development, historic preservation, and land use issues and policies of the city.
  - d. The board shall carry out the functions of a local planning agency pursuant to the requirements of F.S. Ch. 163, including, without limitation, conducting public hearings, gathering information necessary for the drafting, establishment, amendment, and maintenance of the various elements of the comprehensive plan and provisions of this Code. See F.S. § 163.3174.
  - e. The board may make or obtain special studies on the location, condition and adequacy of specific facilities of the city, including, but not limited to housing, commercial and industrial facilities, parks, playgrounds, beaches, and other recreational facilities, schools, public buildings, public and private utilities, transportation, and parking.
  - f. The board shall review redevelopment plans prepared under F.S. Ch. 163, pt. III, as may be proposed.
  - g. The board shall recommend to the city council plans for the replanning, reconstruction, or redevelopment of any area or district which may be destroyed, in whole or in part, or seriously damaged by hurricane, fire, earthquake, flood, or other disaster.
  - h. The board shall perform other lawful duties, as may be assigned by the city council.
- (4) The board shall review and recommend to city council; approval, approval with conditions, or denial of applications for:
  - a. Preliminary-Final development plans;
  - b. Special exceptions affecting one acre or more of land, and for all special exceptions for Planned Unit Developments; and
  - c. Variances for property located in the C-1, C-2, C-3, conservation and CBD zoning districts.
- (5) The board shall hear and make a final decision for preliminary development plans
- (6) The board shall hear and make a final decision for all special exceptions affecting less than one acre of land, except for Planned Unit Developments.
- (57) The board shall hear and make a final decision for all variances for property located in the R-1, R-2, R-3, R-4, R-4A and R-5 zoning districts, including floodplain variances in those districts.

(68) The board shall hear and make a final decision for all administrative appeals, including appeals related to community design and architectural design in the R-4 and CBD zoning districts.

(79) The board shall have the following functions, powers, and duties for historic preservation within the city:

- a. The board shall work with the Jacksonville Historic Landmarks Commission in assisting property owners of historically significant structures in applying for and utilizing state and federal assistance programs.
- b. The board shall work with residents to nominate historically significant structures for state and federal designation.
- c. The board shall advise the city council concerning the effects of local government actions on cultural resources.
- d. The board shall advise property owners and city departments concerning the proper protection, maintenance, enhancement, and preservation of cultural resources.

*(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 7, 9-7-10)*

#### **Sec. 27-40. - Board procedures.**

- (a) The board shall adopt rules of procedure to carry out its purposes. All rules must conform to this Code, other city ordinances, and state law and shall be filed in the office of the city clerk.
- (b) All meetings shall be conducted in a public building and shall be open to the public.
- (c) The board shall meet each calendar month, unless cancelled by the board or its chair; and more often at the call of the chair, the board, or the city council.
- (d) Notice of meetings. Notice of meetings shall be given as provided for in this Code and by state statute. Additionally, notice indicating the time and place of the public hearing shall be posted in the front yard of the property which is subject of the hearing, facing the street on which the property is addressed for at least ten (days) prior to the hearing. Such notice shall contain the address of the property and the subject matter of the hearing. The notice on the property site shall be of a standard size and design approved by the city manager or designee and shall be provided to the property owner or their representative upon request.
- (e) The board shall keep minutes of its proceedings, indicating the attendance of each member, and the decision of each member on every question. The minutes shall be signed by the chair, or in his absence the vice-chair.
- (f) Statement of the facts for variances and special exceptions found by the board shall be included in the minutes of each case heard or considered by it.
- (g) The board shall set a reasonable time for the hearing of administrative appeals and shall give notice thereof to the person making the appeal and to the officer from whom the appeal is taken.
- (h) The minutes shall be filed with the city clerk and shall become part of the public record.
- (i) A copy of the minutes of each meeting shall be forwarded to the city council for its review.

*(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 8, 9-7-10)*

#### **Sec. 27-41. - Voting and quorum.**

- (a) Four (4) members shall constitute a quorum.
- (b) Each decision of the board must be approved by a majority vote of the members present at a meeting in which a quorum is in attendance and voting. If a call to vote for a motion ends in a tie, the motion dies for a lack of a majority.
- (c) Abstentions and disqualification from voting shall occur in accordance with Florida law.

- (d) A member absent during the presentation of evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing.

*(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2005-04, § 1, 3-7-05; Ord. No. 2009-01, § 1, 4-6-09; Ord. No. 2010-14, § 9, 9-7-10)*

#### **Sec. 27-42. - Legal representation.**

The city council may appoint legal counsel to represent the board.

*(Ord. No. 2004-10, § 1, 10-4-04)*

#### **Secs. 27-43—27-45. - Reserved.**

### **DIVISION 3. - RESERVED<sup>5</sup>**

*Footnotes: --- (5) --- Editor's note— Ord. No. 2010-14, § 10, adopted Sept. 7, 2010, deleted div. 3, §§ 27-46—27-52 which pertained to the board of appeals and derived from: Ord. No. 2004-10, § 1, adopted Oct. 4, 2004; Ord. No. 2005-04, § 1, adopted Mar. 7, 2005; and Ord. No. 2009-01, § 2, adopted Apr. 6, 2009.*

#### **Secs. 27-46—27-55. - Reserved.**

### **DIVISION 4. - CODE ENFORCEMENT BOARD**

#### **Sec. 27-56. - Code enforcement board.**

The code enforcement board shall enforce The provisions of this chapter shall be enforced as provided for in chapter 2, article VII, division 2 of the Code of Ordinances for Neptune Beach.

*(Ord. No. 2004-10, § 1, 10-4-04)*

#### **Secs. 27-57—27-60. - Reserved.**

### **DIVISION 5. - CITY STAFF**

#### **Sec. 27-61. - City staff.**

Except as specifically provided for in this Code, the city manager shall assign individuals to perform functions or duties as may be required by this Code.

*(Ord. No. 2004-10, § 1, 10-4-04)*

**Secs. 27-62—27-65. - Reserved.**

## **DIVISION 6. - CITY COUNCIL**

### **Sec. 27-66. - City council.**

- (a) In considering appeals from variance and special exception decisions by the community development design board, the city council shall observe procedural requirements set forth in article III.
- (b) The city council shall review and grant final authority for all special exceptions affecting one acre of more of land, and special exceptions for all Planned Unit Developments, and for all variances for property located in the C-1, C-2, C-3, CBD and conservation zoning districts.
- (~~b~~c) In considering proposed changes to this Code, the city council acts in a legislative capacity, and when making changes to the zoning map, the city council acts in a quasi-judicial manner and shall observe procedural requirements set forth in article III.
- (~~e~~d) Unless otherwise specifically provided in this chapter, the city council shall follow the regular, voting and other requirements as set forth in other provisions of the City Code, the City Charter, or laws of the State of Florida.

*(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 11, 9-7-10)*

**Secs. 27-67—27-70. - Reserved.**



## **ARTICLE III. - ADMINISTRATIVE AND ENFORCEMENT PROCEDURES<sup>[6]</sup>**

### **DIVISION 1. - GENERALLY**

#### **Sec. 27-71. - Reserved.**

#### **Sec. 27-72. - Generally.**

This article sets forth the application and review procedures required for obtaining development orders, and certain types of permits. This article also specifies the procedures for appealing decisions and seeking legislative action.

*(Ord. No. 2004-10, § 1, 10-4-04)*

#### **Secs. 27-73—27-75. - Reserved.**

### **DIVISION 2. - DEVELOPMENT REVIEW**

#### **Sec. 27-76. - Generally.**

Preliminary and final development plans shall be submitted for review and approval through development orders pursuant to this division for the following:

- (1) All development in nonresidential districts,
- (2) All development in residential districts except for single-family and duplexes (two-family residences), and
- (3) Special exceptions for Planned Unit Developments (see section 27-158).

*(Ord. No. 2004-10, § 1, 10-4-04)*

#### **Sec. 27-77. - Definitions.**

Refer to article I for definitions.

*(Ord. No. 2004-10, § 1, 10-4-04)*

#### **Sec. 27-78. - Development permit required.**

No development may be undertaken unless the activity is authorized by a development permit.

*(Ord. No. 2004-10, § 1, 10-4-04)*

#### **Sec. 27-79. - Prerequisites to issuance of development permit.**

Except as provided in section 27-80 of this Code, a development permit may not be issued unless the proposed development activity is authorized by a final development order issued pursuant to this Code.

*(Ord. No. 2004-10, § 1, 10-4-04)*

#### **Sec. 27-80. - Exceptions to requirement of a final development order.**

A development permit may be issued by the city manager or designee for the following development activities in the absence of a final development order issued pursuant to this Code:

- (1) The construction or alteration of a single-family or duplex (two-family) residence that is in full compliance with this code on an existing lot.
- (2) The alteration of an existing building or structure, other than a single-family or duplex (two-family) residence, so long as no change is made to its gross floor area, its use, its number of dwelling units, (except single-family or duplex development permits) or the amount of impervious surface on the site.
- (32) The erection of a sign or the removal of protected trees on a previously developed site and independent of any other development activity on the site.
- (43) The resurfacing of a vehicle use area that conforms to all requirements of this Code.
- (4) A minor replat granted pursuant to the procedures in this Code.

(Ord. No. 2004-10, § 1, 10-4-04)

### **Sec. 27-80.1 – Issuance of development permits.**

Applications for a development permit shall be made to the building department on a form provided by the city and may be acted upon by the city without public hearing or notice.

### **Sec. 27-81. - Changes to a development permit or development order.**

After a development permit or development order has been issued, it shall be unlawful to change, modify, alter, or otherwise deviate from the its terms or conditions of the permit without first obtaining a formal modification of the permit. A modification may be applied for in the same manner as the original permit. A written record of the modification shall be entered upon the original permit or development order and maintained in the files of the city.

(Ord. No. 2004-10, § 1, 10-4-04)

### **Sec. 27-82. - Procedures for applying for and issuing preliminary and final development orders.**

- (a) **Optional pre-application conference.** Prior to filing for preliminary development plan review, the developer may, at their option, meet with city officials to discuss the development plan and review process. No person shall rely upon any comment concerning a proposed development plan, or any expression of any nature about the proposal made by any participant at the pre-application conference as a representation or implication that the proposal will be ultimately approved or rejected in any form.
- (b) **Submittal of preliminary development plan.** The developer shall submit a preliminary development plan, as defined in this division, accompanied by a fee established by resolution of the city council. If more than three (3) months elapse following the issuance of the preliminary development order, the developer must resubmit the plan for preliminary review.
- (c) **Determination of complete application.** Within ten (10) days of receipt of a preliminary development plan, the city manager or designee shall determine that the information is complete or incomplete and inform the developer in writing of the deficiencies, if any. If the plan is deemed incomplete, the developer may submit an amended plan within thirty (30) working days without payment of an additional fee, but, if more than thirty (30) days have elapsed, the developer must thereafter initiate a new application and pay a new fee.
- (d) **Copies to community design board.** Once deemed complete the building department shall send a copy of the proposed preliminary development plan to each member of the community development board community design board and shall place the proposed plan on the agenda of the next meeting that allows for proper notice.

(e) **Public hearing.** The ~~community development board~~ community design board shall conduct a public hearing as outlined in the Florida Statutes, and shall consider the following factors:

- (1) Characteristics of the site and surrounding area, including important natural and manmade features, the size and accessibility of the site, and surrounding land uses.
- (2) Whether the concurrency requirements of article VI of this Code could be met if the development were built.
- (3) The nature of the proposed development, including land use types and densities; the placement of proposed buildings and other improvements on the site; the location, type and method of maintenance of open space and public use areas; the preservation of natural features; proposed parking areas; internal traffic circulation system, including trails; the approximate total ground coverage of paved areas and structures; and, types of water and sewage treatment systems.
- (4) Conformity of the proposed development with the comprehensive plan, this Code, and other applicable regulations.
- (5) Applicable regulations, review procedures, and submission requirements.
- (6) Concerns and desires of surrounding landowners and other persons.
- (7) Other applicable factors and criteria prescribed by the comprehensive plan, this Code, or other law.

(f) **Review of preliminary development plans and issuance of a preliminary development order.**

~~The community development board~~ community design board shall conduct a public hearing on the preliminary development plan to determine whether the plan satisfies the requirements of this Code. Based on the determination from evaluating the above factors, the ~~community development board~~ community design board shall either:

- (1) Issue a preliminary development order complying with section 27-87 of this Code with or without conditions; or
- (2) Refuse to issue a preliminary development order if it is not possible for the proposed development, even with reasonable modifications, to meet the requirements of this Code.

(g) **Submittal of final development plan.** The developer shall submit a final development plan, as defined in this Code, for review by the city council within the time period in which the preliminary development order is valid. The final development plan shall be consistent with the preliminary development order and shall contain no land uses different than those approved in the preliminary development order.

(h) **Review of final development plans and issuance of a final development order.** The city council shall conduct a public hearing on the final development plan to determine whether the plan satisfies the requirements of this Code. Based on the determination from evaluating the above factors the city council shall either:

- (1) Issue a final development order complying with section 27-87 of this Code with or without conditions, ensuring that the final development plan is consistent with the preliminary development order; or
- (2) Refuse to issue a final development order if it is not possible for the proposed development, even with reasonable modifications, to meet the requirements of this Code.

~~(i) **Development permit application.** Application for a development permit shall be made to the building department on a form provided by the city and may be acted upon by the city without public hearing or notice.~~

*[subsection (i) has been moved to section 27-80.1)]*

*(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 12, 9-7-10)*

**Sec. 27-83. - General submittal requirements for preliminary development plans and final development plans.**

- (a) **Application.** Applications for development ~~orders review~~ shall be available from the building official or designee. A completed application shall be signed by all owners, or their agent, of the property subject to the proposal, and notarized. Signatures by other parties will be accepted only with notarized proof of authorization by the owners. In a case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's office in the corporation, and embossed with the corporate seal.
- (b) **General plan requirements.** All preliminary and final development plans submitted pursuant to this Code shall conform to the following standards:
- (1) All site plans shall be drawn to a scale of one (1) inch equals twenty (20) feet, unless, prior to submittal, the building official determines that a different scale is sufficient or necessary for proper review of the proposal.
  - (2) The trim line sheet size shall be twenty-four (24) inches by thirty-six (36) inches. A three-quarter-inch margin shall be provided on all sides except for the left binding side where a two-inch margin shall be provided.
  - (3) If multiple sheets are used, the sheet number and total number of sheets must be clearly indicated on each.
  - (4) The front cover sheet of each plan shall include:
    - a. A general vicinity or location map drawn to scale (both stated and graphic) showing the position of the proposed development in the section(s), township and range, together with the principal roads, city limits, and/or other pertinent orientation information.
    - b. A complete legal description of the property.
    - c. The name, address and telephone number of the owner(s) of the property. Where a corporation or company is the owner of the property, the name and address of the president and secretary of the entity shall be shown.
    - d. Name, business address, and telephone number of those individuals responsible for the preparation of the drawing(s).
    - e. Each sheet shall contain a title block with the name of the development, stated and graphic scale, a north arrow, and date.
    - f. The plan shall show the boundaries of the property with a metes and bounds description reference to section, township and range, tied to a section or quarter-section or subdivision name and lot number(s).
    - g. The area of the property shown in square feet and acres.
  - (5) Twelve (12) copies of the submittal shall be required.
  - (6) Unless a format is specifically called for below, the information required may be presented textually, graphically, or on a map, plan, aerial photograph, or by other means, whichever most clearly conveys the required information. It is the responsibility of the developer to submit the information in a form that allows ready determination of whether the requirements of this Code have been met.

(Ord. No. 2004-10, § 1, 10-4-04)

**Sec. 27-84. - Additional submittal requirements for a preliminary development plan requirements.**

- (a) **Existing conditions.** The preliminary development plan shall show the following existing conditions, in the form of a current (dated within thirty (30) days of plan submittal) certified, signed and sealed survey that is drawn to scale:

- (1) The location of existing property or right-of-way lines both for private and public property, streets, railroads, buildings, transmission lines, sewers, bridges, culverts, drain pipes, water mains, fire hydrants, and any public or private easements.
- (2) Any land rendered unusable for development purposes by deed restrictions or other legally enforceable limitations.
- (3) Contour lines at two-foot intervals.
- (4) All watercourses, waterbodies, floodplains, wetlands, including all proposed retention and detention areas, important natural features and wildlife areas, soil types and vegetative cover, if applicable.
- (5) The approximate location of wetland protection zones, wetland buffer zones, wellhead protection zones, and wellhead buffer zones as established by this Code, if applicable.
- (6) Existing land use/zoning district of the parcel.
- (7) A depiction (sketch) of the abutting property in all directions that is within two hundred (200) linear feet of the proposal, showing:
  - a. Land uses and locations of principal structures and major landscape features.
  - b. Types of residential use.
  - c. Traffic circulation systems, including driveway locations.
  - d. Fire hydrant locations.
  - e. The location of wetland protection zones and wetland buffer zones, if applicable.
- (8) A title search of the property, conducted within six (6) months of plan submittal, including all encumbrances. All such encumbrances shall be shown upon the survey and identified by official record book and page.
- (9) The location of the coastal construction control line (CCCL) if applicable.
- (10) The location of any stormwater facilities.

**(b) Development and design elements.** The preliminary development plan shall show the following development and design elements:

- (1) The location and intensity or density of the proposed development.
- (2) A parking and circulation plan.
- (3) Points of ingress to and egress from the site in relation to existing or planned public or private road rights-of-way, pedestrian ways, or bicycle paths, and proposed access points to existing or planned public transportation facilities.
- (4) Existing and proposed stormwater management systems on the site and proposed linkage, if any, with existing or planned public water management systems.
- (5) Proposed location and sizing of potable water and wastewater facilities to serve the proposed development, including required improvements or extensions of existing off-site facilities.
- (6) Proposed open space areas on the development site and types of activities proposed to be permitted on them.
- (7) Lands to be dedicated or transferred to a public or private entity and the purposes for which the lands will be held and used.
- (8) A description of how the plan mitigates or avoids potential conflicts between land uses.
- (9) Preliminary architectural elevations of all buildings sufficient to convey the basic architectural intent of the proposed improvements.
- (10) A map of vegetative cover including the location and identity by common name of all protected trees. Groups of protected trees may be designated as "clusters" with the estimated total number noted. This information shall be summarized in tabular form on the plan.
- (11) Existing surface waterbodies, wetlands, streams and canals within the proposed development site, including seasonal high-water table elevations and attendant drainage areas for each.

- (12) The location of any underground or overhead utilities, transformers, culverts and drains on the property and within one hundred (100) feet of the proposed development boundary
- (13) Location, names and widths of existing and proposed streets, highways, easements, building lines, alleys, parks, and other public spaces and similar facts regarding adjacent property.
- (14) A separate listing of all requested variances and/or special exceptions to the Code of Ordinances shall be submitted with each plan.

(c) **Supplemental information.** Preliminary development plans shall include the following supplemental information on proposed development activities and design:

- (1) Generally:
  - a. Area and percentage of total site area to be covered by an impervious surface.
  - b. Grading plans specifically including perimeter grading.
  - c. Construction phase lines if the project is to be constructed in phases.
- (2) Buildings and other structures:
  - a. Building plan showing the location, dimensions, gross floor area, and proposed use of buildings.
  - b. Front, rear and side architectural elevations of all buildings.
  - c. Building setback distances from the property lines, abutting right-of-way centerlines, and all adjacent buildings and structures.
  - d. Minimum finished floor elevations (FFE) of buildings within any 100-year floodplain.
  - e. The location, dimensions, type, composition, and intended use of all other structures, including, but not limited to, walls and fences.
- (3) Potable water and wastewater systems:
  - a. Proposed location and sizing of potable water and wastewater facilities to serve the proposed development, including required improvements or extensions of existing off-site facilities.
  - b. The boundaries of proposed utility easements.
  - c. Location of the nearest available public water supply and wastewater disposal system and the proposed tie-in points, or an explanation of alternative systems to be used.
  - d. Exact locations of on-site and nearby existing and proposed fire hydrants.
- (4) Streets, parking and loading:
  - a. The layout of all streets and driveways with paving and drainage plans and profiles showing existing and proposed elevations and grades of all public and private paved areas.
  - b. A parking and loading plan showing the total number and dimensions of proposed parking spaces, spaces reserved for handicapped-ADA accessible parking, loading areas, proposed ingress and egress (including proposed public street modifications), and projected on-site traffic flow.
  - c. The location of all exterior lighting.
  - d. The location and specifications of any proposed garbage dumpsters.
  - e. Pedestrian walks, malls, yards and open areas.
- (5) Tree removal and protection:
  - a. All protected trees to be removed and a statement of why they are to be removed.
  - b. Proposed changes in the natural grade and any other development activities directly affecting trees to be retained.
  - c. A statement of the measures to be taken to protect the trees to be retained.
  - d. A statement of tree relocations and replacements proposed.
- (6) Landscaping:
  - a. Location, size and design of proposed buffer zones and landscaped areas.



- b. Description (species, quantities and locations) of all proposed and preserved plant materials.
- (7) Environmentally sensitive lands within a wetland protection zone:
  - a. The exact sites and specifications for all proposed drainage, filling, grading, dredging, and vegetation removal activities including estimated quantities of excavation or fill materials computed from cross sections, proposed within a wetland protection zone.
  - b. Detailed statement or other materials showing the following:
    - 1. The percentage of the land surface of the site that is covered with natural vegetation and the percentage of natural vegetation that will be removed by development.
    - 2. The distances between development activities and the boundaries of the Wetland Protection Zones and Wetland Buffer Zones.
  - c. The manner in which habitats of endangered and threatened species are protected.
- (8) *Signs*:
  - a. For regulated building signs, a plan, sketch, blueprint, blueline print or similar presentation drawn to scale which indicates clearly:
    - 1. The location of the proposed sign relative to property lines, rights-of-way, streets, alleys, sidewalks, vehicular access and parking areas, buildings and structures on the parcel.
    - 2. The number, size, type and location of all existing signs on the same parcel, except a single business unit in a multiple occupancy complex shall not be required to delineate the signs of other business units. In the case of a sign for a single business unit in a multiple occupancy complex, provide the total facade area of the single business unit's portion of the complex.
    - 3. A building elevation or other documentation indicating the building dimensions.
    - 4. The type, number and dimensions of the proposed signs.
    - 5. The type of proposed illumination, if any.
- (9) *Subdivision*. Proposed number, minimum area and location of lots, if development involves a subdivision of land.
- (10) Land use and dedications:
  - a. Location of all land to be dedicated or reserved for all public and private uses including rights-of-way, easements, special reservations, and the like.
  - b. Amount of area devoted to all existing and proposed land uses, including schools, open space, churches, residential and commercial, as well as the location thereof.
  - c. The total number and type of residential units categorized according to number of bedrooms. The total number of residential units per acre (gross density) shall be given.
- (11) *Wellfield protection*. Location of on-site wells, and wells within one thousand (1,000) feet of any property line, exceeding one hundred thousand (100,000) gallons per day.
- (12) *Historic and archaeological sites*. The manner in which historic and archaeological sites will be protected.

(Ord. No. 2004-10, § 1, 10-4-04)

**Sec. 27-85. - Reserved.**

**Sec. 27-86. - Additional submittal requirements for a final development plan requirements.**

A final development plan shall include the information required in a preliminary development plan plus the following additional or more detailed information:

- (1) Every development shall be given a name by which it shall be legally known. The name shall not be the same as any other name appearing on any recorded plat except when the proposed

development includes a subdivision that is subdivided as an additional unit or section by the same developer or his successors in title. Every development name shall have legible lettering of the same size and type including the words "section", "unit," "replat," "amended," and the like where relevant. The name of the development shall be indicated on every page.

- (2) If new lots are being created, all lots shall be numeric by progressive numbers; blocks shall be alphabetic, by progressive letters. Except that blocks in numbered additions bearing the same name may be lettered consecutively throughout several additions.
- (3) All contiguous properties shall be identified by development title, plat book, and page, or if the land is unplatted, it shall be so designated. If a new subdivision to be platted is a re-subdivision of a part or the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. All abutting existing easements and rights-of-way must be indicated. The abutting existing rights-of-way must be indicated to the centerline.
- (4) Any proposed restrictions pertaining to the type and use and maintenance of existing or proposed improvements, waterways, open spaces, building lines, buffer strips and walls, retention/detention areas and other restrictions of similar nature, shall require the establishment of restrictive covenants and such covenants shall be submitted with the final development plan for recordation and recorded prior to the issuance of the first building permit. The entire cost of recordation shall be borne by the developer.
- (5) Where the development includes private streets, ownership and maintenance association documents shall be submitted with the final development plan and the dedication contained on the development plan shall clearly indicate the roads and maintenance responsibility to the association without recourse to the city or any other public agency. Said document shall be recorded prior to the issuance of the first building permit, all costs to be borne by the developer.
- (6) All manmade lakes, ponds, and other manmade bodies of water (excluding retention/detention areas) shown on the final development plan for a subdivision shall be made a part of adjacent private lot(s) as shown on the final plat. The ownership of these bodies of water shall not be dedicated to the public unless accepted by the city council.

(Ord. No. 2004-10, § 1, 10-4-04)

## **Sec. 27-87. - Required and optional contents of preliminary development orders.**

- (a) A preliminary development order shall contain the following required materials:
  - (1) An approved preliminary development plan (may be subject to conditions and modifications) with findings and conclusions.
  - (2) A listing of conditions that must be met, and modifications to the preliminary development plan that must be made, in order for a final development order to be issued. The modifications shall be described in sufficient detail and exactness to permit a developer to amend the proposal accordingly.
  - (3) A listing of all federal, state, and regional permits that must be obtained in order for a final development order to be issued.
  - (4) With regard to the concurrency management requirements in article VI:
    - a. The initial determination of concurrency.
    - b. The time period for which the preliminary development order is valid. This initial determination indicates that capacity is expected to be available for the proposed project, provided that a complete application for a final development order is submitted prior to the expiration date of the preliminary development order.
    - c. Notice that the preliminary development order does not constitute a final development order and that one (1) or more concurrency determinations may subsequently be required. The notice may include a provisional listing of facilities for which commitments may be required prior to the issuance of a final development order.

- d. Notice that issuance of a preliminary development order is not binding with regard to decisions to approve or deny a final development order, and that it does not constitute a binding commitment for capacity of a facility or service.

**(b) A preliminary development order may contain one (1) or more of the following optional materials:**

- (1) Agreement by the developer in a recordable written instrument running with the land that no final development order will be requested or approved unless the necessary facilities are programmed for construction within specified time periods.
- (2) Commitment by the developer in a recordable written instrument to contract for provision of the necessary services or facilities to achieve the concurrency requirement.
- (3) Schedule of construction phasing of the proposed development consistent with the anticipated availability of one (1) or more services or facilities.
- (4) Such other conditions as may be required by the community development community design board to ensure that concurrency will be met for all applicable facilities and services.

*(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 13, 9-7-10)*

**Sec. 27-88. - Required and optional contents of final development orders.**

**(a) A final development order shall contain the following required materials:**

- (1) A determination that, where one was required, a valid preliminary development order exists for the requested development.
- (2) An approved final development plan with findings and conclusions.
- (3) A determination from the city staff that all conditions of the preliminary development order have been met.
- (4) If modifications must be made to the development plan before a final development order may be issued, a listing of those modifications and the time limit for submitting a modified plan.
- (5) A specific time period during which the development order is valid and during which time development shall commence. A final development order shall remain valid only if development commences and continues in good faith according to the terms and conditions of approval. If the first building permit that is related to the final development order is not issued within one (1) year of the date of the issuance of the final development order the approval shall be considered null and void. However, the city council, upon showing of good cause may extend such approval period. All such extensions must be requested and heard by the city council prior to expiration of the development order.
- (6) A commitment by the city to the following:
  - a. That if the city agrees to provide some or all of the public facilities needed to meet, shall not be deferred or deleted from the five-year schedule of capital improvements or the adopted one-year capital budget unless the subject final development order expires or is rescinded prior to the issuance of a certificate of occupancy.
  - b. Contracts shall provide that construction of necessary facilities must proceed to completion with no unreasonable delay or interruption.

**(b) A final development order may contain one (1) or more of the following optional materials:**

- (1) A schedule of construction phasing consistent with availability of capacity of one (1) or more services and facilities.
- (2) A schedule of services or facilities to be provided or contracted for construction by the applicant prior to the issuance of any certificate of occupancy or within specified time periods.
- (3) Any alternate service impact mitigation measures to which the applicant has committed in a recordable written instrument.

- (4) A security agreement in the amount of one hundred ten (110) percent of the cost of services or facilities that the applicant is required to construct, contract for construction, or otherwise provide.
- (5) Such other conditions as may be required to ensure compliance with the concurrency requirement.

(Ord. No. 2004-10, § 1, 10-4-04)

## **Sec. 27-89.**

### **(a) Purpose.**

- (1) The purpose of this ordinance is to enable the City of Neptune Beach sufficient time to review information collected and adopt an amendment or amendments to the City of Neptune Beach Unified Land Development Code and/or Code of Ordinances and the proposed comprehensive plan, relating to development in the Central Business District and Commercial C-1 zoning district. The City will not accept any application or issue any approvals for development orders or other development approvals authorizing development in the Central Business District or Commercial C-1 zoning district, except as provided in this ordinance, or as may otherwise be required by applicable law.
- (2) It is further the purpose of this Ordinance to fulfill the City's constitutional charge and statutory obligations to protect and preserve the public health, safety and welfare of the citizens of the City of Neptune Beach, regarding development in the Central Business District or Commercial C-1 zoning district; and thus defer official government action until the City of Neptune Beach has properly analyzed the data it has collected and adopted amendments to the City of Neptune Beach Unified Land Development Code and/or Code of Ordinances and comprehensive plan, as necessary.

### **(b) Imposition of Temporary Moratorium.**

No application for approval of development or any other official action of the City having the effect of permitting or allowing development in the Central Business District or Commercial C-1 zoning district may be accepted or processed or approved by the City, except as may be required by applicable law or as provided below. To the extent such an application is submitted, the City staff is authorized to take action to deny such application during the term of this moratorium. Notwithstanding anything to the contrary in this section, this moratorium shall not apply to or restrict the issuance of construction permits, including but not limited to building, plumbing, electrical, mechanical, or other similar permits, so long as such permits relate to the alteration of an existing building or structure and pursuant to which no change is made to its gross floor area or the amount of impervious surface on the site, even if the net square footage for existing business within may change. Such moratorium also shall not restrict demolition permits for existing manmade structures so long as such permit is not issued in conjunction with or related to a permit or order to construct a building or structure having an effect of changing the footprint of current or previously existing buildings or structures on the property. In interpreting whether an application is prohibited or permitted by this moratorium, it is the City Council's intention to restrict new development and redevelopment having the effect of implementing a scheme of development different than that previously existing on the property and not of preventing work on properties consistent with the existing scheme of development on the property. In the event of any question as to such matters, the City shall apply its judgment to such matters to implement the intent of this moratorium.

### **(c) Term.**

The moratorium imposed by this ordinance is temporary and, unless dissolved earlier by the City, shall automatically dissolve in three hundred and sixty-five (365) days from the effective date of this ordinance, unless extended in accordance with applicable law. This moratorium may be reasonably extended, if necessary, by ordinance of the City Council.

### **(d) Early Termination.**

~~The moratorium imposed by this ordinance may terminate prior to its term upon the passage of an ordinance regulating, permitting, or allowing development in the Central Business District or Commercial C-1 zoning district, provided:~~

- ~~(1) Specific language terminating the moratorium is contained within said enacted ordinance; or by~~
- ~~(2) Passage of another ordinance providing for termination by the City Council.~~

~~(e) **Repeal of Laws in Conflict.**~~

~~All local laws and ordinances in conflict with any provision of this ordinance are hereby repealed to the extent of any conflict.~~

~~(f) **Effective Date.**~~

~~This ordinance shall take effect immediately upon passage after second reading/public hearing.~~

**Secs. 27-89—27-100. - Reserved.**

### **DIVISION 3. - PLATTING REQUIREMENTS**<sup>[7]</sup>

#### **Sec. 27-101. - Generally.**

- (a) It shall be unlawful for any person to submit a plat for the subdivision of land to the clerk of the circuit court of the county or his representative for the purpose of recording the plat in the office of the clerk until the plat has been approved by the city council under the provisions of this article and signed by the mayor. If an unapproved plat is recorded, it shall be stricken from the public records upon the adoption of an appropriate resolution by the city council. No changes, erasures, modifications or revisions shall be made in any plat, approved by the city council without the consent of the city council.
- (b) Where proposed development includes the subdivision of land, the final approval of the development plan by the city council shall be made contingent upon approval by the city council of a plat conforming to the final development plan. Preliminary development plans and preliminary plats may be submitted for review simultaneously.

(Ord. No. 2004-10, § 1, 10-4-04)

#### **Sec. 27-101.1. - Platting requirements.**

- (a) **Application of regulations.** Except as provided in this section, no person shall be eligible for any development permit for a principal building on any lot subdivided after January 1, 2022, property located within the city until the subject property has been platted in conformity with the provisions of this section unless subdivision of the land on which the principal building is not otherwise required.
- (b) **Exemption.** Upon a finding by the city manager or his designee that the subject property had been platted was platted or no platting was or is required, and the regulations in this section have been met and upon payment of any fee for the costs of processing required herein, the following types of development shall be deemed exempt and not subject to the provisions of this mandatory platting requirement of the land development code:
  - (1) No further change to a recorded plat is created and all or no development is undertaken except in conformance with the regulations in this chapter recorded plat or as specifically allowed in this section.
  - (2) The dedication of land or any interest in land to any governmental agency, entity or political subdivision.

~~(3) The division of a duplex-zoned platted lot to permit individual ownership in conformance with zoning regulations. Provided that any such structures have been constructed in accordance with the appropriate building regulations that allow for such occupancy.~~

(34) The combination of lots and/or portions of lots in a residential district or those in a residential district with lots in a nonresidential district to create a common building site provided that the property owner presents an instrument recordable in the public records of Duval County, Florida identifying the boundaries of the building site and the intent to develop and convey as one (1) site or parcel in perpetuity or so long as the proposed use exists. Said instrument must be presented to the city council for their acceptance or rejection. No combination shall be approved where approval would allow violation of any other provision of the ULDC. Recording fees and a processing fee, as established by resolution of the city council shall be paid by the property owner.

*(Ord. No. 2004-10, § 1, 10-4-04)*

## **Sec. 27-101.2. - Required plat information.**

Any proposed plat submitted to the city shall contain the following information:

- (1) The boundary lines of the area being subdivided with the distance and bearings and the legal description of the property.
- (2) The lines of all proposed streets with their widths and names. All street names must be approved by the building department.
- (3) The outline of any portions of the property intended to be dedicated for public use, such as for schools, parks, etc.
- (4) The lines of adjoining streets with their widths and names.
- (5) The square foot area of each lot, the net usable acreage (less jurisdictional areas), and the minimum finished floor elevation (FFE).
- (6) The location of all setback lines and easements provided for public use, service, utilities or drainage.
- (7) All dimensions both linear and angular for locating the boundaries of the subdivision, lots, streets, easements, and any other areas, for public use or private use. Linear dimensions are to be given to the nearest one-one hundredth of a foot.
- (8) The radii, arcs, chords, chord bearings, points of tangencies and central angles for curved streets and rounded block corners, per Florida Statutes.
- (9) The location of all survey monuments, permanent points and azimuth marks with their descriptions.
- (10) The name of the subdivision, the scale of the plat (written and graphic), points of the compass and the name of the owner and owners of the subdivision.
- (11) Certification of a currently registered surveyor of the State of Florida as to the correct representation of the plat per Florida Statutes.
- (12) Private restrictions and trusteeships and their period of existence.
- (13) Acknowledgment of the owner and owners to the plat and restrictions, including dedication to public use of all streets and parks, alleys, easements, rights-of-way and public areas shown on such plat, the dedication of or granting of easements required.
- (14) All flood hazard zones as established by the FEMA Flood Insurance Rate Maps.
- (15) Subdivision plats located within areas of potential storm surge inundation shall include a statement that "The area as depicted hereon is subject to storm surge inundation during a Category one (1), two (2), three (3), four (4), or five (5) hurricane.



- (16) All wetland jurisdictional areas.
- (17) Present zoning district(s) the property is located in.
- (18) The location of permanent bench marks which shall be provided at convenient points with elevations indicated.
- (19) All lots shall be numeric by progressive numerals; blocks shall be alphabetic, by progressive letters. Except that blocks in numbered additions bearing the same name may be lettered consecutively throughout several additions.

(Ord. No. 2004-10, § 1, 10-4-04)

## Sec. 27-102. - Procedures for platting.

- (a) **Submittal of proposed preliminary plat.** Twelve (12) copies of the ~~a~~ proposed preliminary plat, as described in F.S. Ch. 177, and at a scale prescribed by the City of Jacksonville, shall be submitted to the city manager or designee. Preliminary development plans may be submitted and considered simultaneously with the proposed preliminary plat.
- (b) **Copies of proposed preliminary plat.** The city manager or designee shall forward copies to the ~~community development board~~ community design board after circulating copies to the various city departments for their review.
- (c) **Discussion of details.** The developer may be asked to meet with city staff to discuss any details of said preliminary plat that may impede the approval and acceptance of the plat.
- (d) **Recommendations and comments.** Each city department, that so wishes, and the ~~community development board~~ community design board shall submit to the city manager or designee any recommendations and comments in writing.
- (e) **Copy of recommendations and comments.** The city manager or designee shall then forward a copy of said recommendations and comments to the developer and retain the originals as a record.
- (f) **Submittal of proposed final plat.** Within six (6) months of receiving said comments and recommendations, the developer shall then submit the proposed final plat in triplicate as described in F.S. Ch. 177, to the city manager or designee, of which one (1) shall be the original. If more than six (6) months elapses, the developer shall resubmit a preliminary plat to reinitiate the process.
- ~~(g) **Original retained by city clerk.** The city manager or designee shall forward the original to the city clerk who shall retain it for the permanent record.~~
- (gh) **Recommendation by board.** Within sixty (60) days after receipt of said proposed final plat, the ~~community development board~~ community design board shall make a recommendation that approves, approves with conditions, or denies said final plat. Failure to do so shall be deemed as a recommendation of approval by the board.
- (hi) **Approval or denial by city council.** At the next available meeting of the city council allowing for required notice, the city council shall approve, approve with conditions, or deny said plat after consideration of the comments and recommendations of the ~~community development board~~ community design board and the various city departments.
- (ij) **If accepted by council.** Upon acceptance by the city council, the seal of the city and the signature of the mayor and city clerk shall be affixed to the original final plat and returned to the developer.
- (jk) **Approved final plat to be recorded.** Within six (6) months after the city council approves said final plat, the developer shall have recorded the plat in the public records of the county and shall return to the city clerk two (2) copies showing the certificates of the Clerk of the Circuit Court of Duval County, Florida, and the seal of that court. If more than six (6) months elapse, such plat shall be deemed invalid and the city clerk shall notify the Clerk of the Circuit Court of Duval County, Florida, to refuse to record such plat. ~~The developer may resubmit said plat directly to the city council within one (1) year for reconsideration.~~

**Secs. 27-103, 27-104. - Reserved.**

#### **DIVISION 4. – RESERVED MINOR REPLAT REQUIREMENTS**

##### **Sec. 27-105. – Generally.**

The city may approve a minor replat that conforms to the requirements of this division.

(Ord. No. 2004-10, § 1, 10-4-04)

##### **Sec. 27-106. – Definitions.**

Refer to article I for definitions.

(Ord. No. 2004-10, § 1, 10-4-04)

##### **Sec. 27-107. – Submittal requirements.**

The city shall consider a proposed minor replat upon the submittal of the following materials:

- (1) An application form provided by the city;
- (2) Twelve (12) paper copies of the proposed minor replat;
- (3) A statement indicating that water and/or sanitary sewer service is available to the property; and
- (4) Land descriptions and acreage or square footage of the original and proposed lots and a signed and sealed survey, dated within thirty (30) days of submittal, showing the intended division, and all encumbrances upon the subject property shall be prepared by a professional land surveyor registered in the State of Florida. In the event a lot contains any principal or accessory structures, a survey showing the structures on the lot shall accompany the application.
- (5) The signed and sealed survey must provide information that demonstrates the resultant lots conform to the standards of this Code.

(Ord. No. 2004-10, § 1, 10-4-04)

##### **Sec. 27-108. – Review procedures.**

- (a) The developer shall submit the required items as described above to the building official or designee.
- (b) If the proposed minor replat meets the conditions and standards of this division and otherwise complies with all applicable laws and ordinances, the city manager shall approve the minor replat by signing the application form.
- (c) Upon approval of the minor replat, the city shall record the replat on the appropriate maps and documents, and shall, at the developer's expense, record the replat in the official county records.

(Ord. No. 2004-10, § 1, 10-4-04)

##### **Sec. 27-109. – Standards and restrictions.**

- (a) Standards. All minor replats shall conform to the following standards:
  - (1) Each proposed lot must conform to the requirements of this Code.
  - (2) Each lot shall abut a public or private street (except as hereinafter provided) for the required minimum lot width for the zoning district/category where the lots are located.

(3) If any lot abuts a street right-of-way that does not conform to the design specifications provided in this Code, the owner may be required to dedicate one-half the right-of-way width necessary to meet the minimum design requirements.

(4) The minor replat process shall not be used to increase the residential density specified by the comprehensive plan, (the number of dwelling units) of any such property.

(b) *Restriction.* No further division of an approved minor replat is permitted under this division.

(Ord. No. 2004-10, § 1, 10-4-04)

## **Sec. 27-110. Temporary moratorium imposed for R-4 zoning district platting and replatting.**

(a) *Purpose.*

(1) The purpose of this section is to enable the City of Neptune Beach sufficient time to review, hold public hearings and adopt an amendment or amendments to the City of Neptune Beach Unified Land Development Code and/or Code of Ordinances or comprehensive plan, relating to platting and replatting of lots which result in an increase in the number of lots on the platted or replatted property in the R-4 zoning district. The city will not accept any application or issue any approvals for land development or other approval authorizing the platting or replatting of any lots in the R-4 zoning district, except as provided in this section, or as may otherwise be required by applicable law.

(2) It is further the purpose of this section to fulfill the city's constitutional charge and statutory obligations to protect and preserve the public health, safety and welfare of the citizens of the City of Neptune Beach, regarding platting and replatting regulations pertaining to the R-4 zoning district; and thus defer official government action until the City of Neptune Beach has properly held public hearings and adopted amendments to the City of Neptune Beach Unified Land Development Code and/or Code of Ordinances or comprehensive plan, as necessary.

(b) *Imposition of temporary moratorium.* No application for approval of development or any other official action of the city having the effect of permitting or allowing the platting or replatting of lots within the R-4 zoning district may be accepted or processed or approved by the city, except as may be required by applicable law or as provided below. To the extent such an application is submitted, the city staff is authorized to take action to deny such application during the term of this moratorium. Notwithstanding the preceding, this moratorium shall not apply to applications for platting or replatting of lots within the R-4 zoning district that do not result in an increase in the total number of lots on the property subject to the application and, instead, are submitted for purposes of reorientation of lots or other similar changes that result in the same or less total lots on the property subject to the application as prior to the requested change, so long as such application otherwise complies with all other requirements of the Code.

(c) *Term.* The moratorium imposed by this ordinance is temporary and, unless dissolved earlier by the city, shall automatically dissolve three hundred and sixty-five (365) days from the effective date of this ordinance, unless extended in accordance with applicable law. This moratorium may be reasonably extended, if necessary, by ordinance of the city council.

(d) *Early termination.* The moratorium imposed by this section may terminate prior to its term upon the passage of an ordinance regulating, permitting, or allowing the platting or replatting of lots in the R-4 zoning district provided:

(1) Specific language terminating the moratorium is contained within said enacted ordinance; or by

(2) Passage of another ordinance providing for termination by the city council.

(e) *Repeal of laws in conflict.* All local laws and ordinances in conflict with any provision of this section are hereby repealed to the extent of any conflict.

(f) *Effective date.* This ordinance shall take effect immediately upon passage after second reading/public hearing.

(Ord. No. 2019-10, 12-2-10; Ord. No. 2020-12, 11-2-20)

**Secs. 27-~~105110-111~~, 27-112. - Reserved.**

**DIVISION 5. - GUARANTEES AND SURETIES**

**Sec. 27-113. - Generally.**

- (a) The provisions of this section apply to all proposed developments in the city, including private road subdivisions.
- (b) Nothing in this section shall be construed as relieving a developer of any requirement relating to concurrency in this Code.
- (c) This section does not modify existing agreements between a developer and the city for subdivisions platted and final development orders granted prior to the effective date of this Code, providing such agreements are current as to all conditions and terms thereof.

*(Ord. No. 2004-10, § 1, 10-4-04)*

**Sec. 27-114. - Improvement agreements required.**

The approval of any final development plan shall be subject to the developer providing assurance that all required improvements, including, but not limited to, storm drainage facilities, streets and highways, water and sewer lines, shall be satisfactorily constructed according to the approved development plan. The following information shall be provided:

- (1) Agreement that all improvements, whether required by this Code or constructed at the developer's option, shall be constructed in accordance with the standards and provisions of this Code.
- (2) The term of the agreement indicating that all required improvements shall be satisfactorily constructed within the period stipulated. The term shall not exceed five (5) years from the recording of the plat or thirty (30) percent occupancy of the development, whichever comes first.
- (3) The projected total cost for each improvement. Cost for construction shall be determined by either of the following:
  - a. Estimate prepared and provided by the applicant's engineer.
  - b. A copy of the executed construction contract provided.
- (4) Specification of the public improvements to be made and dedicated together with the timetable for making improvements.
- (5) Agreement that upon failure of the applicant to make required improvements (or to cause them to be made) according to the schedule for making those improvements, the city shall utilize the security provided in connection with the agreement.
- (6) Provision of the amount and type of security provided to ensure performance.
- (7) Provision that the amount of the security may be reduced periodically, but not more than two (2) times during each year, subsequent to the completion, inspection and acceptance of improvements by the city.

*(Ord. No. 2004-10, § 1, 10-4-04)*

**Sec. 27-115. - Amount and type of security.**

- (a) The amount and type of the security listed in the improvement agreement shall be approved as adequate by the city manager.
- (b) Security requirements may be met by the following:
  - (1) Cashiers check;

- (2) Certified check;
  - (3) Interest bearing certificate of deposit;
  - (4) Irrevocable letters of credit;
  - (5) Surety bond.
- (c) The amount of security shall be one hundred and ten (110) percent of the total construction costs for the required developer-installed improvements. The amount of security may be reduced commensurate with the completion and final acceptance of required improvements. In no case, however, shall the amount of the bond be less than one hundred and ten (110) percent of the cost of completing the remaining required improvements.
- (d) Standard forms are available from the city approved by the city council.

*(Ord. No. 2004-10, § 1, 10-4-04)*

#### **Sec. 27-116. - Maintenance of improvements.**

- (a) A maintenance agreement and security shall be provided to assure the city that all required improvements shall be maintained by the developer according to the following requirements:
- (1) The period of maintenance shall be a minimum of three (3) years.
  - (2) The maintenance period shall begin with the acceptance by the city of the construction of the improvements.
  - (3) The security shall be in the amount of fifteen (15) percent of the construction cost of the improvements.
- (b) Whenever a proposed development provides for the creation of facilities or improvements which are not proposed for dedication to the city, a legal entity shall be created to be responsible for the ownership and maintenance of such facilities and/or improvements.
- (1) When the proposed development is to be organized as a condominium under the provisions of F.S. Ch. 718, common facilities and areas shall be conveyed to the condominium's association pursuant to that law. Additionally, all amenities indicated on the city approved final development plan shall be completed prior to the issuance of the first certificate of occupancy (CO) for any dwelling unit. Within phased developments, amenities shall be included in the same phase of the development as the contiguous structures.
  - (2) When no condominium is to be organized, an owners' association shall be created, and all common facilities and areas shall be conveyed to that association. Additionally, all amenities indicated on the city approved final development plan shall be completed prior to the issuance of the first certificate of occupancy (CO) for any dwelling unit. Within phased developments, amenities shall be included in the same phase of the development as the contiguous structures.
  - (3) No final development order shall be issued for a development for which an owners' association is required until the documents establishing such association have been reviewed and approved by the city attorney.
- (c) An organization established for the purpose of owning and maintaining common facilities and areas not proposed for dedication to the city shall be created by covenants running with the land. Such organization shall not be dissolved nor shall it convey any common facilities or areas by sale or otherwise without first obtaining city council approval.

*(Ord. No. 2004-10, § 1, 10-4-04)*

#### **Sec. 27-117. - Completion of improvements.**

When improvements are completed, final inspection shall be conducted and corrections, if any, shall be completed before final acceptance is recommended by the building official. A recommendation for final acceptance shall be made upon receipt of a certification of project completion and one (1) copy of all test

results relating to the improvement. As required improvements are completed and accepted, the developer may apply for release of all or a portion of the security consistent with this division.

*(Ord. No. 2004-10, § 1, 10-4-04)*

**Secs. 27-118—27-120. - Reserved.**

**DIVISION 6. - ENFORCEMENT OF DEVELOPMENT PERMITS AND ORDERS**

**Sec. 27-121. - Generally.**

This division establishes the procedures for enforcement and for issuing a minor and major deviation from a final development plan.

*(Ord. No. 2004-10, § 1, 10-4-04)*

**Sec. 27-122. - Definitions.**

Refer to article I for definitions.

*(Ord. No. 2004-10, § 1, 10-4-04)*

**Sec. 27-123. - Ongoing inspections.**

The city shall periodically inspect development work in progress to ~~insure~~ ensure compliance with the development permit which authorized the activity.

*(Ord. No. 2004-10, § 1, 10-4-04)*

**Sec. 27-124. - Procedure for minor deviations.**

If the work is found to have one (1) or more minor deviations, the city manager or designee may amend the final development order to conform to actual development. The city manager or designee may, however refer any minor deviation that significantly affects the development's compliance with the purposes of this Code to the ~~community development board~~ community design board for treatment as a major deviation.

*(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 15, 9-7-10)*

**Sec. 27-125. - Procedure for major deviations.**

- (a) If the work is found to have one (1) or more major deviations, the city manager or designee shall:
- (1) Place the matter on the next agenda of the ~~community development board~~ community design board, allowing for adequate notice, and recommend appropriate action for the board to take.
  - (2) Issue a stop work order and/or refuse to allow occupancy of all or part of the development if deemed necessary to protect the public interest. The order shall remain in effect until the city determines that work or occupancy may proceed pursuant to the decision of the ~~community development board~~ community design board.
  - (3) Refer the matter to the code inspector, if it appears that the developer has committed violations within the jurisdiction of the code enforcement board.
- (b) The ~~community development board~~ community design board shall hold a public hearing on the matter and shall take one (1) of the following actions:



- (1) Order the developer to bring the development into substantial compliance (i.e., having no or only minor deviations) within a reasonable period of time. The final development order or permit may be revoked if this order is not complied with.
- (2) Amend the final development order or permit to accommodate adjustments to the development made necessary by technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process. Amendments shall be the minimum necessary to overcome the difficulty, and shall be consistent with the intent and purpose of the development order given and the requirements of this Code.
- (3) Revoke the relevant final development order or permit based on a determination that the development cannot be brought into substantial compliance and that the development order or permit should not be amended to accommodate the deviations.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 16, 9-7-10)

#### **Sec. 27-126. - Revocation of final development order.**

After a final development order or permit has been revoked, development activity shall not proceed on the site until a new final development order or permit is granted in accordance with procedures for original approval.

(Ord. No. 2004-10, § 1, 10-4-04)

#### **Secs. 27-127—27-130. - Reserved.**

### **DIVISION 7. - REVIEW OF ADMINISTRATIVE, LEGISLATIVE AND QUASI-JUDICIAL DECISIONS**

#### **Sec. 27-131. - Generally.**

This division establishes the means for an aggrieved or adversely affected person to appeal an administrative, or legislative, or quasi-judicial decision.

(Ord. No. 2004-10, § 1, 10-4-04)

#### **Sec. 27-132. - Review of legislative and quasi-judicial decisions.**

Any final action by the city council, or the community development board-community design board are subject to review in a court of competent jurisdiction as prescribed by law.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 17, 9-7-10; Ord. No. [2016-02](#), § 1, 3-7-16)

#### **Sec. 27-133. - Review of administrative decisions.**

- (a) **Generally.** Any aggrieved or adversely affected person may appeal any final order or decision of the city manager or their respective designees to the community development board-community design board within thirty (30) days of the date that the order was rendered.
- (b) **Appeal application.** The appeal shall be made in writing indicating the following:
  - (1) A statement of the decision to be reviewed, and the date of the decision.
  - (2) A statement of the interest of the person seeking review.
  - (3) The specific error alleged as the grounds of the appeal.
- (c) **Appeals process.** The following procedure shall be followed to process appeals:

- (1) Submittal of appeal. The aggrieved or adversely affected person shall submit a completed appeal application, as described in this part, to the city clerk who shall indicate on the application the date of submittal.
- (2) The city manager, or designee, shall compile and transmit to the ~~community development board~~ community design board all copies constituting the record relating to the decision being appealed.
- (3) The ~~community development board~~ community design board shall fix a reasonable time and place for the hearing of appeals and shall give notice thereof to the persons making the appeal and to the officer from whom the appeal is being taken.
- (4) At the hearing, parties of interest may appear in person or by agent or attorney. The ~~community development board~~ community design board may reverse, affirm, in whole or in part, or modify the order, requirement, decision, or determination being appealed. In so doing, the requisite board shall have all of the powers of the officer from whom the appeal is taken.
- (d) **Effect of appeal.** An appeal stays all actions required by or relating to the decision being appealed, unless the city manager certifies to the ~~community development board~~ community design board that such a stay would, in his opinion, cause imminent peril to life or property, in which case the actions shall not be stayed.
- (e) **Burden of proof.** The burden of proof that the decision being appealed is in error shall be upon the applicant for the appeal.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 18, 9-7-10)

**Secs. 27-134—27-140. - Reserved.**