

INTRODUCED BY:

MAYOR BROWN



ORDINANCE NO. 2023-11

**A BILL TO BE ENTITLED**

**AN ORDINANCE BY THE CITY OF NEPTUNE BEACH AMENDING PART II - CODE OF ORDINANCES CHAPTER 27 - UNIFIED LAND DEVELOPMENT REGULATIONS ARTICLE I. GENERAL. DEFINITIONS, ARTICLE III. - ADMINISTRATIVE AND ENFORCEMENT PROCEDURES DIVISION 8. VARIANCES, AND CHAPTER 30 FLOODPLAINS; PROVIDING SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Section 2(b), Article VIII of the Florida Constitution and Chapter 166 of the Florida Statutes, the City of Neptune Beach possesses the powers to enact ordinances in order to protect the health, safety, and welfare of the City's citizens and residents; and

**WHEREAS**, the City Council of the City of Neptune Beach, Florida determines that it is in the best interest of its residents, businesses and visitors to enact sufficient land use regulations and land use plans to ensure their health, safety and welfare; and

**WHEREAS**, the City of Neptune Beach, Florida previously enacted Chapter 27 Unified Land Development Regulations and Code of Ordinances, of the City of Neptune Beach and;

**WHEREAS**, the City of Neptune Beach, Florida previously enacted Chapter 30 Floodplains Code of Ordinances, of the City of Neptune Beach and;

**WHEREAS**, the City of Neptune Beach participates in the National Flood Insurance Program and participates in the NFIP's Community Rating System, a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum program requirements and achieved a CRS rating of Class 8, making citizens who purchase NFIP flood insurance policies eligible for premium discounts; and

**WHEREAS**, in 2020 the NFIP Community Rating System established certain minimum prerequisites for communities to qualify for or maintain class ratings of Class 8 or better; and

**WHEREAS**, to satisfy the prerequisite and clarify that installation of manufactured homes is not permitted to maintain the current CRS rating, as well as to make other changes recommended by consultants for the Florida Department of Emergency

Management office of Floodplain Management, certain revisions are necessary to the City's Code of Ordinances.

**WHEREAS**, proper notice has been given of the public hearings of this proposed ordinance and of the public hearings in the City Council Chambers; and

**WHEREAS**, the public hearings were held pursuant to the published notice described at which hearings the parties in interest and all others had an opportunity to be and were, in fact, heard; and

**WHEREAS**, the City Council for the City of Neptune Beach, Florida finds and declares that this ordinance is in the best interest of the public health, safety and welfare of the citizens and residents of the City of Neptune Beach, Florida and that it advances a significant and important governmental interest; and

**WHEREAS**, in particular, the City Council of the City of Neptune Beach, Florida has determined that it is necessary and in the interest of the public welfare to amend the language contained in the attached "**EXHIBIT A**".

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA:**

**SECTION 1.** Chapter 27 Unified Land Development Regulations, Chapter 30 Floodplains and the additional aforementioned chapters of the Code of Ordinances of the City of Neptune Beach is hereby revised as provided on "**EXHIBIT A**".

**SECTION 2.** Severability. If any section, sentence, clause, phrase, or word of this Ordinance or "**EXHIBIT A**" is, for any reason, held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Ordinance or "**EXHIBIT A**", and it shall be construed to be the legislative intent to pass this Ordinance or "**EXHIBIT A**" without such unconstitutional, invalid or inoperative part therein.

**SECTION 3.** 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.

**SECTION 4.** Effective Date. This Ordinance shall become effective immediately upon its passage by the City Council.

**VOTE RESULTS OF FIRST READING:**

Mayor Elaine Brown	YES
Vice Mayor Kerry Chin	YES
Councilor Josh Messinger	ABSENT
Councilor Lauren Key	YES
Councilor Nia Livingston	YES

Passed on First Reading this 6<sup>th</sup> day of November, 2023.

**VOTE RESULTS OF SECOND AND FINAL READING:**

Mayor Elaine Brown	YES
Vice Mayor Kerry Chin	ABSENT
Councilor Josh Messinger	YES
Councilor Lauren Key	YES
Councilor Nia Livingston	YES

Passed on Second and Final Reading this 2<sup>nd</sup> day of January, 2024.

  
Elaine Brown, Mayor

ATTEST:

  
Catherine Ponson, CMC  
City Clerk



Approved as to form and contents

  
Zachary R. Roth, City Attorney

## 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 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, playhouses, and other buildings not designed or intended for habitation such as satellite dish, radio, or television antennae, swimming pool, hot tub, and similar structure, 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 beyond the existing building envelope.

*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 establishment or business operated for commercial gain that profits from the delivery of nude or semi-nude entertainment as defined in section 4-26.

*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).

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*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 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, 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.

*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.

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~~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.~~

*Attenuation* means the reduction of post-development stormwater characteristics to the historical pre-development levels for peak discharge rate and volume (article XII).

*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.

*Balcony* means a platform that projects from the wall of a building and is enclosed by a parapet or railing.

*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.

*Boathouse lots* are defined as lots which exist along the waterfront and were accepted by the city under the premise that these lots would serve only as water access for the residents of a specific subdivision. As such, the purpose and intention of these boathouse lots is to serve as accessory lots to the main residential properties within that subdivision.

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

*Boutique* shall mean any retail establishment selling clothing, specialty food goods, gifts, and antiques, located in a freestanding building not more than two (2) stories in height and not containing more than two thousand (2,000) square feet on either floor.

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

*Buffer yard* 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.

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*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 distance above the crown of the road in front of the building 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 27-576-1).

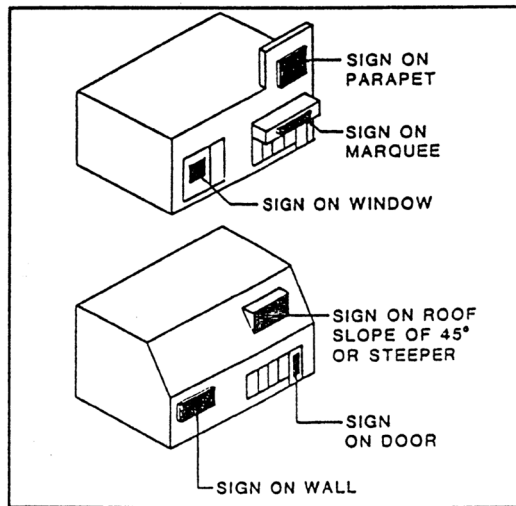


Figure 27-576-1

*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.

*Caliper* means a measurement of the size of a replacement tree at a predetermined point. Trunk diameter for trees up to four (4) inches is to be measured six (6) inches above the soil line. Trees four (4) inches in diameter and greater will be measured twelve (12) inches above the soil line.

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

*Cannabis dispensing business* means a business location offering cannabis for retail sale pursuant to a license to dispense cannabis issued under applicable law.

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*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.

*Catered event* is defined as an event in which a property owner hosting a private special event pays the food truck operator or owner for the service and no individual "walk-up" sales occur.

*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.

*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 curb line 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 27-15-1.

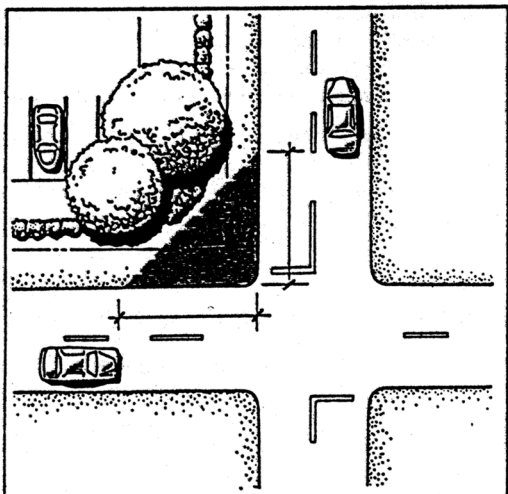


Figure 27-15-1

*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.

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*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.

*Corner lot visibility triangle* means a triangular area including that portion of the public right-of-way and any corner lots within the adjacent curb lines, or roadway edge if no curb is present, and a diagonal line intersecting such curb lines at points thirty-five (35) feet back from their intersection (such curb lines being extended if necessary to determine intersection point). For corner lots fronting arterial roads, the setback distance for the two (2) points shall be fifty (50) feet from their intersection.

*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.

*Deck* means any elevated outdoor platform without a roof which can either be attached or detached from a structure.

*Defects (tree)* means deficiencies in the integrity of a tree caused by either: 1) injury or disease that seriously weakens the stems, roots, or branches of trees, predisposing them to fail; or 2) structural problems arising from poor tree architecture, including V-shaped crotches in stems and branches that lead to weak unions, shallow rooting habits, inherently brittle wood, etc.

*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.

- 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.
- For buildings on lots that have already been subdivided and streets have already been created, gross area means the entire lot area without inclusion of the adjoining local public right-of-way. Notwithstanding the preceding sentence, one-half the width of the adjoining local public right-of-way shall be included in the calculation of gross area for any lot on which a residential building existed at the time of this ordinance if:

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- ° Calculation of the gross area of the lot without inclusion of one-half the width of the adjoining local public right-of-way would result in such lot not meeting the minimum calculation required to permit a single residential unit on the lot; and
  - ° Calculation of the gross area of the lot with inclusion of one-half the width of the adjoining local public right-of-way would result in such lot meeting the minimum calculation required to permit a single residential unit on the lot.

~~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.]~~

*Detention* means the collection and storage of surface water for subsequent gradual discharge.

*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, 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, 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 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.

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*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, 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 extending to the ground.

*Driveway* is defined as a way for vehicular access that connects public roadways and off-street vehicular use areas.

*Driveway apron* is defined as the portion of a driveway between the property line and the curb or curb line if no curb is present.

*Driveway visibility triangle* means a triangular area extending ten (10) feet along the driveway edge and the sidewalk edge, from the point where the driveway meets the sidewalk, and within a diagonal line connecting those two (2) points. If no sidewalk is present, the vision triangle shall mean the area extending fifteen (15) feet along the driveway edge and the curb line, or roadway edge if no curb is present, from the point where the driveway meets the curb, and within a diagonal line connecting those two (2) points. For driveways intersecting arterial roads the triangle shall extend thirty (30) feet in both directions.

*Drive-thru facility* means an establishment or portion thereof where a patron is provided products or services of any type without departing from a vehicle or where a patron may temporarily depart from a vehicle in a non-parking space while servicing it, such as a do-it-yourself car wash or fuel pump.

*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. 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.

*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.

~~*Encroachment.* 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.~~

Encroachment ~~also~~ means the placement of fill, excavation, buildings, permanent structures, accessory structures, any other development or portion thereof extending into a required setback, easement, right-of-way, or other such appurtenances.

*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 27-576-2).

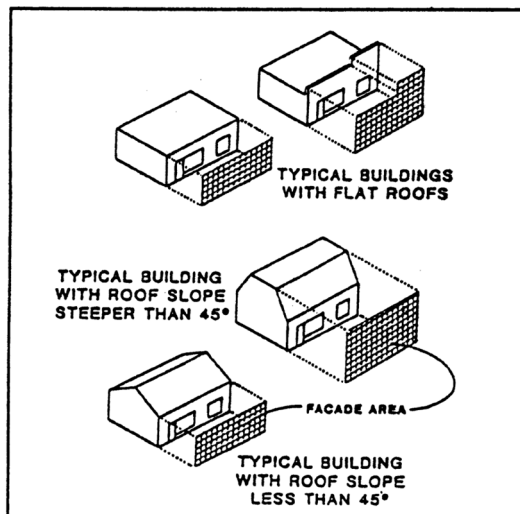


Figure 27-576-2

*Failure (tree)* means the breakage of stem, branches, roots, or loss of mechanical support in the root system.

*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

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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, Section 1612.2.]~~

~~*Flood hazard area.* The greater of the following two (2) areas: [Also defined in FBC, B, Section 1612.2.]~~

~~(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, Section 1612.2.]~~

~~*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, Section 1612.2.]~~

~~*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, Section 1612.2.]~~

~~*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.

*Food truck* is defined as a vehicle, trailer or other similar mobile food unit equipped with facilities for cooking and/or preparing and selling food or other items for human or animal consumption or use.

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*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 the length of property abutting 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.* See "Accessory structure" (Ord. No. 2001-10).

*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.

*Green space* means land that is partly or completely covered with grass, trees, shrubs, or other vegetation.

*Gross density* (see definition of "Density").

*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:

- 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.
- For buildings on lots that have already been subdivided and streets have already been created, gross area means the entire lot area without inclusion of the adjoining local public right-of-way. Notwithstanding the preceding sentence, one-half the width of the adjoining local public right-of-way shall be included in the calculation of gross area for any lot on which a residential building existed at the time of this ordinance if:

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- Calculation of the gross area of the lot without inclusion of one-half the width of the adjoining local public right-of-way would result in such lot not meeting the minimum calculation required to permit a single residential unit on the lot; and
  - Calculation of the gross area of the lot with inclusion of one-half the width of the adjoining local public right-of-way would result in such lot meeting the minimum calculation required to permit a single residential unit on the lot.

*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.

*Hazard tree* means a tree that has structural defects in the roots, stem, or branches that may cause the tree or tree part(s) to fail, and where such failures have been demonstrated to pose a moderate, high, or extreme level of risk to property damage or personal injury, as defined in the ISA Best Management Practices—Tree Risk Assessment.

*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 eighteen (18) inches 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 will be the base flood elevation required for habitable space 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 included or is eligible for inclusion on the National Register of Historic Places, the Florida Master Site File, or local historic registry.

*Home-based business* means a business that is operated in whole or in part, from a residential dwelling and meets the criteria set forth in section 27-332 of this Code.

*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

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chapter 6), hoofed 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.

*Illicit discharge* and *illegal dumping* shall mean any discharge or dumping nearby to or into the municipal separate storm sewer system (MS4) that is not composed entirely of stormwater except for discharges resulting from firefighting activities and a few other categories listed in Part II.A.7a of the city's NPDES stormwater MS4 permit. Common sources and types of non-stormwater include, septic system effluent, vehicle wash water from commercial establishments, washdown, spills, leaks, yard debris, grass clippings, pet waste, litter, trash, midnight dumping, mulch, fertilizer, pesticides, paints, solvents, motor oil, antifreeze, fuel, spills, among other sources and substances.

*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.

*Intersection* means the crossing, or meeting without crossing, of one (1) roadway with another.

*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~~

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~~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.~~

~~Letter, conditional 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 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 27-15-2).

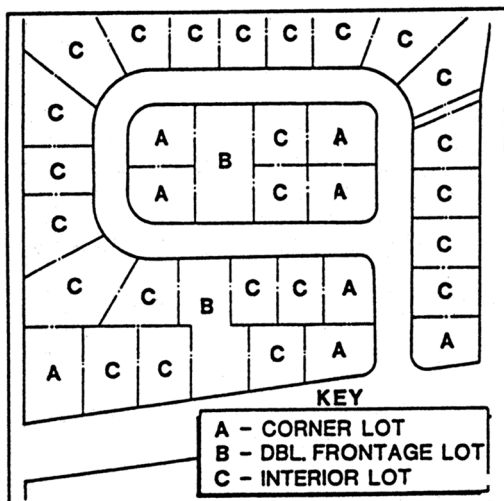


Figure 27-15-2

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

*Lot, interior* means a lot other than a corner lot (see Figure 27-15-2).

*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.

*Low impact design (LID)* means the principles to integrate the following concepts into the design process: use hydrology as the integrating framework, control stormwater at the source, minimize impervious surface area, create a multi-functional landscape and infrastructure, use of Florida-friendly landscaping, promote stormwater harvesting to reduce demands on potable water, promote recharge of groundwater supplies, protect surface waters, and improve air quality and reduce urban heat island effects through the use of vegetation and trees.

*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.

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~~*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, chiropodists, 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 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.

*Moped* shall mean a type of small motorcycle, which is comprised of two (2) wheels, a seat with a footrest in front, foot pedals, a handlebar for steering, and an engine in the back. The engine size is typically fifty (50) cc's or less, as mopeds often also rely on the rider's pedaling for power.

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

*Motorized kick scooter* shall mean a motor-powered personal mobility device, typically electric, which is comprised of two (2) small wheels, a platform deck, and handlebars for steering. While designed to be ridden standing upright on the deck, some can be converted into seated scooters with a removable seat accessory. Top speeds vary from fifteen (15) to thirty (30) miles per hour and these scooters typically weigh between twenty (20) and thirty-five (35) pounds.

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*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.

*Municipal separate storm sewer system* or *MS4* means all of the components of the city's master stormwater system.

*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 lot of record* means any lot of record recorded prior to January 1, 1991 that 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 changed 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.

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*Open-air markets* mean areas in which vendors sell flowers, plants, plant materials, fruits, produce, vegetables and other non-commercially processed food items and hand-crafted items which are made by the vendor or the vendors' immediate family, and who do not sell those items exclusively in compliance with the licensing and building regulations relating to permanent business establishments.

*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 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, 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.

*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, on-street* means designated spaces along a roadway where vehicles may be parked.

*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.

*Parking structure* means a multi-level structure designed and intended for the primary use of parking motor vehicles.

*Patio* means a paved area situated directly on the ground which can either be attached or detached from a structure.

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

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*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.

*Pervious pavements* mean pavements that have air spaces that allow water to move through the pavement, base material, and subbase, and then infiltrate into the ground. Pervious pavement may include an aggregate base as a reservoir and must have suitable native soils as a subgrade to support infiltrating into the ground. Pervious pavement is designed to accept precipitation, reduce runoff, and is typically thicker than traditional pavements to support the same loads. Pervious pavement systems shall have a permeability and infiltration capacity greater than that of the existing uncompacted native soil subgrade that typically has an infiltration capacity that exceeds twenty (20) inches per hour. Traditional solid brick paver systems or systems with base, subbase, or subgrade that are impervious or semi-impervious shall not be considered as a pervious pavement.

*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.

*Pre-development* means the historical condition of a parcel of land prior to any land disturbing activities that have taken place.

*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.

*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.

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*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 four and one-half (4.5) feet above ground level and/or requires a permit for removal or relocation.

*Remodel, major* means a project that has fifty (50) percent or more of a dwelling's exterior walls, measured in linear feet, removed. Removal means either that no studs remain or that if some studs remain, the wall except for the studs has been stripped bare such that one can see through the wall. Any portion of an exterior wall so described shall be included in the calculation.

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

*Renovation, major* means a physical change to an establishment or residence or portion thereof, including the replacement or upgrading of major systems, which extends the useful life. Examples include, but are not limited to, demolition of the interior or exterior of a building or portion thereof, including the removal and subsequent replacement of electrical, plumbing, heating, ventilating and air conditions systems, fixed equipment and interior walls and partitions (whether fixed or moveable). Replacement of broken, dated or worn equipment/items, including, but not limited to, individual air conditioning units, bathroom tile, shower stalls that do not require any additional or new plumbing, electrical, etc. shall not be considered a major renovation.

*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.

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*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.

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

*Retention* means the collection and storage of runoff without subsequent discharge to surface waters.

*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).

*Roadway* means a way for vehicular traffic, whether designated as a street, highway, alley, avenue, boulevard, lane, court, place, or however designated, whenever dedicated to public use.

*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.

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*Scooter* shall mean a type of small motorcycle, which is comprised of two (2) wheels, a single or double seat with a footrest in front, a handlebar for steering, and an engine in the back. Unlike mopeds, there are no foot pedals, and the engine power can vary from fifty (50) cc's to two hundred fifty (250) cc's. Though unlike motorcycles they typically have automatic transmissions, scooters must also have all the same equipment as motorcycles, including turn signals, a license plate, and headlights.

*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.

*Sediment* means the mineral or organic particulate material that is in suspension or has settled in surface water.

*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.

*Sidewalk* means a paved area intended primarily for the use of pedestrians, which is typically, though not always, located within a public street right-of-way.

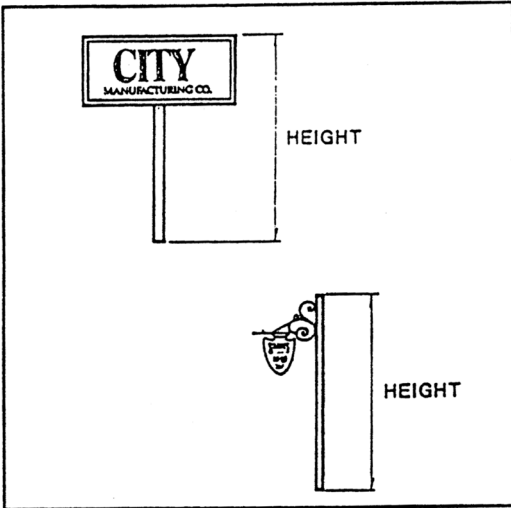
*Sign* means any identification, description, illustration, or device illuminated or non-illuminated, which is visible from any outdoor place, open to the public and which directs attention to a product, service, place, activity, person, institution, or business thereof, including any permanently installed 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 27-576-4).



27-576-4

*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* means generally, any tract, lot or parcel of land or combination of tracts, lots, or parcels of land that are in one (1) ownership, or in diverse ownership but contiguous, and which are to be developed as a single unit, subdivision, or project.

*Snipe sign* means 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 event* means an occasional or periodic gathering hosted, sponsored, or authorized by a property owner.

*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* means 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 of 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~~

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~~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.]~~

*Stormwater* means the flow of water which results from, and that occurs following a rainfall.

*Stormwater management facilities* means those facilities systems which are designed and constructed or implemented to control discharges necessitated by rainfall events, and may incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over drainage, environmental degradation and pollution, or otherwise affect the quality and quantity of discharges.

*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 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 six hundred (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, swimming pools, poles, pipelines, transmission lines, tracks and signs.

*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.~~

~~*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:~~

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~~(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.~~

*Swale* means a shallow channel that functions as an intermittent drainage way.

*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 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.

*Traffic impact study (TIS)* means a study carried out by a registered professional transportation engineer that investigates the impact of a proposed development or other improvement on vehicle, pedestrian, or cyclist safety, and on traffic operations, recommending any mitigating measures that may be required as a result of that impact.

*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 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.

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

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*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.

*Warehouse/mini-warehouse* means a structure used primarily for the storage and distribution of goods or materials.

~~*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 27-375-1.

*Wellhead protection zone* means all land within a two hundred-foot radius of an existing or designated protected wellhead as depicted in Figure 27-375-1.

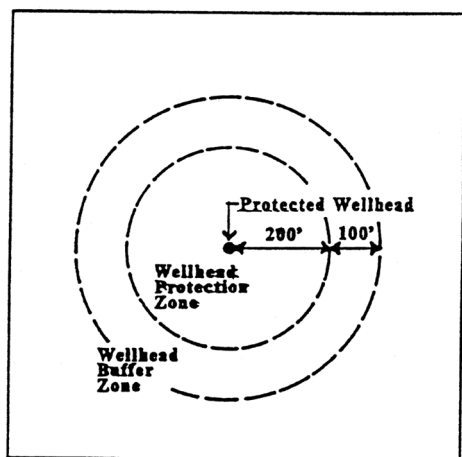


Figure 27-375-1

*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 27-576-5).

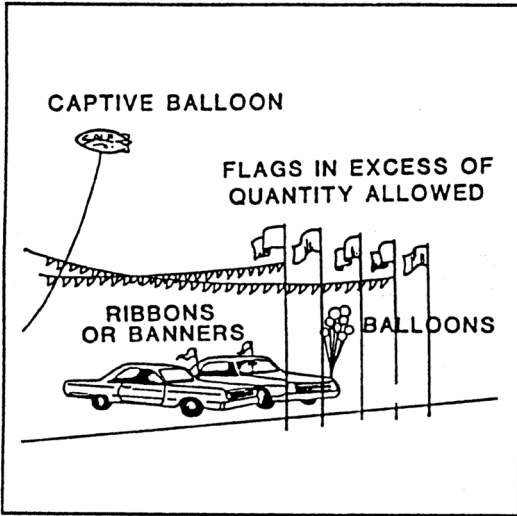


Figure 27-576-5

*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 27-15-2.)

*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 the area directly situated in front of the primary façade of the structure.

*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 27-15-3.)

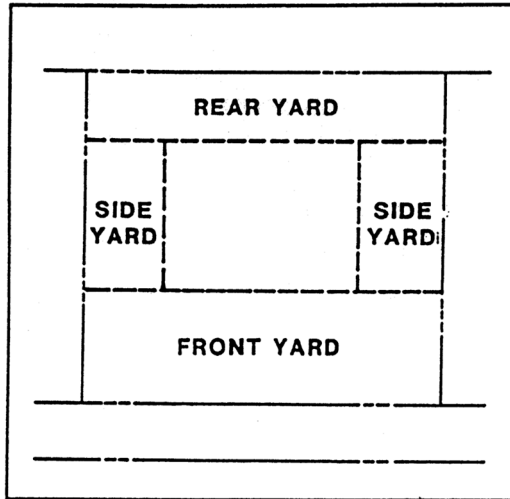


Figure 27-15-3

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

*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; Ord. No. 2022-03, § 1(Exh. A), 8-1-22)

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## ARTICLE III. - ADMINISTRATIVE AND ENFORCEMENT PROCEDURES

### DIVISION 8. - VARIANCES

#### Sec. 27-141. Generally.

The city council upon recommendation by the community development board, may grant a variance from the strict application of any provision of the Code, except provisions for permissible uses and concurrency, or residential variances otherwise decided by the community development board, provided that such variance is granted in conformance with this section.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 19, 9-7-10; Ord. No. 2022-03 , § 1(Exh. A), 8-1-22)

#### Sec. 27-142. Definitions.

Refer to article I for definitions.

(Ord. No. 2004-10, § 1, 10-4-04)

#### Sec. 27-143. Application requirements.

- (a) All applications for variances shall be filed with the city using the forms approved and provided by the city staff.
- (b) The application shall be accompanied by payment of the official filing fee as set by resolution of the city council.
- (c) The application shall include the following:
  - (1) Name and address of the owner and agent, along with notarized signatures of the same;
  - (2) Address and legal description of the property, a copy of the deed and an accurate survey;
  - (3) A description of the proposed variance;
  - (4) An eight and one-half (8½) inches by eleven (11) inches overhead site plan drawn to an appropriate scale showing the location of all existing and proposed improvements to the property and including all setback measurements from property lines. The plot plan, as submitted or modified by the applicable board, shall be binding upon the applicant if the variance is granted;
  - (5) The conditions affecting the property which are not typical of other properties in the zoning district;
  - (6) Facts indicating the unique hardship on the real property;
  - (7) Facts indicating that the variance would not be detrimental to the public welfare or nullify the intent of the Code;
  - (8) An eight and one-half (8½) inches by eleven (11) inch copy of the relevant area of the Duval County Property Ownership Map, to be provided by the building official's office as part of the application packet. Said copy shall show the exact location of the land proposed for the variance, along with all of the properties requiring notice as described in subsection 27-144(c)(2);
  - (9) A list of the addresses of all properties, as described in subsection 27-144(c);

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(10) Notice of exceptional requirements as applicable in section 27-150 or section 27-151, shall be provided; and

(11) Photographs of property as it exists.

(Ord. No. 2004-10, § 1, 10-4-04)

#### **Sec. 27-144. Notice requirements.**

- (a) Notice indicating the time and place of the quasi-judicial public hearing shall be posted in two (2) places in the city, one (1) of which shall be in the front yard of the subject property, facing the street on which the property is addressed, and one (1) of which shall be at City Hall on the public notice board, for at least ten (10) days immediately prior to the quasi-judicial public hearing before the community development board or the city council. Such notice shall contain the address or location of the property and the nature of the application. The notice at the variance site shall be a standard size and design established by the community development board and shall be placed at the subject property by a representative of the building department.
- (b) The building department shall ensure advertised notice is printed in a newspaper of general circulation within the City of Neptune Beach at least ten (10) days prior to the quasi-judicial public hearing before the community development board. The advertised notice shall state the date, time, place of the quasi-judicial public hearing, case number, and shall contain the address of the property and the nature of the application.
- (c) At least ten (10) days prior to the quasi-judicial public hearing, the building department shall give notice of the quasi-judicial public hearing before the community development board by U.S. Mail to the following:
  - (1) The property owner and the applicant if different from the owner; and
  - (2) The owner(s), as listed in the current Duval County Tax Assessor's records, of each property within a three hundred-foot radius of the boundary of the subject property.
- (d) If any party described in section 27-153 does not contest the issue of proper notice within thirty (30) days from the date the applicable community development board or the city council renders final action on a variance, then notice shall be deemed to be in compliance with this section.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 20, 9-7-10; Ord. No. 2022-03 , § 1(Exh. A), 8-1-22)

#### **Sec. 27-145. Procedures for applying for and issuing a variance for property located within the R-1, R-2, R-3, R-4 and R-5 zoning districts.**

- (a) *Submittal of application.* The owner or developer shall submit a completed application, as described in section 27-143, to the office of the city manager or designee.
- (b) *Determination of sufficiency.* The city manager or designee shall review the application within five (5) working days of its submission to determine if it is sufficient. When the application is determined to be complete within the requirements of section 27-143, the city manager or designee shall forward the application to the community development board for consideration.
- (c) *Community development board action.* Allowing for proper notice according to section 27-144, the community development board shall conduct a quasi-judicial public hearing and shall issue a decision granting, granting with conditions, or denying the variance pursuant to the standards of this division and after making the findings of fact required by this division.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 21, 9-7-10; Ord. No. 2022-03 , § 1(Exh. A), 8-1-22)

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## **Sec. 27-145.1. Reserved.**

Editor's note(s)—Ord. No. 2022-03 , § 1(Exh. A), adopted Aug. 1, 2022, deleted § 27-145.1 entitled "Administrative variances," which derived from: Ord. No. 2004-10, § 1, adopted Oct. 4, 2004; and Ord. No. 2010-14, § 22, adopted Sept. 7, 2010.

## **Sec. 27-145.2. Procedures for applying for and issuing a variance for property located within the C-1, C-2, C-3, CBD, and conservation zoning districts.**

- (a) *Submittal of application.* The owner or developer shall submit a completed application, as described in section 27-143, to the office of the city manager or designee.
- (b) *Determination of sufficiency.* The city manager or designee shall review the application within five (5) working days of its submission to determine if it is sufficient. When the application is determined to be complete within the requirements of section 27-143, the city manager or designee shall forward the application to the community development board for consideration.
- (c) *Community development board action.* Allowing for proper notice as specified in this division, the community development board shall conduct a quasi-judicial public hearing and shall prepare, in writing, its comments and recommendation to the city council for approval, approval with conditions, or denial of the application. Any person at the quasi-judicial public hearing shall be afforded the opportunity to be heard.
- (d) *City council action.* At the next available meeting of the city council, allowing for required notice as described in this part, the city council, by way of quasi-judicial public hearing, shall approve, deny, or approve with conditions said application after consideration of the comments and recommendations of the community development board, based on the standards set forth in this division.
- (e) ~~*Floodplain variances.* This section does not apply to variances from floodplain regulations; such variances are decided by the community development board as provided in sections 27-150 and 17-151.~~

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2007-10, § 1, 8-6-07; Ord. No. 2010-14, § 23, 9-7-10; Ord. No. 2022-03 , § 1(Exh. A), 8-1-22)

## **Sec. 27-146. Limitations issuing a variance.**

- (a) Establishment or expansion of a use otherwise prohibited or not permitted shall not be allowed by variance.
- (b) A variance shall not be granted solely because of existing nonconformities, but shall consider topography, elevation, and other such natural occurrences in the zoning district or in the adjoining zoning district.
- (c) A modification to lot requirements so as to increase the permitted density shall not be considered a variance.
- (d) A variance shall not change the functional classification of a use permitted or permissible in a zoning district.
- (e) A variance shall not change the requirements for concurrency.
- (f) A variance shall not allow a billboard to be erected or maintained.
- (g) A variance shall be personal to the applicant and shall not be tied to the land unless the variance is implemented prior to the expiration of the granted variance, or if indicated otherwise on the variance application.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2022-03 , § 1(Exh. A), 8-1-22)

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### **Sec. 27-147. Required findings needed to issue a variance.**

The community development board shall not recommend approval of, any variance unless it makes a positive finding, based on substantial competent evidence presented at the public hearing, on each of the following criteria:

- (1) The property has unique and peculiar circumstances, which create an exceptional and unique hardship. For the purpose of this determination, the unique hardship shall be unique to the parcel and not shared by other property owners in the same zoning district.
- (2) The proposed variance is the minimum necessary to allow the reasonable use of the parcel of land.
- (3) The proposed variance would not adversely affect adjacent and nearby properties or the public in general.
- (4) The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site.
- (5) The effect of the proposed variance is in harmony with the general intent of the ULDC and the specific intent of the relevant subject area(s) of the ULDC.
- (6) The need for the variance has not been created by the actions of the property owner or developer nor is the result of mere disregard for the provisions from which relief is sought.
- (7) Granting the variance will not confer upon the applicant any special privilege that is denied by the ULDC to other lands, buildings, or structures in the same zoning district.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2007-10, § 2, 8-6-07; Ord. No. 2009-05, § 1, 6-1-09; Ord. No. 2010-14, § 24, 9-7-10)

### **Sec. 27-148. Imposition of conditions in issuing a variance.**

In issuing a variance, the community development board or the city council may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to minimize the injurious effect of the variance.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 25, 9-7-10)

### **Sec. 27-149. Expiration of issued variance.**

An approved variance shall be personal to the record title owner at the time of its approval unless an applicant requests transferability and shall, in any event, expire either one (1) year after the date of approval or by earlier council action, unless construction has actually commenced. A one-time extension of up to twelve (12) months may be granted, if the applicant provides a written request to the city manager or designee. An applicant who wishes to utilize a variance that has expired must file a new application and repay the fees associated with a variance application, and the newly filed variance will go through the same process as the original variance.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2022-03, § 1(Exh. A), 8-1-22)

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Sec. 27-150. Reserved. ~~Special provisions for variances and appeals regarding floodplain regulations.~~

- (a) ~~General.~~ Pursuant to F.S. § 553.73(5), the community development board shall hear and decide on requests for appeals and requests for variances from the strict application of the flood-resistant construction requirements in chapter 30 of this Code.
- (b) ~~Appeals.~~ The community development board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the administration and enforcement of chapter 30. Any person aggrieved by the decision of community development board may appeal such decision to the city council.
- (c) ~~Limitations on authority to grant variances.~~ The community development board shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in subsection (g) of this section, the conditions of issuance set forth in subsection (h) of this section, and the comments and recommendations of the floodplain administrator and the building official. The community development board has the right to attach such conditions as it deems necessary to further the purposes and objectives of this chapter.
- (d) ~~Restrictions in floodways.~~ A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in section 30-5 of chapter 30.
- (e) ~~Reserved.~~
- (f) ~~Functionally dependent uses.~~ A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this chapter, provided the variance meets the requirements of subsection (d) above, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.
- (g) ~~Considerations for issuance of variances.~~ In reviewing requests for variances, the community development board consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this chapter, and the following:
  - (1) ~~The danger that materials and debris may be swept onto other lands resulting in further injury or damage;~~
  - (2) ~~The danger to life and property due to flooding or erosion damage;~~
  - (3) ~~The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;~~
  - (4) ~~The importance of the services provided by the proposed development to the community;~~
  - (5) ~~The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;~~
  - (6) ~~The compatibility of the proposed development with existing and anticipated development;~~

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- (7) ~~The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;~~
- (8) ~~The safety of access to the property in times of flooding for ordinary and emergency vehicles;~~
- (9) ~~The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and~~
- (10) ~~The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.~~
- (h) ~~Conditions for issuance of variances. Variances shall be issued only upon:~~
- (1) ~~Submission by the applicant of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this chapter or the required elevation standards;~~
- (2) ~~Determination by the community development board that:~~
- a. ~~Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;~~
- b. ~~The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and~~
- c. ~~The variance is the minimum necessary, considering the flood hazard, to afford relief.~~
- (3) ~~Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the office of the clerk of the court in such a manner that it appears in the chain of title of the affected parcel of land.~~

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 26, 9-7-10; Ord. No. 2011-25, § 3, 12-5-11; Ord. No. 2012-11, § 2, 12-4-12; Ord. No. 2013-01, § 2, 5-6-13; Ord. No. 2022-03, § 1(Exh. A), 8-1-22)

State law reference(s)—Water resources, F.S. Ch. 373.

Sec. 27-151. Reserved. ~~Special provisions where floodplain variances are sought for historically significant properties.~~

~~Notwithstanding the foregoing requirements, special variances may be granted for the reconstruction, rehabilitation or restoration of structures listed on a local register of historic places or the Florida Master Site File, the state inventory of historic places. The special variance shall be the minimum necessary to protect the historic character and design of the structure. No special variance shall be granted if the proposed construction, rehabilitation, or restoration will cause the structure to lose its historical designation.~~

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2022-03, § 1(Exh. A), 8-1-22)

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State law reference(s)—Historical resources, F.S. Ch. 267.

### **Sec. 27-152. Violation of variance terms or conditions.**

The violation of terms or conditions of a variance shall be treated as a violation of this Code and subject to applicable remedies.

(Ord. No. 2004-10, § 1, 10-4-04)

### **Sec. 27-153. Procedure for appeal.**

- (a) The following persons may appeal to the city council any final decision of the community development board with respect to a variance for the property located within the R-1, R-2, R-3, R-4 or R-5 zoning districts:
  - (1) The applicant for the variance;
  - (2) The owner of any property within three hundred (300) feet, as described in subsection 27-144(c)(2), for which the variance was requested; or
  - (3) Any person deemed a party intervener or similar status under applicable rules adopted by the community development board.
- (b) The notice of appeal shall state the specific error(s) alleged as the grounds for the appeal and shall be filed, along with the filing fee, as passed by resolution of the city council, with the city clerk within thirty (30) days from the date the decision of the applicable board is rendered.
- (c) At its next regular meeting, following all appropriate notice, the city council shall review the record of the hearing conducted by the community development board. No new evidence may be presented unless it pertains to events or circumstances, which have substantially changed since the community development board decision. The city council shall uphold the decision of the community development board unless the council finds that:
  - (1) Defects in notice or procedural due process are alleged and proven; or
  - (2) The decision of the community development board is not supported by competent substantial evidence and testimony produced at the public hearing; or
  - (3) New evidence is available because of substantial changes in circumstance.
- (d) The city council must affirm, modify, or reverse, each appeal of a variance. When the council acts on an appeal of a final decision of the board, that action shall be deemed to be the final action of the city and shall be subjected to no further review by the city council.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 27, 9-7-10; Ord. No. 2022-03 , § 1(Exh. A), 8-1-22)

### **Sec. 27-154. Appeal of city council decisions on variances.**

Decisions of the city council in accordance with the appeal procedures as described in section 27-153, or on variances for property located within the C-1, C-2, C-3, CBD and conservation districts, shall be subject to review only as provided by Florida law.

(Ord. No. 2004-10, § 1, 10-4-04)

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**Sec. 27-155. Reserved.**

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## Chapter 30 FLOODPLAINS

### ARTICLE I. FLOODPLAIN MANAGEMENT

#### Sec. 30-1. In general.

- (a) *Title.* These regulations shall be known as the Floodplain Management Ordinance of City of Neptune Beach, hereinafter referred to as "this article."
- (b) *Scope.* The provisions of this article shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to, the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; ~~placement, installation, or replacement of manufactured homes and manufactured buildings~~; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.
- (c) *Intent.* The purposes of this article and the flood load and flood-resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:
  - (1) Minimize unnecessary disruption of commerce, access and public service during times of flooding;
  - (2) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
  - (3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
  - (4) Manage the alteration of flood hazard areas, ~~watercourses~~, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
  - (5) Minimize damage to public and private facilities and utilities;
  - (6) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
  - (7) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
  - (8) Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.
- (d) *Coordination with the Florida Building Code.* This article is intended to be administered and enforced in conjunction with the Florida Building Code. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.
- (e) *Warning.* The degree of flood protection required by this article and the Florida Building Code, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by manmade or natural causes. This article does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may

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be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this article.

- (f) *Disclaimer of liability.* This article shall not create liability on the part of City of Neptune Beach or by any officer or employee thereof for any flood damage that results from reliance on this article or any administrative decision lawfully made thereunder.

(Ord. No. 2017-13 , § 1, 6-5-17)

## **Sec. 30 -2. Definitions**

- (a) Scope. Unless otherwise expressly stated, the following words and terms shall, for the purposes of this section, have the meanings shown in this section.
- (b) Terms defined in the Florida Building Code. Where terms are not defined in this article and are defined in the Florida Building Code, such terms shall have the meanings ascribed to them in that code.
- (c) Terms not defined. Where terms are not defined in this article or the Florida Building Code, such terms shall have ordinarily accepted meanings such as the context implies.
- (1) **Appeal.** A request for a review of the floodplain administrator's interpretation of any provision of this article or a request for a variance.
- (2) **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.
- (3) **Base flood.** A flood having a 1-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 202.] The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."
- (4) **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 202.]
- (5) **Basement.** The portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 202.]
- (6) **Coastal construction control line.** The line established by the State of Florida pursuant to section 161.053, F.S., 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.
- (7) **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 VI-V30, VE, or V.
- (8) **Design flood.** The flood associated with the greater of the following two areas: [Also defined in FBC, B, Section 202.]
- a. Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or
- b. Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

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- (9) **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 202.]
- (10) **Development.** Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.
- (11) **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 202.]
- (12) **Federal Emergency Management Agency (FEMA).** The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.
- (13) **Flood or flooding.** A general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B, Section 202.]
- a. The overflow of inland or tidal waters.
  - b. The unusual and rapid accumulation or runoff of surface waters from any source.
- (14) **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, Section 202.]
- (15) **Flood hazard area.** The greater of the following two areas: [Also defined in FBC, B, Section 202.]
- a. The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.
  - b. The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.
- (16) **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, Section 202.]
- (17) **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 Flood way Map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, Section 202.]
- (18) **Floodplain administrator.** The office or position designated and charged with the administration and enforcement of this article (may be referred to as the Floodplain Manager).
- (19) **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 this article.
- (20) **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.
- (21) **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.
- (22) **Highest adjacent grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

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- (23) **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 12 Historic Buildings.
- (24) **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:
- i. **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.
  - ii. **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.
  - iii. **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.
  - iv. **Conditional Letter of Map Revision (CLO MR).** 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.
- (25) **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 202.]
- (26) **Market value.** The value of buildings and structures, excluding the land and other improvements on the parcel. Market value is the Actual Cash Value (in-kind replacement cost depreciated for age, wear and tear, neglect, and quality of construction) determined by a qualified independent appraiser, or tax assessment value adjusted to approximate market value by a factor provided by the County Property Appraiser.
- (27) **New construction.** For the purposes of administration of this article 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.
- (28) **Sand dunes.** Naturally occurring accumulations of sand in ridges or mounds landward of the beach.
- (29) **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 Zone A, AO, AI-A30, AE, A99, AH, VI-V30, VE or V. [Also defined in FBC, B Section 202.]
- (30) **Start of construction.** The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 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

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occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B Section 202.]

**(31) Substantial damage.** Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the building or structure before the damage occurred. [Also defined in FBC, B Section 202.]

**(32) Substantial improvement.** Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a five-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the five-year period begins on the date of the first improvement or repair of that building or structure subsequent to November 2, 2018. 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 202.)

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

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

**(33) Variance.** A grant of relief from the requirements of this article, or the flood resistant construction requirements of the Florida Building Code, which permits construction in a manner that would not otherwise be permitted by this article or the Florida Building Code.

## **Sec. 30-~~23~~. Applicability.**

- (a) *General.* Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- (b) *Areas to which this article applies.* This article shall apply to all flood hazard areas within the City of Neptune Beach, as established in subsection (c) of this section.
- (c) *Basis for establishing flood hazard areas.* The Flood Insurance Study for Duval County, Florida and Incorporated Areas, dated November 2, 2018 ~~June 3, 2013~~ and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this article and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the City Hall in the Planning and Community Development Department of Neptune Beach.
- (d) *Submission of additional data to establish flood hazard areas.* To establish flood hazard areas and base flood elevations, pursuant to section 30-~~65~~ of this article the floodplain administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:
  - (1) Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this article and, as applicable, the requirements of the Florida Building Code.
  - (2) Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a letter of map change that removes the area from the special flood hazard area.

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- (e) *Other laws.* The provisions of this article shall not be deemed to nullify any provisions of local, state or federal law.
  - (f) *Abrogation and greater restrictions.* This article supersedes any ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances, including but not limited to, land development regulations, zoning ordinances, stormwater management regulations, or the Florida Building Code. In the event of a conflict between this article and any other ordinance, the more restrictive shall govern. This article shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this article.
  - (g) *Interpretation.* In the interpretation and application of this article, all provisions shall be:
    - (1) Considered as minimum requirements;
    - (2) Liberally construed in favor of the governing body; and
    - (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 2017-13 , § 1, 6-5-17)

### **Sec. 30-~~34~~. Duties and powers of the floodplain administrator.**

- (a) *Designation.* The city manager or designee is designated as the floodplain administrator. The floodplain administrator may delegate performance of certain duties to other employees.
- (b) *General.* The floodplain administrator is authorized and directed to administer and enforce the provisions of this article. The floodplain administrator shall have the authority to render interpretations of this article consistent with the intent and purpose of this article and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this article without the granting of a variance pursuant to section ~~30-8 of this article~~27-150 in chapter 27.
- (c) *Applications and permits.* The floodplain administrator, in coordination with other pertinent offices of the community, shall:
  - (1) Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
  - (2) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this article;
  - (3) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
  - (4) Provide available flood elevation and flood hazard information;
  - (5) Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
  - (6) Review applications to determine whether proposed development will be reasonably safe from flooding;
  - (7) Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code, when compliance with this article is demonstrated, or disapprove the same in the event of noncompliance; and

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- (8) Coordinate with and provide comments to the building official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this article.
- (d) *Substantial improvement and substantial damage determinations.* For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the floodplain administrator, in coordination with the building official, shall:
- (1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
  - (2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
  - (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
  - (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood-resistant construction requirements of the Florida Building Code and this article is required.
- (e) *Modifications of the strict application of the requirements of the Florida Building Code.* The floodplain administrator shall review requests submitted to the building official that seek approval to modify the strict application of the flood load and flood-resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance pursuant to section [30-8 of this article](#) ~~27-150 in chapter 27~~.
- (f) *Notices and orders.* The floodplain administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this article.
- (g) *Inspections.* The floodplain administrator shall make the required inspections as specified in section ~~30-7~~ [7](#) of this article for development that is not subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. The floodplain administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.
- (h) *Other duties of the floodplain administrator.* The floodplain administrator shall have other duties, including but not limited to:
- (1) Establish, in coordination with the building official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to subsection (d) of this section;
  - (2) Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);
  - (3) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, or flood hazard area boundaries, ~~or floodway designations~~; such submissions shall be made within six (6) months of such data becoming available;

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- (4) Review required design certifications and documentation of elevations specified by this article and the Florida Building Code and this article to determine that such certifications and documentations are complete;
  - (5) Notify the Federal Emergency Management Agency when the corporate boundaries of City of Neptune Beach are modified; and
  - (6) Advise applicants for new buildings and structures, including substantial improvements that are located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such construction; areas subject to this limitation are identified on Flood Insurance Rate Maps as "Coastal Barrier Resource System Areas" and "Otherwise Protected Areas."
- (i) *Floodplain management records.* Regardless of any limitation on the period required for retention of public records, the floodplain administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this article and the flood-resistant construction requirements of the Florida Building Code, including Flood Insurance Rate Maps; letters of change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the Florida Building Code and this article; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood-carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this article and the flood-resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at City Hall.

(Ord. No. 2017-13 , § 1, 6-5-17)

## **Sec. 30-45. Permits.**

- (a) *Permits required.* Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this article, including buildings, structures and facilities exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area shall first make application to the floodplain administrator, and the building official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this article and all other applicable codes and regulations has been satisfied.
- (b) *Floodplain development permits or approvals.* Floodplain development permits or approvals shall be issued pursuant to this article for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the floodplain administrator may determine that a floodplain development permit or approval is required in addition to a building permit.
- (c) *Buildings, structures and facilities exempt from the Florida Building Code.* Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this article:
  - (1) Railroads and ancillary facilities associated with the railroad.
  - (2) Nonresidential farm buildings on farms, as provided in F.S. § 604.50.

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- (3) Temporary buildings or sheds used exclusively for construction purposes.
  - (4) Mobile or modular structures used as temporary offices.
  - (5) Those structures or facilities of electric utilities, as defined in F.S. § 366.02, which are directly involved in the generation, transmission, or distribution of electricity.
  - (6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this subsection, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
  - (7) Family mausoleums not exceeding two hundred fifty (250) square feet in area which are prefabricated and assembled on-site or pre-assembled and delivered on-site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
  - (8) Temporary housing provided by the department of corrections to any prisoner in the state correctional system.
  - (9) Structures identified in F.S. § 553.73(10)(k), are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on Flood Insurance Rate Maps.
- (d) *Application for a permit or approval.* To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:
- (1) Identify and describe the development to be covered by the permit or approval.
  - (2) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
  - (3) Indicate the use and occupancy for which the proposed development is intended.
  - (4) Be accompanied by a site plan or construction documents as specified in section 30-56 of this article.
  - (5) State the valuation of the proposed work.
  - (6) Be signed by the applicant or the applicant's authorized agent.
  - (7) Give such other data and information as required by the floodplain administrator.
- (e) *Validity of permit or approval.* The issuance of a floodplain development permit or approval pursuant to this article shall not be construed to be a permit for, or approval of, any violation of this article, the Florida Building Codes, or any other ordinance of this community. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the floodplain administrator from requiring the correction of errors and omissions.
- (f) *Expiration.* A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within one hundred eighty (180) days after its issuance, or if the work authorized is suspended or abandoned for a period of one hundred eighty (180) days after the work commences. Extensions for periods of not more than one hundred eighty (180) days each shall be requested in writing and justifiable cause shall be demonstrated.
- (g) *Suspension or revocation.* The floodplain administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this article or any other ordinance, regulation or requirement of this community.
- (h) *Other permits required.* Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

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- (1) The St. Johns River Water Management District; F.S. § 373.036.
  - (2) Florida Department of Health for on-site sewage treatment and disposal systems; F.S. § 381.0065, and Chapter 64E-6, F.A.C.
  - (3) Florida Department of Environmental Protection for construction, reconstruction, changes, or physical activities for shore protection or other activities seaward of the coastal construction control line; F.S. § 161.141.
  - (4) Florida Department of Environmental Protection for activities subject to the joint coastal permit; F.S. § 161.055.
  - (5) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
  - (6) Federal permits and approvals.

(Ord. No. 2017-13 , § 1, 6-5-17)

### **Sec. 30-~~56~~. Site plans and construction documents.**

- (a) *Information for development in flood hazard areas.* The site plan or construction documents for any development subject to the requirements of this article shall be drawn to scale and shall include, as applicable to the proposed development:
  - (1) Delineation of flood hazard areas, ~~floodway boundaries~~ and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.
  - (2) Where base flood elevations, ~~or floodway data~~ are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with subsections (b)(2) or (3) of this section.
  - (3) Where the parcel on which the proposed development will take place will have more than fifty (50) lots or is larger than five (5) acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with subsection (b)(1) of this section.
  - (4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas, new buildings shall be located landward of the reach of mean high tide.
  - (5) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
  - (6) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
  - (7) Delineation of the coastal construction control line or notation that the site is seaward of the coastal construction control line, if applicable.
  - (8) Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is approved by the Florida Department of Environmental Protection.
  - (9) Existing and proposed alignment of any proposed alteration of a watercourse.

The floodplain administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this article but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this article.

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- (b) *Information in flood hazard areas without base flood elevations (approximate Zone A).* Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the floodplain administrator shall:
- (1) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.
  - (2) Obtain, review, and provide to applicants base flood elevation ~~and floodway~~ data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation ~~and floodway~~ data available from a federal or state agency or other source.
  - (3) Where base flood elevation ~~and floodway~~ data are not available from another source, where the available data are deemed by the floodplain administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
    - a. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or
    - b. Specify that the base flood elevation is ~~two-three~~ (32) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than ~~three (3) two-(2)~~ feet.
  - (4) Where the base flood elevation data are to be used to support a letter of map change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.
- (c) ~~*Additional analyses and certifications. For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas (Zone V), the applicant shall have an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage prepared, signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:*~~*Additional analyses and certifications. As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:*
- ~~(1) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in subsection (d) of this section and shall submit the conditional letter of map revision, if issued by FEMA, with the site plan and construction documents.~~
  - ~~(2) For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one (1) foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.~~
  - ~~(3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in subsection (d) of this section.~~

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~~(4) For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas (Zone V), an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage.~~

- (d) *Submission of additional data.* When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a letter of map change from FEMA to change the base flood elevations, ~~change floodway boundaries~~, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

(Ord. No. 2017-13 , § 1, 6-5-17)

### **Sec. 30-~~67~~. Inspections.**

- (a) *General.* Development for which a floodplain development permit or approval is required shall be subject to inspection.
- (b) *Development other than buildings and structures.* The floodplain administrator shall inspect all development to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.
- (c) *Buildings, structures and facilities exempt from the Florida Building Code.* The floodplain administrator shall inspect buildings, structures and facilities exempt from the Florida Building Code to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.
- (d) *Buildings, structures and facilities exempt from the Florida Building Code, lowest floor inspection.* Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the Florida Building Code, or the owner's authorized agent, shall submit to the floodplain administrator:
- (1) If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or
  - (2) If the elevation used to determine the required elevation of the lowest floor was determined in accordance with subsection 30-~~65~~(b)(3)b. of this article, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.
- (e) *Buildings, structures and facilities exempt from the Florida Building Code, final inspection.* As part of the final inspection, the owner or owner's authorized agent shall submit to the floodplain administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in subsection (d) of this section.

(Ord. No. 2017-13 , § 1, 6-5-17)

### **Sec. 30 - 8- Variances and appeals.**

- (a). General. The Neptune Beach Community Development Board shall hear and decide on requests for appeals and requests for variances from the strict application of this article. Pursuant to section 553.73(5), F.S., the Neptune Beach Community Development Board shall hear and decide on requests for appeals and requests

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for variances from the strict application of the flood resistant construction requirements of the Florida Building Code. This section does not apply to Section 3109 of the Florida Building Code, Building.

- (b) Appeals. The Neptune Beach Community Development Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the administration and enforcement of this article. Any person aggrieved by the decision of the Neptune Beach Community Development Board may appeal such decision to the Circuit Court of Duval County, as provided by Florida Statutes.
- (c) Limitations on authority to grant variances. The Neptune Beach Community Development Board shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in 30-8 (f) of this article, the conditions of issuance set forth in 30-8 (g) of this article, and the comments and recommendations of the floodplain administrator and the building official. The Neptune Beach Community Development Board has the right to attach such conditions as it deems necessary to further the purposes and objectives of this article.
- (d) Historic buildings. A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building, Chapter 12 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.
- (e) Functionally dependent uses. A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this article, provided the variance is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.
- (f) Considerations for issuance of variances. In reviewing requests for variances, the Neptune Beach Community Development Board shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this article, and the following:
- (1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
  - (2) The danger to life and property due to flooding or erosion damage;
  - (3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
  - (4) The importance of the services provided by the proposed development to the community;
  - (5) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
  - (6) The compatibility of the proposed development with existing and anticipated development;
  - (7) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
  - (8) The safety of access to the property in times of flooding for ordinary and emergency vehicles;
  - (9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

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(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

(g) Conditions for issuance of variances. Variances shall be issued only upon:

(1) Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this article or the required elevation standards;

(2) Determination by the Neptune Beach Community Development Board that:

(a) Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;

(b) The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and

(c) The variance is the minimum necessary, considering the flood hazard, to afford relief;

(3) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the office of the clerk of the court in such a manner that it appears in the chain of title of the affected parcel of land; and

(4) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the floodplain administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

## **Sec. 30-~~97~~. Violations.**

- (a) *Violations.* Any development that is not within the scope of the Florida Building Code but that is regulated by this article that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this article, shall be deemed a violation of this article. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this article or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.
- (b) *Authority.* For development that is not within the scope of the Florida Building Code but that is regulated by this article and that is determined to be a violation, the floodplain administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.
- (c) *Unlawful continuance.* Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

(Ord. No. 2017-13 , § 1, 6-5-17)

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## Sec. 30-~~108~~. Building and structures.

- (a) *Design and construction of buildings, structures and facilities exempt from the Florida Building Code.* Pursuant to subsection 30-~~45~~(c) of this article, buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings shall comply with the requirements of section 30-~~142~~ of this article.
- (b) *Buildings and structures seaward of the coastal construction control line.* If extending, in whole or in part, seaward of the coastal construction control line and also located, in whole or in part, in a flood hazard area:
- (1) Buildings and structures shall be designed and constructed to comply with the more restrictive applicable requirements of the Florida Building Code, Building Section 3109 and Section 1612 or Florida Building Code, Residential Section R322.
  - (2) Minor structures and non-habitable major structures as defined in F.S. § 161.54, shall be designed and constructed to comply with the intent and applicable provisions of this article and ASCE 24.
- (c) Manufactured homes and recreational vehicles.
- (1) Manufactured homes defined in 15C-1.0101, Florida Administrative Code, are not allowed in flood hazard areas.
  - (2) Recreational vehicles defined in sec. 320.01, Florida Statutes, are not allowed in flood hazard areas.

(Ord. No. 2017-13 , § 1, 6-5-17)

## Sec. 30-~~911~~. Subdivisions.

- (a) *Minimum requirements.* Subdivision proposals shall be reviewed to determine that:
- (1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
  - (2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
  - (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.
- (b) *Subdivision plats.* Where any portion of proposed subdivisions the following shall be required:
- (1) Delineation of flood hazard areas, ~~floodway boundaries~~ and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats and final plats;
  - (2) Where the subdivision has more than fifty (50) lots or is larger than five (5) acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with subsection 30-~~65~~(b)(1) of this article; and
  - (3) Compliance with the site improvement and utilities requirements of section 30-~~10-12~~ of this article.

(Ord. No. 2017-13 , § 1, 6-5-17)

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## Sec. 30-1~~20~~<sup>29</sup>. Site improvements, utilities and limitations.

- (a) *Minimum requirements.* All proposed new development shall be reviewed to determine that:
- (1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
  - (2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
  - (3) Adequate drainage is provided to reduce exposure to flood hazards; in zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.
- (b) *Sanitary sewage facilities.* All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7, to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into floodwaters, and impairment of the facilities and systems.
- (c) *Water supply facilities.* All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7, to minimize or eliminate infiltration of floodwaters into the systems.
- (d) ~~*Reserved Limitations on sites in regulatory floodways. No development, including but not limited to, site improvements, and land-disturbing activity involving fill or regrading, shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in subsection 30-5(c)(1) of this article demonstrates that the proposed development or land-disturbing activity will not result in any increase in the base flood elevation.*~~
- (e) *Limitations on placement of fill.* Subject to the limitations of this article, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the Florida Building Code.
- (f) *Limitations on sites in coastal high hazard areas (Zone V).* In coastal high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if such alteration is approved by the Florida Department of Environmental Protection and only if the engineering analysis required by subsection 30-~~56~~(c)(4) of this article demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with subsection 30-1~~42~~(~~h e~~)<sup>42</sup>(3) of this article.

(Ord. No. 2017-13 , § 1, 6-5-17)

## Sec. 30-1~~31~~<sup>31</sup>. Tanks.

- (a) *Underground tanks.* Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.
- (b) *Above ground tanks, not elevated.* Above ground tanks that do not meet the elevation requirements of subsection (c) of this section shall:
- (1) Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral

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movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

- (2) Not be permitted in coastal high hazard areas (Zone V).
- (c) *Above ground tanks, elevated.* Above ground tanks in flood hazard areas shall be attached to an elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.
- (d) *Tank inlets and vents.* Tank inlets, fill openings, outlets and vents shall be:
  - (1) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
  - (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(Ord. No. 2017-13 , § 1, 6-5-17)

### **Sec. 30-142. Other development.**

- (a) *General requirements for other development.* All development, including manmade changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, shall:
  - (1) Be located and constructed to minimize flood damage;
  - ~~(2) Meet the limitations of subsection 30-10(d) of this article if located in a regulated floodway;~~
  - ~~(3)~~ Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
  - ~~(4)~~ Be constructed of flood damage-resistant materials; and
  - ~~(5)~~ Have mechanical, plumbing and electrical systems above the design flood elevation, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.
- ~~(b) Fences in regulated floodways. Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of subsection 30-10(d) of this article.~~
- ~~(c) Retaining walls, sidewalks and driveways in regulated floodways. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of subsection 30-10(d) of this article.~~
- ~~(d) Roads and watercourse crossings in regulated floodways. Roads and watercourse crossings, including roads, bridges, culverts, low water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of subsection 30-10(d) of this article. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of subsection 30-5(c)(3) of this article.~~
- ~~(e) Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V). In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are~~

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permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:

- (1) Structurally independent of the foundation system of the building or structure;
- (2) Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and
- (3) Have a maximum slab thickness of not more than four (4) inches.

(cf) *Decks and patios in coastal high hazard areas (Zone V).* In addition to the requirements of the Florida Building Code, in coastal high hazard areas decks and patios shall be located, designed, and constructed in compliance with the following:

- (1) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.
- (2) A deck or patio that is located below the design flood elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.
- (3) A deck or patio that has a vertical thickness of more than twelve (12) inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.
- (4) A deck or patio that has a vertical thickness of twelve (12) inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

(gd) *Other development in coastal high hazard areas (Zone V).* In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate federal, state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

- (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
- (2) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters; and
- (3) On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or mound systems.

(he) *Nonstructural fill in coastal high hazard areas (Zone V).* In coastal high hazard areas:

- (1) Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.

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- (2) Nonstructural fill with finished slopes that are steeper than one (1) unit vertical to five (5) units horizontal shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures.
  - (3) Where authorized by the Florida Department of Environmental Protection or applicable local approval, sand dune construction and restoration of sand dunes under or around elevated buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection if the scale and location of the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building.

(Ord. No. 2017-13 , § 1, 6-5-17)

**Sec. 30-1~~53~~. ~~Reserved. Administrative amendments to the Florida Building Code, Building-~~**

~~The Neptune Beach Code of Ordinances, Part II, Chapter 8, Buildings and Building Regulations, is hereby amended by the following administrative amendments to the Florida Building Code, Building-~~

~~(A) *Building permits issued on the basis of an affidavit.* Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), the authority granted to the Building Official to issue permits, to rely on inspections, and to accept plans and construction documents on the basis of affidavits and plans submitted pursuant to Chapter 8, shall not extend to the flood load and flood resistance construction requirements of the Florida Building Code.~~

~~(B) **VARIANCES IN FLOOD HAZARD AREAS**~~

~~(1) *Flood hazard areas.* Pursuant to F.S. § 553.73(5), the variance procedures adopted in the local floodplain management ordinance shall apply to requests submitted to the Building Official for variances to the provisions of Section 1612.4 of the Florida Building Code, Building or, as applicable, the provisions of R322 of the Florida Building Code, Residential. This section shall not apply to Section 3109 of the Florida Building Code, Building.~~

(Ord. No. 2017-13 , § 1, 6-5-17)

**Sec. 30-1~~63~~. Fiscal impact statement.**

In terms of design, plan application review, construction and inspection of buildings and structures, the cost impact as an overall average is negligible in regard to the local technical amendments because all development has been subject to the requirements of the local floodplain management ordinance adopted for participation in the National Flood Insurance Program. In terms of lower potential for flood damage, there will be continued savings and benefits to consumers.

(Ord. No. 2017-13 , § 1, 6-5-17)

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**Sec. 30-~~15~~17. Applicability.**

For the purposes of jurisdictional applicability, this article shall apply in City of Neptune Beach. This article shall apply to all applications for development, including building permit applications and subdivision proposals, submitted on or after the adoption date of this article.

(Ord. No. 2017-13 , § 1, 6-5-17)

**Sec. 30-~~16~~18. Repealer.**

Any and all ordinances and regulations in conflict herewith are hereby repealed to the extent of any conflict. This article specifically repeals and replaces the following ordinance(s) and regulation(s): portions of Ordinance No. 2011-25, as amended in this article.

(Ord. No. 2017-13 , § 1, 6-5-17)

**Sec. 30-~~17~~19. Inclusion into the Code of Ordinances.**

It is the intent of the City of Neptune Beach that the provisions of this article shall become and be made a part of the City of Neptune Beach's Code of Ordinances, and that the sections of this article may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

(Ord. No. 2017-13 , § 1, 6-5-17)

**Sec. 30-~~18~~20. Severability.**

If any section, subsection, sentence, clause or phrase of this article is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

(Ord. No. 2017-13 , § 1, 6-5-17)

**Secs. 30-19—30-40. Reserved.**