PART I - CHARTER[1]

ARTICLE IV. - GENERAL PROVISIONS

Section 4.07 - Building height limitation set by referendum.

No building that exceeds 35 feet shall be permitted in the city.

(a) *Purpose.* To protect the public health, safety, general welfare, and aesthetics.

(b) *Point of reference.* The lower point of reference for determining the height of a building shall be the greater of eighteen (18) inches above the crown of the road in front of the proposed building or the average of the natural existing grade. The point of reference for determining the height of a commercial or residential building in a flood zone line will be the minimum base flood elevation required for habitable space as set by FEMA's Flood Insurance Rate Maps (FIRMs) and required by Florida Administrative Code.

(c) *Damaged buildings over 35 feet.* Such buildings may be rebuilt to their original height.

(d) Exceptions.

1. Non-residential buildings may be allowed an additional five feet for uses such as air conditioners, solar cells, elevators, and parking.
2. Antennas, flagpoles, steeples, and water towers not intended for human occupancy may exceed the height limit.

(e) *Lower height limits.* City council may impose lower height limits in individual zoning districts.

(Ord. No. 2004-06, § 1, 6-7-04/11-2-04)

Chapter 4 - ALCOHOLIC BEVERAGES[1]

ARTICLE I. - IN GENERAL

Sec. 4-4. - Location of establishments.

(a) No license shall be granted or issued to any vendor selling alcoholic beverages at retail which derives fifty-one (51) percent or more of its annual gross revenue from the sale of alcoholic beverages within eight hundred (800) feet of the location of any business for which an existing license (deriving fifty-one (51) percent or more of its annual gross revenue from the sale of alcoholic beverages) has been issued to a vendor selling alcoholic beverages or within eight hundred (800) feet of any established school or church. The eight hundred (800) foot is inclusive of alcoholic beverage vendors, schools, or churches outside the City of Neptune Beach limits.

(b) The provisions of subsection (a) above shall not apply to any licensed by the State of Florida Department of Business and Professional Regulation Division of Hotels and Restaurants having or applying for a 2-COP license.

(c) The locations of all places of business licensed to sell retail alcoholic beverages containing more than one (1) percent of alcohol by weight on June 30, 1972, shall not in any manner be affected by this section, and the distance limitations provided for by this section shall not affect any licensed locations existing on June 30, 1972, issued to and held by any such vendor, nor such vendor's right of renewal or transfer of any such license; except that the location of any such license existing on June 30, 1972, shall not be transferred to a new location in violation of this section.

(d) The provisions of this section prescribing distance limitations shall not apply to any bona fide hotel or motel containing not less than thirty-five (35) guest rooms or any restaurant having two thousand five hundred (2,500) square feet of service area and equipped to serve one hundred fifty (150) persons full-course meals at one (1) time, and deriving not less than fifty-one (51) percent of its gross income from the sale of food and nonalcoholic beverages prepared, served and consumed on the premises, or grocery stores and drugstores licensed to sell beer and wine as defined by F.S §§ 563.01 and 364.01 for off-premises consumption only.

(e) The distances provided for by this section in reference to the location or proposed location of a license of a vendor selling any alcoholic beverages shall be measured as follows:

(1) With respect to the location of another such license of such a business, or the transfer of any such license, by following the shortest route of ordinary pedestrian travel along public thoroughfares from the main entrance of any proposed location of any such business; and

(2) With respect to the location of any established church or school, by following the shortest route of ordinary pedestrian travel along public thoroughfares from the main entrance of the proposed place of business to the main entrance to the church and, in the case of a school, to the nearest point of the school grounds in use as part of the facilities.

(Code 1959, §§ 3-7—3-9, 3-11; Ord. No. 1998-27, § 1, 10-5-98; Ord. No. 2005-03, § 1, 3-7-05; Ord. No. 2005-08, § 3, 5-2-05; Ord. No. 2008-15, § 1, 12-2-08)

Cross reference— Zoning, Ch. 27.

State Law reference— Authority to regulate location of place of business, F.S. § 562.45(2).

Sec. 4-8. - Premises where retail sales for off-premises consumption are permitted.

(a) Retail sale, limited to beer as defined by F.S. § 563.01, and wine as defined by F.S. § 564.01 shall be permitted only upon the following licensed premises:

(1) Businesses within the C-2, C3 and CBD zoning districts abutting Atlantic Boulevard or Third Street.

(2) Establishments in locations presently open for business and where a current valid alcoholic beverage license exists as of the effective date of this section.

(b) Retail sale of alcoholic beverages, which includes liquor as defined by F.S. § 565.01, in addition to beer and wine, shall be permitted only under the following conditions and upon the following licensed premises:

(1) Business properly licensed by the city for the retail sale of alcoholic beverages; and

(2) Business located within the C2, C3 and CBD zoning districts only and subject to zoning codes of this City Code.

(Ord. No. 2005-08, § 4, 5-2-05; Ord. No. 2009-07, § 1, 9-9-09; Ord. No. 2009-10, § 1, 11-2-09)

Chapter 8 - BUILDINGS AND BUILDING REGULATIONS[1]

ARTICLE VII. - COASTAL CONSTRUCTION CODE[5]

DIVISION 3. - BEACHFRONT LIGHTING TO PROTECT MARINE TURTLES

Sec. 8-245. - Standard for new development.

New development, coastal construction, and building and electrical plans for construction of any structure shall be in compliance with the following, if the proposed development is on the oceanfront, or if the development creates any light sources that will be visible from the beach. Provisions of this section apply, but are not limited to, all new coastal construction and development, including electrical plans associated with parking lots, dune walkovers, or other outdoor lighting for real property. All existing properties that meet this criterion must also come into compliance upon codification of this land development code.

(1) Exterior artificial light fixtures shall be designed and positioned so that:
   a. The point source of light or any reflective surface of the light fixture is not directly visible from the beach;
   b. Areas seaward of the primary dune, or the beach in areas where the primary dune no longer exists are not directly or indirectly illuminated; and
   c. Areas seaward of the primary dune, or the beach in areas where the primary dunes no longer exists are not cumulatively illuminated.

(2) Exterior artificial light fixtures within direct line of sight of the beach are allowed if:
   a. Exterior lights are completely shielded downlight only fixtures or recessed fixtures with non-reflective interior surfaces. These fixtures must be wildlife lighting certified by the Florida Fish and Wildlife Conservation Commission (FWC) or approved by the Florida Department of Environmental Protection (FDEP). Other fixtures that have light blocking shields, louvers, or cutoff features may also be used if they are in compliance with subsection (1) above; and
   b. All fixtures are mounted as low in elevation as possible through use of low-bollards and ground level fixtures.

(3) Floodlights, up lights or spotlights that are directly visible from the beach, or which indirectly or cumulatively illuminate the beach are prohibited.

(4) The use of motion detector switches that keep lights off except when approached and that switch lights on for the minimum duration possible are required for any exterior lights used expressly for safety or security. All motion detector lighting must also comply with FWC certified or FDEP approved wildlife lighting.

(5) Dune crosswalks may be lighted. If lighted, dune crosswalks shall utilize low profile shielded luminaries directed and positioned so that the point source of light or any reflective surface of the light fixtures is not directly visible to a person on the beach. All light fixtures on dune cross walks must utilize FWC certified or FDEP approved

wildlife lighting. Dune crosswalk lighting seaward of the primary dune, or on the beach in areas where the primary dune no longer exists shall not be used.

(6) In parking areas with direct line of sight of the beach all lighting shall be:
   a. Set on low profile luminaire; and
   b. Positioned or shielded so that the light is cast downward and the source or light or any reflective surface of the light fixture is not visible from the beach and does not directly, indirectly, or cumulatively illuminate the beach.

(7) All newly constructed parking areas and driveways, including any paved or unpaved areas upon which motorized vehicles will park or operate, shall be designed, and located to prevent vehicular headlights from directly or indirectly illuminating the beach.

(8) Parking area lighting, and roadway lighting shall be shielded from the beach through the use of ground level barriers. Ground level barriers must not impede or entangle marine turtles or hatchling or cause short- or long-term damage to the beach/dune system.

(9) Tinted glass shall be installed on all windows and doors of single or multistory commercial structures within direct line of sight of the beach. It is strongly recommended, but not mandatory, that tinted glass be installed on all windows and doors of single or multistory residential structures within direct line of sight of the beach. Tint or film must meet the standards for tinted glass stated in section 8-244 above.

(10) Temporary lighting of construction sites during the marine turtle nesting season shall be restricted to the minimal amount necessary and shall incorporate all of the standards of this section. Said lighting shall not be mounted more than eight (8) feet above the ground.

Chapter 17 - SALES[1]

ARTICLE III. – TEMPORARY OPEN-AIR SALES AND MARKETS

Sec. 17-33. - Generally.

The provisions of subsection 27-227(b)(21) relating to retail sales shall be inapplicable to open-air sales and markets.

(Ord. No. 2000-04, § 1, 8-7-00)

Sec. 17-34. – Open-air markets.

Open-air markets are defined as 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, only under the permits issued under this chapter and who do not sell those items exclusively in compliance with the licensing and building regulations relating to permanent business establishments.

(Ord. No. 2000-04, § 1, 8-7-00)

Sec. 17-35. - Location of open-air sales and markets.

Open-air sales and markets shall be operated exclusively on private property within the central business district and the C-1, C-2, and C-3 commercial districts and special events at Jarboe Park, all by permit only.

(Ord. No. 2000-04, § 1, 8-7-00; Ord. No. 2003-17, § 1, 12-1-03; Ord. No. 2008-06, § 1, 6-16-08)

Sec. 17-36. – Open-air market area.

This chapter and its sections are intended to be utilized for the purpose of establishing an open-air market area, in which there may be numerous stalls, display or sales locations for the items listed above on private property within the central business district, and the C-1, C-2, and the C-3 commercial districts and Jarboe Park.

(Ord. No. 2000-04, § 1, 8-7-00; Ord. No. 2003-17, § 2, 12-1-03; Ord. No. 2008-06, § 2, 6-16-08)

Sec. 17-37. - Requirement of plans and specifications.

Prior to the issuance by the city manager of a permit for any open-air market, it shall be necessary for the person or persons, or any other entity seeking to have the open-air market, to submit to the community development board plans and specifications showing layout, site plan, parking plan, traffic control and ingress/egress plans, floor requirements, height of displays, restroom facilities, liability insurance; procedures to protect against insects or rodents; procedures relating to cleanliness; maintenance and disposal of debris or garbage, including dumpster requirements; signage; construction or electrical and other utility requirements, including portable water, and any other information required by the community development board. The community development board shall have the authority to place any and all appropriate restrictions on the operation of an open-air market. The community development

board shall conduct a hearing on the application for the open-air market and shall forward its recommendations on the application to the city manager.

(Ord. No. 2000-04, § 1, 8-7-00; Ord. No. 2010-14, § 1, 9-7-10)

Sec. 17-38. - Permit.

No person, either alone or jointly with another, or any entity of any nature, shall conduct any open-air sales without having first obtained a permit to do so from the city manager. Subsequent to the review by the community development board set forth above, this permit may be issued to the owner of the private property within the central business district, the C-1, C-2, and C-3 commercial districts and Jarboe Park on which the open-air market is to be located under such terms and conditions as the city manager deems appropriate.

(Ord. No. 2000-04, § 1, 8-7-00; Ord. No. 2003-17, § 3, 12-1-03; Ord. No. 2008-06, § 3, 6-16-08; Ord. No. 2010-14, § 2, 9-7-10)

Sec. 17-48. - Food trucks/Mobile Vendors.

Food trucks and/or mobile vendors serving items consumable or useable by animals may be permitted by the city manager as set forth herein.

(1) Jarboe Park and/or city property.
   a. Food trucks may be allowed in Jarboe Park and/or city property as permitted by the city manager or designee, subject to the requirements below.
   b. The operation of food trucks shall not be permitted on city streets.
   c. The daily operation of food trucks shall not be permitted ~~city streets or~~ in city rights-of-way, or private property.
   d. Food trucks shall not be permitted on the beach or on city beach access points.

(2) Residential districts and commercial districts.
   a. Food trucks shall only be permitted in residential zoning districts and commercial districts at special or catered events with appropriate permits.
      1. A catered event is defined as where 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.
      2. A special event shall be defined as an occasional or periodic gathering hosted, sponsored, or authorized by a property owner. The frequency and uniqueness of the proposed event shall be considered by the city manager in reviewing an application.
      3. The food truck may only operate at the private special event during the approved hours of the event, including set-up and take-down times.
      4. Food trucks in commercial areas should be parked in such a way as to not cause traffic problems, and when possible, positioned on property hosting the special event.

(3) Standard permit requirements.
   a. The following requirements must be met for the operation of food trucks:
      1. Submittal of a completed and approved application form by the property owner.

2. Proof of liability insurance held by the food truck owner for at least one million dollars ($1,000,000.00).
3. Proof of inspection by the Duval County Health Department of the Food Truck within the last six (6) months.
4. Proof of a valid Neptune Beach business tax receipt.
5. Food trucks at special events are required to submit a fire safety plan with their application and must pass a fire inspection once the event is set up. Furthermore, they may be closed by the police department, fire marshal, or the building official for safety issues, violation of the permit, or violation of other city ordinances.
6. The applicant shall pay the required fees set forth by City Council Resolution.

(4) A food truck shall be defined as a vehicle, trailer or other similar mobile food unit equipped with facilities for cooking and/or preparing and selling food and/or other items for human or animal consumption or use.

*(Ord. No. **2014-18** , § 1, 10-6-14; Ord. No. **2015-01** , § 1, 3-2-15; Ord. No. **2018-05** , § 1, 10-1-18)*

Secs. 17-49—17-70. - Reserved.

Chapter 18 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES[1]

Sec. 18-4. - Use of public right-of-way.

(a) With the exception of public beach access points, which may not be privately improved or used under any circumstances, property owners may improve or use their adjacent public right-of-way for driveway aprons and landscaping, so long as any landscape plantings or groundcover do not impede public on-street parking spaces. No private parking spaces shall be permitted within the public right-of-way. The city shall not be responsible for any damage to improvements in the right-of-way made by adjoining property owners except for concrete or asphalt driveways. The city will repair, at its own expense, concrete and/or asphalt driveways that have been destroyed due to repairs made by the city to its infrastructure or other such related work. The cost of such repair will be limited to the city's cost for replacing with concrete or asphalt only. The cost for replacing pavers, landscaping, and other improvements in the right-of-way, beyond basic concrete and asphalt, will fall upon the adjoining property owner. The property owner may elect to receive this cost repair amount rather than having the work performed by the city. All proposed private use of the city right-of-way such as driveways, landscaping, or other changes must obtain a right-of-way permit and pay any associated permit fees.

(b) No activity will be permitted in the right-of-way that adversely impacts or otherwise interferes with emergency access, utility access or other such similar access, nor shall any activity or use be permitted in the right-of-way which leads to improper drainage or flooding issues.

(c) Failure to adhere to the permit and its conditions or these rules may result in the city removing any changes that have been made without notice.

(d) No items may be placed in the right-of-way and no activities may take place in the right-of-way that are not also permitted or allowable according to the terms and conditions of the city's municipal separate storm sewer system drainage permit (hereinafter "MS4") as issued by either the State of Florida, Department of Environmental Protection and/or the St. Johns River Water Management District.

(e) All existing nonconforming items may not be replaced or repaired beyond regular maintenance without first obtaining a right-of-way permit and paying any associated fees. Immediate removal will be required if nonconforming item(s) are causing damage to city property or infrastructure, impairing drainage, contributing to violation of the city's MS4 drainage permit or deemed as a safety hazard by the city.

(f) The adjacent property owner shall be responsible for all maintenance of items placed in the right-of-way and shall be responsible for any repairs or make payment to the city's sidewalk construction fund per Sec. 27-479(a), or payment in lieu of construction per Sec. 27-478 (f). The city will not replace, or repair items placed in the right-of-way.

(1) The permittee shall also indemnify and save harmless the city and its successors and assigns from any claim, action, liability, loss, damage, or suit arising from the following:

a. Any and all damage or maintenance to public and private property caused by the placement of permitted or unpermitted items in or on the city right-of-way.

(2) Where any claim is asserted, the city shall provide the permittee with reasonable and timely notice of same in writing. Thereafter, the permittee, at its own expense, shall defend, protect, and save harmless the city against said claim or any loss or liability arising therefrom.

(3) Sidewalk laid in public rights-of-way must be ADA compliant for a minimum accessibility of six (6) feet wide. The city may set larger minimum requirements where applicable if the ROW has a multi-use path, also see Sec. 27-479. – Sidewalks and bikeways for additional requirements.

(g) All approved work as outlined by the right-of-way permit must be completed in six (6) months. After 6 months with an approved right-of-way permit, the adjacent property owner must re-apply for a new permit and pay any applicable fees. A written request for an extension may be submitted to the Community Development Department and City Manager for review and authorization.

(h) (1) Any final decision by the city manager, or his designee, as to this section shall be appealable to the city's code enforcement special magistrate. A notice of appeal shall be filed with the city clerk within thirty (30) days of receipt of the city manager's final decision. If a notice of appeal is timely filed, the matter shall be placed on the next regularly scheduled agenda of the special magistrate. Further, any violation of this section or of a permit issued pursuant to this section shall be referred to the special magistrate as set forth in chapter 2 of this Code.

(2) Should the appellant not prevail in the administrative appeal brought before the special magistrate, it shall bear the burden of the city's costs and fees associated with said appeal.

(Ord. No. 2005-22, § 1, 12-5-05; Ord. No. 2014-04 , § 1, 5-5-14)

Sec. 18-5. - Abandoning or private use of public property or rights-of-way.

(a) The permanent abandonment of public property or rights-of-way should not be authorized unless an overriding public interest is served by said abandonment and/or the city is compensated in some material way equivalent to the market value of said property at the time of abandonment. Public property or rights-of-way should only be abandoned to promote the public welfare and not for the benefit of a private person or corporation.

(b) Therefore, legislation authorizing the abandonment, closure, or vacating of city property or rights-of-way shall require a super majority vote of the city council. Any change to the voting requirement of this section would require a super majority vote.

(c) This section shall not apply to the leasing of public property or rights-of-way, nor to approvals by the city manager of residential driveway access to public streets.

(Ord. No. 2009-13, § 1, 12-7-09)

Sec. 18-6. - Pervious pavers required in the R-4 and Central Business Districts.

(a) Any replacement of existing, walkways, driveways, patios, dining areas, or creation of same on city right-of-way in the R-4 and Central Business Districts shall be constructed using pervious pavers as set forth in subsection 27-238(b).

(Ord. No. 2015-13 , § 1, 10-5-15)

Chapter 27 - UNIFIED LAND DEVELOPMENT REGULATIONS[1]

ARTICLE I. - IN GENERAL[2]

Sec. 27-1. - Reserved.

Sec. 27-2. - Title.

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

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-3. - Authority.

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

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

Sec. 27-4. - General applicability.

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

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-5. - Exceptions.

(a) *Previously issued development permits.* The provisions of this Code and any amendments thereto shall not affect the validity of any lawfully issued and effective development permit if:

(1) The development activity authorized by the permit has been commenced prior to the effective date of this Code or any amendment thereto, or will be commenced after the effective date of this Code but within six (6) months of issuance of the building permit; and

(2) The development activity continues without interruption (except because of war or natural disaster) until the development is complete, and a city building inspection occurs at least once every six (6) months. If the development permit expires, any further development on that site shall occur only in conformance with the requirements of this Code or amendment thereto.

(b) *Previously approved development orders.* Projects with development orders that have not expired at the time this Code or an amendment thereto is adopted, and on which

development activity has commenced or does commence and proceeds according to the time limits in the regulations under which the development was originally approved, must meet only the requirements of the regulations in effect when the development plan was approved. If the development plan expires or is otherwise invalidated, any further development on that site shall occur only in conformance with the requirements of this Code or amendment thereto.

(Ord. No. 2004-10, § 1, 10-4-04)

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

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

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

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

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

Article IV defines what uses are allowable and at what density or intensity.

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

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

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

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

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

Articles X through XIV contain minimum standards for streets, utilities, stormwater, parking, and solid waste, for controlling the design of the development to maximum public benefit.

Article XV provides standards and prohibitions relating to signs.

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

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

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-7. - General findings.

(a) *Statutory requirement.* F.S. Ch. 163, pt. II, requires Neptune Beach to adopt a single code of development regulations which is consistent with and in furtherance of the goals, objectives, and policies of the adopted comprehensive plan.

(b) *General public need.* Controlling the location, design and construction of development within the city is necessary to maintain and improve the quality of life in the city. The districts and regulations contained herein are designed to regulate the traffic circulation on public streets and highways; to provide adequate light, air and open spaces; to promote civic amenities of natural, and cultural importance and of beauty and visual interest. Additionally, they are designed to regulate density of population and thus prevent the overcrowding of land in order to facilitate the provision of adequate community facilities and services such as water, sewer, parks, and similar city functions as outlined in the comprehensive plan.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-7.1. - Adoption of comprehensive plan

The Comprehensive Plan for the City of Neptune Beach, a copy of which is filed in the office of the city clerk on the date Ordinance No. 2021-13 was passed, has been approved and adopted as the comprehensive plan to guide the future development and growth of the City of Neptune Beach, Florida, as mandated by the Community Planning Act in F.S. Ch. 163, pt. II.

(Ord. No. 2004-10, § 1, 10-4-04)

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

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

(Ord. No. 2004-10, § 1, 10-4-04)

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

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

(Ord. No. 2004-10, § 1, 10-4-04)

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

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

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-11. - Incorporation by reference.

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

(1) The most current effective dated Flood Insurance Rate Map for Neptune Beach, as may be amended from time to time

(2) The map identified by the title, "Zoning Map; Neptune Beach, Florida", which shows the boundaries and designations of the districts provided for in article IV, as amended from time to time.

(Ord. No. 2004-10, § 1, 10-4-04)

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

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

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-13. - Responsibility for interpretation.

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

(Ord. No. 2004-10, § 1, 10-4-04)

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

(a) Words importing the masculine gender shall be construed to include the feminine and neutral.

(b) Words in the singular shall include the plural and words in the plural shall include the singular, when not inconsistent with the text.

(c) The word "shall" is mandatory; "may" is permissive.

(d) The word “and” means must include, “or” allows for alternatives.

(e) Words used in the present tense include the future, when not inconsistent with the text.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-15. - Definitions.

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

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

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

Accessory 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 pools, hot tubs, and similar structures, and fences, walls and hedges.

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

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

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

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.

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 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, Section1612.2.]

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.

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

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

Building elevation means the intervening distances above the crown of the road in front of the building 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).

Bus or other transportation terminal means any establishment that offers transportation to a

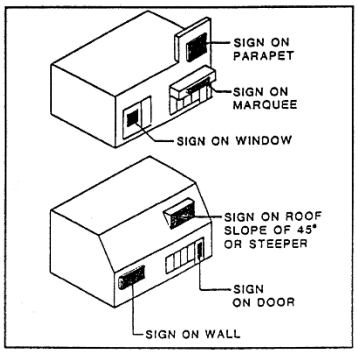


Figure 27-576-1

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.

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.

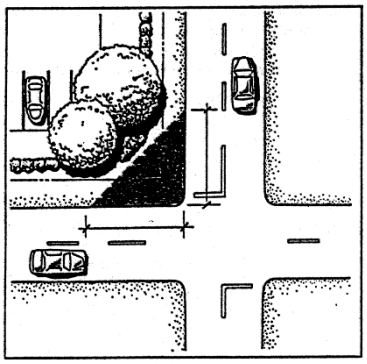


Figure 27-15-1

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.

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 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) mean 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.

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

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:

    - 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, Section1612.2.]

(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, Section1612.2.]

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.

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 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 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 Section39.27.003, 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, Section1612.2.]

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).

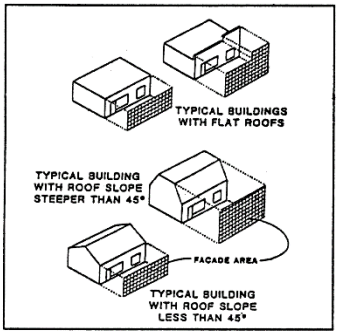


Figure 27-576-2

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 development order authorizes the project, whereas a development permit authorizes specific components of the project, such as building construction, parking lot installation, landscaping, and the like.) For purposes of this Code the final development plan approval is the final development order.

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

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

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

Flood or *flooding* means a temporary partial or complete inundation of normally dry land from: (1) the overflow of inland or tidal waters; or (2) the unusual and rapid accumulation of runoff or surface waters from any source.

Flood damage-resistant materials. Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, Section1612.2.]

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

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

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

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

Flood Insurance Study (FIS). The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, Section1612.2.]

Floodplain administrator. The office or position designated and charged with the administration and enforcement of the ordinance from which this chapter derives (may be referred to as the floodplain manager).

Floodplain development permit or approval. An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with chapter 27, article VIII.

Floodway. The channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. [Also defined in FBC, B, Section1612.2.]

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

Florida Building Code. The family of codes adopted by the Florida Building Commission, including Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

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.

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:
    - 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 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 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 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).

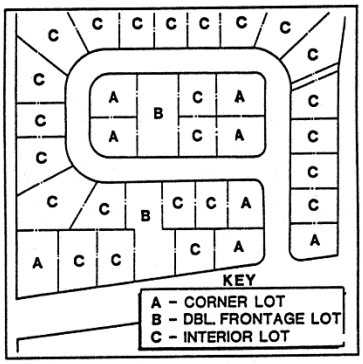


Figure 27-15-2

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, Section1612.2.]

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

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

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

Medical/dental clinic means any establishment where patients, who are not lodged overnight, are admitted for examination and treatment by a person or persons affiliated with a group practicing various specialties of the healing arts, whether the persons are medical doctors, chiropractors, osteopaths, 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 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 50cc's or less, as mopeds often also rely on the rider's pedaling for power.

Motorized kick scooter shall mean a motor-powered personal mobility device, typically electric, which is comprised of two 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 15 to 30 miles per hour and these scooters typically weigh between 20 and 35 pounds.

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

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

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

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

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.

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, ~~or~~ structure, or part thereof as nearly as practicable to its originally permitted condition prior to the damage, deterioration, or decay.

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

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

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

Overlay district means a district with special regulations that apply in addition to regulations in the base zoning district; see section 27-224.

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

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

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

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

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

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

Parking, On-Street means designated spaces along a roadway where vehicles may be parked.

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.

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.

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

Projected impact means the calculated usage of a facility.

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

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

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

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

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

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

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

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

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

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

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.

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.

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.

Scooter shall mean a type of small motorcycle, which is comprised of two 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 50cc to 250 cc. 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 Section3108.1.1, Florida Building Code, and all signs shall conform to the requirements of Section3108 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).

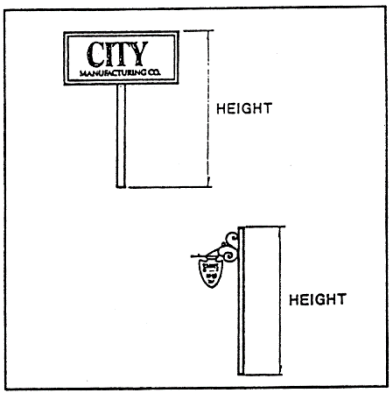


Figure 27-576-4

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: 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. 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 Section1612.2.]

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

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

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B Section1612.2.]

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 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:

(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 Section39-27.004, 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.

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, though, 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.

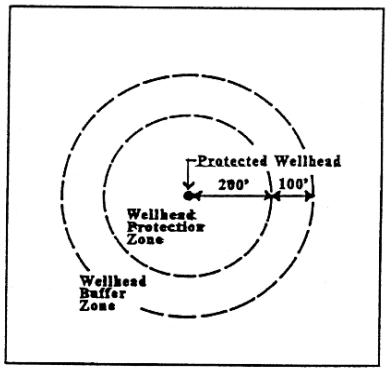


Figure 27-375-1

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).

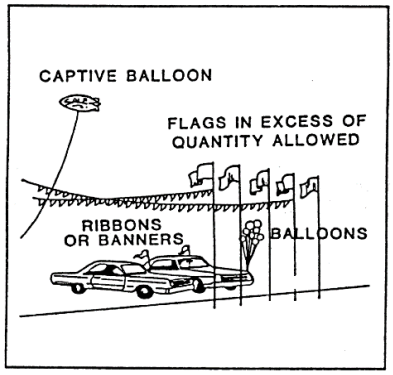


Figure 27-576-5

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.)

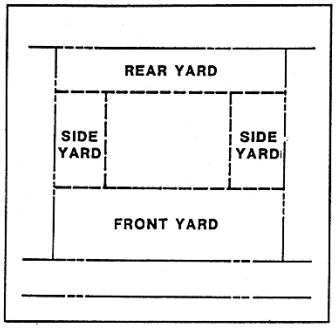


Figure 27-15-3

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)*

Sec. 27-16. – Reserved.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-17. - Computation of time.

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

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-18. - Fees.

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice, and similar matters may be charged applicants for zoning permits, concurrency

certificates, sign permits, tree permits, conditional use permits, special use permits, subdivision plat approval, zoning amendments, variances, application for appeals, and other administrative relief. The amount of the fees shall be established by resolution of the city council.

(Ord. No. 2004-10, § 1, 10-4-04)

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

(a) *Purpose.* Throughout this Code, graphic renderings are included to assist the user in understanding narrative portions of this Code, especially definitions.

(b) *Effect upon Code.* No provision of this Code shall be held invalid by reason of deficiency in any such graphic.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-20. - Abrogation.

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

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-21. - Severability.

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

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-22. - Effective date.

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

(Ord. No. 2004-10, § 1, 10-4-04)

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

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

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

(1) The substance of any ex-parte communication with a local public official (appointed and/or elected) which relates to quasi-judicial action pending before the official shall not be presumed prejudicial to the action if the subject of the communication and the

identity of the person, group, or entity with whom the communication took place is disclosed and made a part of the record before final action on the matter.

(2) A local public official may read a written communication from any person. However, a written communication that relates to quasi-judicial action pending before a local public official shall not be presumed prejudicial to the action and such written communication shall be made a part of the record before final action on the matter.

(3) Local public officials may conduct investigations and site visits and may receive expert opinions regarding quasi-judicial action pending before them. Such activities shall not be presumed prejudicial to the action if the existence of the investigation, site visit or expert opinion is made a part of the record before final action on the matter.

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

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-24. – Reserved.

Secs. 27-25—27-30. - Reserved.

ARTICLE II. - ADMINISTRATIVE AND ENFORCEMENT BODIES[3]

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

DIVISION 1. - GENERALLY

Sec. 27-31. - Reserved.

Sec. 27-32. - Generally.

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

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

Secs. 27-33—27-35. - Reserved.

DIVISION 2. - COMMUNITY DEVELOPMENT BOARD[4]

Footnotes:

--- (4) ---

Editor's note— Section5 of Ord. No. 2010-14, adopted Sept. 7, 2010, renamed div. 2, as set out herein. Formerly entitled "Planning and Development Review Board".

Sec. 27-36. - Establishment.

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

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

Sec. 27-37. - Purpose.

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

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-38. - Officers.

(a) *Appointment.* The board shall have seven (7) members appointed by the mayor subject to confirmation by resolution of the city council.

(b) *Eligibility requirements.* The following conditions for eligibility for appointment to the board shall apply:

(1) *Place of residence.* Each member shall reside in the City of Neptune Beach.

(2) *City employees and members of the city council.* No member of the city council or employee of the city shall be eligible for membership on the board.

(c) *Composition.* Any interested and eligible citizen as provided for above, may be appointed to the board, but those with experience or interest in the field of planning and zoning or historic preservation shall receive special consideration. Whenever possible, the board shall include at least one (1) each of the following:

(1) An architect or landscape architect;

(2) A person engaged in real estate sales or development;

(3) A natural or environmental scientist;

(4) An engineer; and

(5) An urban/regional planner.

(d) *Terms of office.* Each member shall be appointed to not more than a three-year term. No person may serve more than two (2) consecutive three-year terms. The first year of the initial term of service is a probationary period, after which the appointment will be reviewed by the city council with advisement by city staff and the city attorney. Persons disqualified by this provision may be reappointed after one (1) year elapses after the expiration of the second term of service.

(e) *Commitment to office*. After appointment and before taking their position, each member shall affirm the following Oath of Office and sign and complete the Letter of Commitment:

(1) Oath of Office:

"I do solemnly swear that I will support, honor, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to serve on this board under the Charter of the City of Neptune Beach; and that I will well and faithfully perform the duties of the Community Development Board on which I am now about to enter so help me God."

(2) The Letter of Commitment is an attachment to the application for membership on the community development board and may be amended by the city from time to time. A signed copy shall be retained by the city clerk for the official records.

(3) All board members appointed prior to the adoption of these provisions shall fulfill the requirements of these provisions.

(f) *Conditions for removal from board.* A member of the board shall be removed from the board and the member's office declared vacant by the city council under any of the following conditions:

(1) If the member fails to attend three (3) successive regular meetings.

(2) If the member moves outside of the city.

(3) If by majority vote, the city council declares without notice and without assignment of cause the removal of a member.

(g) *Vacancies.* When a position becomes vacant before the end of the term, the mayor, subject to confirmation by majority vote of the city council, shall appoint a substitute member to fill the vacancy for the duration of the vacated term. A member whose term expires may continue to serve until a successor is appointed and qualified.

(h) *Appointment of chair and vice-chair.* The members of the board shall annually elect, by majority vote, a chair, and vice-chair from among the members. The chair, or in the absence of the chair, the vice-chair, may administer oaths. The mayor may create and fill other offices as deemed necessary.

(i) *Subcommittees.* The board may create whatever subcommittees it deems necessary to carry out the purposes of the board. The board may have a standing subcommittee that will serve as the historic preservation board for the city, as deemed necessary.

(j) *Appointment of subcommittees.* The chair of the board shall appoint the membership of each subcommittee from the members of the board.

(k) *Record keeping.* The city clerk shall serve as custodian of all board minutes.

(l) *Compensation.* Members shall not be compensated but may be paid for travel and other expenses incurred on board business under procedures prescribed in advance by the city council.

(m) *Alternate members.* Three (3) alternate members may be appointed by the mayor, subject to confirmation by resolution of the city council, to serve on the board in the absence of board members. Each alternate member shall be appointed for not more than one-year terms and may be reappointed for a total term limit of three (3) consecutive one-year terms.

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

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

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

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

(1) With the prior approval of the city council, the board may use consultants as technical support to fulfill its functions and duties.

(2) The board shall monitor and oversee the operation, effectiveness and status of this Code and recommend amendments to the city council that are consistent with the comprehensive plan.

(3) Specifically, the board shall have the following functions, powers, and duties for long-range planning within the city:

a. The board shall review information necessary to assess the amount, direction, and type of development to be expected in the city.
b. Upon request by the city council, the board shall provide advice about specific planning, zoning, development, historic preservation, and land use issues and policies.
c. The board shall keep the city council and the general public informed and advised on the planning, zoning, development, historic preservation, and land use issues and policies of the city.
d. The board shall carry out the functions of a local planning agency pursuant to the requirements of F.S. Ch. 163, including, without limitation, conducting public hearings, gathering information necessary for the drafting, establishment, amendment, and maintenance of the various elements of the comprehensive plan and provisions of this Code. See F.S. § 163.3174.
e. The board may make or obtain special studies on the location, condition, and adequacy of specific facilities of the city, including, but not limited to housing, commercial and industrial facilities, parks, playgrounds, beaches, and other recreational facilities, schools, public buildings, public and private utilities, transportation, and parking.
f. The board shall review redevelopment plans prepared under F.S. Ch. 163, pt. III, as may be proposed.
g. The board shall recommend to the city council plans for the replanning, reconstruction, or redevelopment of any area or district which may be destroyed, in whole or in part, or seriously damaged by hurricane, fire, earthquake, flood, or other disaster.
h. The board shall perform other lawful duties, as may be assigned by the city council.

(4) The board shall review and recommend to city council; approval, approval with conditions, or denial of applications for:
a. Final development plans;
b. Special exceptions affecting more than one parcel in a residential area or one acre or more of land in any zoning district
c. Variances for property located in the C-1, C-2, C-3, conservation, and CBD zoning districts.

(5) The board shall hear and make a final decision for preliminary development plans

(6) The board shall hear and make a final decision for all special exceptions affecting less than one acre of land, except for Planned Unit Developments.

(7) The board shall hear and make a final decision for all variances for property located in the R-1, R-2, R-3, R-4, RC Overlay and R-5 zoning districts, including floodplain variances in those districts.

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

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

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

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

Sec. 27-40. - Board procedures.

(a) The board shall adopt rules of procedure to carry out its purposes. All rules must conform to this Code, other city ordinances, and state law and shall be filed in the office of the city clerk.

(b) All meetings shall be conducted in a public building and shall be open to the public.

(c) The board shall meet each calendar month, unless cancelled by the board or its chair; and more often at the call of the chair, the board, or the city council.

(d) Notice of meetings. Notice of meetings shall be given as provided for in this Code and by state statute. Additionally, notice indicating the time and place of the public hearing shall be posted in the front yard of the property, which is subject of the hearing, facing the street on which the property is addressed for at least ten (days) prior to the hearing. Such notice shall contain the address of the property and the subject matter of the hearing. The notice on the property site shall be of a standard size and design approved by the city manager or designee and shall be provided to the property owner or their representative upon request.

(e) The board shall keep minutes of its proceedings, indicating the attendance of each member, and the decision of each member on every question. The minutes shall be signed by the chair, or in his absence the vice-chair.

(f) Statement of the facts for variances and special exceptions found by the board shall be included in the minutes of each case heard or considered by it.

(g) The board shall set a reasonable time for the hearing of administrative appeals and shall give notice thereof to the person making the appeal and to the officer from whom the appeal is taken.

(h) The minutes shall be filed with the city clerk and shall become part of the public record.

(i) A copy of the minutes of each meeting shall be forwarded to the city council for its review.

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

Sec. 27-41. - Voting and quorum.

(a) Four (4) members shall constitute a quorum.

(b) Each decision of the board must be approved by a majority vote of the members present at a meeting in which a quorum is in attendance and voting. If a call to vote for a motion end in a tie, the motion dies for a lack of a majority.

(c) Abstentions and disqualification from voting shall occur in accordance with Florida law.

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

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

Sec. 27-42. - Legal representation.

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

(Ord. No. 2004-10, § 1, 10-4-04)

Secs. 27-43—27-45. - Reserved.

DIVISION 3. - RESERVED[5]

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

Secs. 27-46—27-55. - Reserved.

DIVISION 4. - CODE ENFORCEMENT MAGISTRATE

Sec. 27-56. - Code enforcement ~~board~~

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

(Ord. No. 2004-10, § 1, 10-4-04)

Secs. 27-57—27-60. - Reserved.

DIVISION 5. - CITY STAFF

Sec. 27-61. - City staff.

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

(Ord. No. 2004-10, § 1, 10-4-04)

Secs. 27-62—27-65. - Reserved.

DIVISION 6. - CITY COUNCIL

Sec. 27-66. - City council.

(a) In considering appeals from variance and special exception decisions by the community development board, the city council shall observe procedural requirements set forth in article III.

(b) The city council shall review and grant final authority for special exceptions affecting one acre or more of land, and for all variances affecting more than one parcel of land in a residential district and for property located in the C-1, C-2, C-3, CBD, and conservation zoning districts.

(c) In considering proposed changes to this Code, the city council acts in a legislative capacity, and when making changes to the zoning map, the city council acts in a quasi-judicial manner and shall observe procedural requirements set forth in article III.

(d) Unless otherwise specifically provided in this chapter, the city council shall follow the regular, voting, and other requirements as set forth in other provisions of the City Code, the City Charter, or laws of the State of Florida.

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

Secs. 27-67—27-70. - Reserved.

ARTICLE III. - ADMINISTRATIVE AND ENFORCEMENT PROCEDURES[6]

DIVISION 1. - GENERALLY

Sec. 27-71. - Reserved.

Sec. 27-72. - Generally.

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

(Ord. No. 2004-10, § 1, 10-4-04)

Secs. 27-73—27-75. - Reserved.

DIVISION 2. - DEVELOPMENT REVIEW

Sec. 27-76. - Generally.

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

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

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-77. - Definitions.

Refer to article I for definitions.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-78. - Development permit required.

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

(Ord. No. 2004-10, § 1, 10-4-04)

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

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

(Ord. No. 2004-10, § 1, 10-4-04)

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

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

(1) The construction or alteration of a single-family or duplex (two-family) residence that is in full compliance with this code on an existing lot.

(2) The alteration of an existing building or structure, other than a single-family or duplex (two-family) residence, so long as no change is made to its gross floor area, its use, its number of dwelling units, or the amount of impervious surface on the site.

(3) The erection of a sign or the removal of protected trees on a previously developed site and independent of any other development activity on the site.

(4) The resurfacing of a vehicle use area that conforms to all requirements of this Code.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-80.1 – Issuance of development permits.

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

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

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

(Ord. No. 2004-10, § 1, 10-4-04)

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

(a) ***Required pre-application conference***. Prior to filing for preliminary development plan review, the developer shall meet with city officials to discuss the development plan and review process. No person shall rely upon any comment concerning a proposed development plan, or any expression of any nature about the proposal made by any participant at the pre-application conference as a representation or implication that the proposal will be ultimately approved or rejected in any form.

(b) ***Submittal of preliminary development plan.*** The developer shall submit a preliminary development plan, as defined in this division, accompanied by a fee established by resolution of the city council.

(c) ***Determination of complete application.*** Within thirty (30) working days of receipt of a preliminary development order application, the city manager or designee shall determine that the information is complete or incomplete and inform the developer in writing of the deficiencies, if any. If the plan is deemed incomplete, the developer may submit an amended plan within thirty (30) working days without payment of an additional fee, but, if more than thirty (30) days have elapsed, the developer must thereafter initiate a new application and

pay a new fee. Furthermore, the city will review resubmissions within ten (10) business days. After the third incomplete submittal, the city will deny the development plan application.

(d) ***Review of preliminary development plans and issuance of a preliminary development order.*** The city manager or designee shall forward copies to the various city departments for their review.

(e) ***Copies to community development board.*** Once deemed complete and following city staff review the community development department shall send a copy of the proposed preliminary development plan to each member of the community development board and shall place the proposed plan on the agenda of the next meeting that allows for proper notice.

(f) ***Quasi-judicial public hearing.*** The community development board shall conduct a quasi-judicial public hearing as outlined in the Florida Statutes, and shall consider the following factors:

(1) Characteristics of the site and surrounding area, including important natural and manmade features, the size and accessibility of the site, and surrounding land uses.

(2) Whether the concurrency requirements of article VI of this Code could be met if the development were built.

(3) The nature of the proposed development, including land use types and densities; the placement of proposed buildings and other improvements on the site; the location, type and method of maintenance of open space and public use areas; the preservation of natural features; proposed parking areas; internal traffic circulation system, including trails; the approximate total ground coverage of paved areas and structures; and types of water and sewage treatment systems.

(4) Conformity of the proposed development with the comprehensive plan, this Code, and other applicable regulations.

(5) Applicable regulations, review procedures, and submission requirements.

(6) Concerns and desires of surrounding landowners and other persons.

(7) Other applicable factors and criteria prescribed by the comprehensive plan, this Code, or other law.

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

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

(1) Issue a final development order complying with section 27-87 of this Code with or without conditions, ensuring that the final development plan is consistent with the preliminary development order; or

(2) Refuse to issue a final development order if it is not possible for the proposed development, even with reasonable modifications, to meet the requirements of this Code.

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

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

(a) *Application.* Applications for development orders shall be available from the Community Development Department. A completed application shall be signed by all owners, or their agent, of the property subject to the proposal, and notarized. Signatures by other parties will be accepted only with notarized proof of authorization by the owners. In a case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's office in the corporation and embossed with the corporate seal.

(b) *General plan requirements.* All preliminary and final development plans submitted pursuant to this Code shall conform to the following standards:

(1) All site plans shall be drawn to a scale of one (1) inch equals twenty (20) feet, unless, prior to submittal, the community development director determines that a different scale is sufficient or necessary for proper review of the proposal.

(2) The trim line sheet size shall be twenty-four (24) inches by thirty-six (36) inches. A three-quarter-inch margin shall be provided on all sides except for the left binding side where a two-inch margin shall be provided.

(3) If multiple sheets are used, the sheet number, total number of sheets, and title of each page must be clearly indicated on each.

(4) The front cover sheet of each plan shall include:

a. A general vicinity or location map drawn to scale (both stated and graphic) showing the position of the proposed development in the section(s), township, and range, together with the principal roads, city limits, and/or other pertinent orientation information.

b. A complete legal description of the property.

c. The name, address, and telephone number of the owner(s) of the property. Where a corporation or company is the owner of the property, the name and address of the president and secretary of the entity shall be shown.

d. Name, business address, and telephone number of those individuals responsible for the preparation of the drawing(s).

e. Each sheet shall contain a title block with the name of the development, stated and graphic scale, a north arrow, and date.

f. The plan shall show the boundaries of the property with a legal description reference to section, township and range, tied to a section or quarter-section or subdivision name and lot number(s).

g. The area of the property shown in square feet and acres.

h. Lot coverage calculations

(5) Two (2) paper copies of the submittal and one (1) digital copy shall be required.

(6) Unless a format is specifically called for below, the information required may be presented textually, graphically, or on a map, plan, aerial photograph, or by other means, whichever most clearly conveys the required information. It is the responsibility of the developer to submit the information in a form that allows ready determination of whether the requirements of this Code have been met.

(Ord. No. 2004-10, § 1, 10-4-04)

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

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

(1) The location of existing property or right-of-way lines both for private and public property, streets, railroads, buildings, transmission lines, sewers, bridges, culverts, drainpipes, water mains, fire hydrants, and any public or private easements.

(2) Any land rendered unusable for development purposes by deed restrictions or other legally enforceable limitations.

(3) Contour lines at two-foot intervals.

(4) All watercourses, waterbodies, floodplains, wetlands, including all proposed retention and detention areas, important natural features and wildlife areas, soil types and vegetative cover, if applicable.

(5) The approximate location of wetland protection zones, wetland buffer zones, wellhead protection zones, and wellhead buffer zones as established by this Code, if applicable.

(6) Existing land use/zoning district of the parcel.

(7) A depiction (sketch) of the abutting property in all directions that is within two hundred (200) linear feet of the proposal, showing:

a. Land uses and locations of principal structures and major landscape features.

b. Types of residential use.

c. Traffic circulation systems, including driveway locations.

d. Fire hydrant locations.

e. The location of wetland protection zones and wetland buffer zones, if applicable.

(8) A title search of the property, conducted within six (6) months of plan submittal, including all encumbrances. All such encumbrances shall be shown upon the survey and identified by official record book and page.

(9) The location of the coastal construction control line (CCCL) if applicable.

(10) The location of any stormwater facilities.

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

(1) The location and intensity or density of the proposed development.

(2) A parking and circulation plan.

(3) Points of ingress to and egress from the site in relation to existing or planned public or private road rights-of-way, pedestrian ways, or bicycle paths, and proposed access points to existing or planned public transportation facilities.

(4) Existing and proposed stormwater management systems on the site and proposed linkage, if any, with existing or planned public water management systems.

(5) Proposed location and sizing of potable water and wastewater facilities to serve the proposed development, including required improvements or extensions of existing off-site facilities.

(6) Proposed open space areas on the development site and types of activities proposed to be permitted on them.

(7) Lands to be dedicated or transferred to a public or private entity and the purposes for which the lands will be held and used.

(8) A description of how the plan mitigates or avoids potential conflicts between land uses.

(9) Preliminary architectural elevations of all buildings sufficient to convey the basic architectural intent of the proposed improvements.

(10) A map of vegetative cover including the location and identity by common name of all protected trees. Groups of protected trees may be designated as "clusters" with the estimated total number noted. This information shall be summarized in tabular form on the plan.

(11) Existing surface waterbodies, wetlands, streams, and canals within the proposed development site, including seasonal high-water table elevations and attendant drainage areas for each.

(12) The location of any underground or overhead utilities, transformers, culverts and drains on the property and within one hundred (100) feet of the proposed development boundary

(13) Location, names and widths of existing and proposed streets, highways, easements, building lines, alleys, parks, and other public spaces and similar facts regarding adjacent property.

(14) A separate listing of all requested variances and/or special exceptions to the Code of Ordinances shall be submitted with each plan.

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

(1) Generally:

a. Area and percentage of total site area to be covered by an impervious surface.

b. Grading plans specifically including perimeter grading.

c. Construction phase lines if the project is to be constructed in phases.

(2) Buildings and other structures:

a. Building plan showing the location, dimensions, gross floor area, and proposed use of buildings.

b. Front, rear, and side architectural elevations of all buildings.

c. Building setback distances from the property lines, abutting right-of-way centerlines, and all adjacent buildings and structures.

d. Minimum finished floor elevations (FFE) of buildings within any 100-year floodplain.
e. The location, dimensions, type, composition, and intended use of all other structures, including, but not limited to, walls and fences.

(3) Potable water and wastewater systems:
a. Proposed location and sizing of potable water and wastewater facilities to serve the proposed development, including required improvements or extensions of existing off-site facilities.
b. The boundaries of proposed utility easements.
c. Location of the nearest available public water supply and wastewater disposal system and the proposed tie-in points, or an explanation of alternative systems to be used.
d. Exact locations of on-site and nearby existing and proposed fire hydrants.

(4) Streets, parking, and loading:
a. The layout of all streets and driveways with paving and drainage plans and profiles showing existing and proposed elevations and grades of all public and private paved areas.
b. A parking and loading plan showing the total number and dimensions of proposed parking spaces, spaces reserved for ADA accessible parking, loading areas, proposed ingress, and egress (including proposed public street modifications), and projected on-site traffic flow.
c. The location of all exterior lighting.
d. The location and specifications of any proposed garbage dumpsters.
e. Pedestrian walks, malls, yards, and open areas.

(5) Tree removal and protection:
a. All protected trees to be removed and a statement of why they are to be removed.
b. Proposed changes in the natural grade and any other development activities directly affecting trees to be retained.
c. A statement of the measures to be taken to protect the trees to be retained.
d. A statement of tree relocations and replacements proposed.

(6) Landscaping:
a. Location, size and design of proposed buffer zones and landscaped areas.
b. Description (species, quantities, and locations) of all proposed and preserved plant materials.

(7) Environmentally sensitive lands within a wetland protection zone:
a. The exact sites and specifications for all proposed drainage, filling, grading, dredging, and vegetation removal activities including estimated quantities of excavation or fill materials computed from cross sections, proposed within a wetland protection zone.
b. Detailed statement or other materials showing the following:
1. The percentage of the land surface of the site that is covered with natural vegetation and the percentage of natural vegetation that will be removed by development.
2. The distances between development activities and the boundaries of the Wetland Protection Zones and Wetland Buffer Zones.

c. The manner in which habitats of endangered and threatened species are protected.

(8) *Signs:*

a. For regulated building signs, a plan, sketch, blueprint, blueline print or similar presentation drawn to scale which indicates clearly:

1. The location of the proposed sign relative to property lines, rights-of-way, streets, alleys, sidewalks, vehicular access and parking areas, buildings, and structures on the parcel.
2. The number, size, type, and location of all existing signs on the same parcel, except a single business unit in a multiple occupancy complex shall not be required to delineate the signs of other business units. In the case of a sign for a single business unit in a multiple occupancy complex, provide the total facade area of the single business unit's portion of the complex.
3. A building elevation or other documentation indicating the building dimensions.
4. The type, number, and dimensions of the proposed signs.
5. The type of proposed illumination, if any.

(9) *Subdivision.* Proposed number, minimum area, and location of lots, if development involves a subdivision of land.

(10) Land use and dedications:

a. Location of all land to be dedicated or reserved for all public and private uses including rights-of-way, easements, special reservations, and the like.

b. Amount of area devoted to all existing and proposed land uses, including schools, open space, churches, residential and commercial, as well as the location thereof.

c. The total number and type of residential units categorized according to number of bedrooms. The total number of residential units per acre (gross density) shall be given.

(11) *Wellfield protection.* Location of on-site wells, and wells within one thousand (1,000) feet of any property line, exceeding one hundred thousand (100,000) gallons per day.

(12) *Historic and archaeological sites.* The manner in which historic and archaeological sites will be protected.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-85. - Reserved.

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

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

(1) Every development shall be given a name by which it shall be legally known. The name shall not be the same as any other name appearing on any recorded plat except when the proposed development includes a subdivision that is subdivided as an additional unit or section by the same developer or his successors in title. Every development name shall have legible lettering of the same size and type including the words "section", "unit,"

"replat," "amended," and the like where relevant. The name of the development shall be indicated on every page.

(2) If new lots are being created, all lots shall be numeric by progressive numbers; blocks shall be alphabetic, by progressive letters. Except that blocks in numbered additions bearing the same name may be lettered consecutively throughout several additions.

(3) All contiguous properties shall be identified by development title, plat book, and page, or if the land is unplatted, it shall be so designated. If a new subdivision to be platted is a re-subdivision of a part or the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. All abutting existing easements and rights-of-way must be indicated. The abutting existing rights-of-way must be indicated to the centerline.

(4) Any proposed restrictions pertaining to the type and use and maintenance of existing or proposed improvements, waterways, open spaces, building lines, buffer strips and walls, retention/detention areas and other restrictions of similar nature, shall require the establishment of restrictive covenants and such covenants shall be submitted with the final development plan for recordation and recorded prior to the issuance of the first building permit. The entire cost of recordation shall be borne by the developer.

(5) Where the development includes private streets, ownership and maintenance association documents shall be submitted with the final development plan and the dedication contained on the development plan shall clearly indicate the roads and maintenance responsibility to the association without recourse to the city or any other public agency. Said document shall be recorded prior to the issuance of the first building permit, all costs to be borne by the developer.

(6) All manmade lakes, ponds, and other manmade bodies of water shown on the final development plan for a subdivision shall be made a part of adjacent private lot(s) as shown on the final plat. The ownership of these bodies of water shall not be dedicated to the public unless accepted by the city council.

(Ord. No. 2004-10, § 1, 10-4-04)

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

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

(1) An approved preliminary development plan (may be subject to conditions and modifications) with findings and conclusions.

(2) A listing of conditions that must be met, and modifications to the preliminary development plan that must be made, in order for a final development order to be issued. The modifications shall be described in sufficient detail and exactness to permit a developer to amend the proposal accordingly.

(3) A listing of all federal, state, and regional permits that must be obtained in order for a final development order to be issued.

(4) With regard to the concurrency management requirements in article VI:

a. The initial determination of concurrency.

b. The time period for which the preliminary development order is valid. This initial determination indicates that capacity is expected to be available for the proposed

project, provided that a complete application for a final development order is submitted prior to the expiration date of the preliminary development order.

c. Notice that the preliminary development order does not constitute a final development order and that one (1) or more concurrency determinations may subsequently be required. The notice may include a provisional listing of facilities for which commitments may be required prior to the issuance of a final development order.

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

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

(1) Agreement by the developer in a recordable written instrument running with the land that no final development order will be requested or approved unless the necessary facilities are programmed for construction within specified time periods.

(2) Commitment by the developer in a recordable written instrument to contract for provision of the necessary services or facilities to achieve the concurrency requirement.

(3) Schedule of construction phasing of the proposed development consistent with the anticipated availability of one (1) or more services or facilities.

(4) Such other conditions as may be required by the community development board to ensure that concurrency will be met for all applicable facilities and services.

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

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

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

(1) A determination that, where one was required, a valid preliminary development order exists for the requested development.

(2) An approved final development plan with findings and conclusions.

(3) A determination from the city staff that all conditions of the preliminary development order have been met.

(4) If modifications must be made to the development plan before a final development order may be issued, a listing of those modifications and the time limit for submitting a modified plan.

(5) A specific time period during which the development order is valid and during which time development shall commence. A final development order shall remain valid only if development commences and continues in good faith according to the terms and conditions of approval. If the first building permit that is related to the final development order is not issued within one (1) year of the date of the issuance of the final development order the approval shall be considered null and void. However, the city council, upon showing of good cause may extend such approval period. All such extensions must be requested and heard by the city council prior to expiration of the development order.

(6) A commitment by the city to the following:

a. That if the city agrees to provide some or all of the public facilities needed to meet, shall not be deferred or deleted from the five-year schedule of capital improvements or the adopted one-year capital budget unless the subject final development order expires or is rescinded prior to the issuance of a certificate of occupancy.

b. Contracts shall provide that construction of necessary facilities must proceed to completion with no unreasonable delay or interruption.

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

(1) A schedule of construction phasing consistent with availability of capacity of one (1) or more services and facilities.

(2) A schedule of services or facilities to be provided or contracted for construction by the applicant prior to the issuance of any certificate of occupancy or within specified time periods.

(3) Any alternate service impact mitigation measures to which the applicant has committed in a recordable written instrument.

(4) A security agreement in the amount of one hundred ten (110) percent of the cost of services or facilities that the applicant is required to construct, contract for construction, or otherwise provide.

(5) Such other conditions as may be required to ensure compliance with the concurrency requirement.

(Ord. No. 2004-10, § 1, 10-4-04)

Secs. 27-89—27-100. - Reserved.

DIVISION 3. - PLATTING REQUIREMENTS[7]

Sec. 27-101. - Generally.

(a) It shall be unlawful for any person to submit a plat for the subdivision of land to the clerk of the circuit court of the county or his representative for the purpose of recording the plat in the office of the clerk until the plat has been approved by the city council under the provisions of this article and signed by the mayor. If an unapproved plat is recorded, it shall be stricken from the public records upon the adoption of an appropriate resolution by the city council. No changes, erasures, modifications or revisions shall be made in any plat, approved by the city council without the consent of the city council.

(b) Where proposed development includes the subdivision of land, the final approval of the development plan by the city council shall be made contingent upon approval by the city council of a plat conforming to the final development plan. Preliminary development plans and preliminary plats may be submitted for review simultaneously.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-101.1. - Platting requirements.

(a) ***Application of regulations.*** Except as provided in this section, no person shall be eligible for any development permit for a principal building on any lot subdivided after January 1, 2022,

located within the city until the subject property has been platted in conformity with the provisions of this section unless subdivision of the land on which the principal building is not otherwise required.

(b) ***Exemption.*** Upon a finding by the city manager or his designee that the subject property had been platted or no platting was or is required the following types of development shall be deemed exempt and not subject to the provisions of this mandatory platting requirement of the land development code:

(1) No further change to a recorded plat is created and all development is undertaken in conformance with the regulations in this chapter

(2) The dedication of land or any interest in land to any governmental agency, entity or political subdivision.

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

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-101.2. - Required plat information.

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

(1) The boundary lines of the area being subdivided with the distance and bearings and the legal description of the property.

(2) The lines of all proposed streets with their widths and names. All street names must be approved by the community development department.

(3) The outline of any portions of the property intended to be dedicated for public use, such as for schools, parks, etc.

(4) The lines of adjoining streets with their widths and names.

(5) The square foot area of each lot, the net usable acreage (less jurisdictional areas), and the minimum finished floor elevation (FFE).

(6) The location of all setback lines, rights-of-way, and easements provided for public use, service, utilities or drainage, both current and proposed.

(7) All dimensions both linear and angular for locating the boundaries of the subdivision, lots, streets, easements, and any other areas, for public use or private use. Linear dimensions are to be given to the nearest one-one hundredth of a foot.

(8) The radii, arcs, chords, chord bearings, points of tangencies and central angles for curved streets and rounded block corners, per Florida Statutes.

(9) The location of all survey monuments, permanent points and azimuth marks with their descriptions.

(10) The name of the subdivision, the section, township, and range of the land, the scale of the plat (written and graphic), points of the compass and the name of the owner and owners of the subdivision.

(11) Certification of a currently registered surveyor of the State of Florida as to the correct representation of the plat per Florida Statutes.

(12) Private restrictions and trusteeships and their period of existence.

(13) Acknowledgment of the owner, and owners to the plat, mortgagees, and restrictions, including dedication to public use of all streets and parks, alleys, easements, rights-of-way, and public areas shown on such plat, the dedication of or granting of easements required.

(14) All flood hazard zones as established by the FEMA Flood Insurance Rate Maps.

(15) Subdivision plats located within areas of potential storm surge inundation shall include a statement that "The area as depicted hereon is subject to storm surge inundation during a Category one (1), two (2), three (3), four (4), or five (5) hurricanes.

(16) All wetland jurisdictional areas.

(17) Present zoning district(s) the property is located in.

(18) The location of permanent benchmarks or PRMs which shall be provided at convenient points with elevations indicated.

(19) All lots shall be numeric by progressive numerals; blocks shall be alphabetic, by progressive letters. Except those blocks in numbered additions bearing the same name may be lettered consecutively throughout several additions.

(20) All parcels described in the description of the lands not being subdivided shall clearly indicate, “Not a part of this plat.”

(21) Dedication must be executed by all persons, corporations, or entities whose signature would be required.

(22) Any private streets shall include an ownership and maintenance association document and shall be indicated clearly on the plat.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-102. - Procedures for platting.

(a) ***Submittal of proposed preliminary plat.*** Three (3) paper copies and one (1) digital copy of a proposed preliminary plat, as described in F.S. Ch. 177, shall be submitted to the city manager or designee. Preliminary development plans may be submitted and considered simultaneously with the proposed preliminary plat. In addition, a boundary survey containing the following shall also be submitted:

(1) Topography of the site.

(2) Title opinion shall be incorporated into the boundary survey. The title opinion shall match exactly with the dedication listed on the plat.

(b) ***Copies of proposed preliminary plat.*** The city manager or designee shall forward copies to the community development board after circulating copies to the various city departments for their review.

(c) ***Discussion of details.*** The developer may be asked to meet with city staff to discuss any details of said preliminary plat that may impede the approval and acceptance of the plat.

(d) ***Recommendations and comments.*** Each city department, that so wishes, and the community development board shall submit to the city manager or designee any recommendations and comments in writing.

(e) ***Copy of recommendations and comments.*** The city manager or designee shall then forward a copy of said recommendations and comments to the developer and retain the originals as a record.

(f) ***Submittal of proposed final plat.*** Within six (6) months of receiving said comments and recommendations, the developer shall then submit the proposed final plat in triplicate as described in F.S. Ch. 177, to the city manager or designee, of which one (1) shall be the original. If more than six (6) months elapses, the developer shall resubmit a preliminary plat to reinitiate the process.

(g) ***Recommendation by board.*** Within sixty (60) days after receipt of said proposed final plat, the community development board shall make a recommendation that approves, approves with conditions, or denies said final plat. Failure to do so shall be deemed as a recommendation of approval by the board.

(h) ***Approval or denial by city council.*** At the next available meeting of the city council allowing for required notice, the city council shall approve, approve with conditions, or deny said plat after consideration of the comments and recommendations of the community development board and the various city departments.

(i) ***If accepted by council***. Upon acceptance by the city council, the seal of the city and the signature of the mayor, city manager, city clerk, community development director, public works director, and city attorney shall be affixed to the original final (3) paper copies of the plats and returned to the developer.

(j) ***Approved final plat to be recorded.*** Within six (6) months after the city council approves said final plat, the developer shall have recorded the plat in the public records of the county and shall return to the community development department two (2) copies showing the certificates of the Clerk of the Circuit Court of Duval County, Florida, and the seal of that court. If more than six (6) months elapse, such plat shall be deemed invalid and the city clerk shall notify the Clerk of the Circuit Court of Duval County, Florida, to refuse to record such plat.

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

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

DIVISION 4. – RESERVED

Secs. 27-105 — 27-112. - Reserved.

DIVISION 5. - GUARANTEES AND SURETIES

Sec. 27-113. - Generally.

(a) The provisions of this section apply to all proposed developments in the city, including private road subdivisions.

(b) Nothing in this section shall be construed as relieving a developer of any requirement relating to concurrency in this Code.

(c) This section does not modify existing agreements between a developer and the city for subdivisions platted and final development orders granted prior to the effective date of this Code, providing such agreements are current as to all conditions and terms thereof.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-114. - Improvement agreements required.

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

(1) Agreement that all improvements, whether required by this Code or constructed at the developer's option, shall be constructed in accordance with the standards and provisions of this Code.

(2) The term of the agreement indicating that all required improvements shall be satisfactorily constructed within the period stipulated. The term shall not exceed five (5) years from the recording of the plat or thirty (30) percent occupancy of the development, whichever comes first.

(3) The projected total cost for each improvement. Cost for construction shall be determined by either of the following:

a. Estimate prepared and provided by the applicant's engineer.

b. A copy of the executed construction contract provided.

(4) Specification of the public improvements to be made and dedicated together with the timetable for making improvements.

(5) Agreement that upon failure of the applicant to make required improvements (or to cause them to be made) according to the schedule for making those improvements, the city shall utilize the security provided in connection with the agreement.

(6) Provision of the amount and type of security provided to ensure performance.

(7) Provision that the amount of the security may be reduced periodically, but not more than two (2) times during each year, subsequent to the completion, inspection and acceptance of improvements by the city.

(Ord. No. 2004-10, § 1, 10-4-04)

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

(a) The amount and type of the security listed in the improvement agreement shall be approved as adequate by the city manager.

(b) Security requirements may be met by the following:

(1) Cashier's check;

(2) Certified check;

(3) Interest bearing certificate of deposit;

(4) Irrevocable letters of credit;

(5) Surety bond.

(c) The amount of security shall be one hundred and ten (110) percent of the total construction costs for the required developer-installed improvements. The amount of security may be reduced commensurate with the completion and final acceptance of required improvements. In no case, however, shall the amount of the bond be less than one hundred and ten (110) percent of the cost of completing the remaining required improvements.

(d) Standard forms are available from the city approved by the city council.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-116. - Maintenance of improvements.

(a) A maintenance agreement and security shall be provided to assure the city that all required improvements shall be maintained by the developer according to the following requirements:

(1) The period of maintenance shall be a minimum of three (3) years.

(2) The maintenance period shall begin with the acceptance by the city of the construction of the improvements.

(3) The security shall be in the amount of fifteen (15) percent of the construction cost of the improvements.

(b) Whenever a proposed development provides for the creation of facilities or improvements which are not proposed for dedication to the city, a legal entity shall be created to be responsible for the ownership and maintenance of such facilities and/or improvements.

(1) When the proposed development is to be organized as a condominium under the provisions of F.S. Ch. 718, common facilities and areas shall be conveyed to the condominium's association pursuant to that law. Additionally, all amenities indicated on the city approved final development plan shall be completed prior to the issuance of the first certificate of occupancy (CO) for any dwelling unit. Within phased developments, amenities shall be included in the same phase of the development as the contiguous structures.

(2) When no condominium is to be organized, an owners' association shall be created, and all common facilities and areas shall be conveyed to that association. Additionally, all amenities indicated on the city approved final development plan shall be completed prior to the issuance of the first certificate of occupancy (CO) for any dwelling unit. Within phased developments, amenities shall be included in the same phase of the development as the contiguous structures.

(3) No final development order shall be issued for a development for which an owners' association is required until the documents establishing such association have been reviewed and approved by the city attorney.

(c) An organization established for the purpose of owning and maintaining common facilities and areas not proposed for dedication to the city shall be created by covenants running with the land. Such organization shall not be dissolved, nor shall it convey any common facilities or areas by sale or otherwise without first obtaining city council approval.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-117. - Completion of improvements.

When improvements are completed, final inspection shall be conducted and corrections, if any, shall be completed before final acceptance is recommended by the building official. A recommendation for final acceptance shall be made upon receipt of a certification of project completion and one (1) copy of all test results relating to the improvement. As required improvements are completed and accepted, the developer may apply for release of all or a portion of the security consistent with this division.

(Ord. No. 2004-10, § 1, 10-4-04)

Secs. 27-118—27-120. - Reserved.

DIVISION 6. - ENFORCEMENT OF DEVELOPMENT PERMITS AND ORDERS

Sec. 27-121. - Generally.

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

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-122. - Definitions.

Refer to article I for definitions.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-123. - Ongoing inspections.

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

(Ord. No. 2004-10, § 1, 10-4-04)

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

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

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

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

(a) If the work is found to have one (1) or more major deviations, the city manager or designee shall:

(1) Place the matter on the next agenda of the community development board allowing for adequate notice and recommend appropriate action for the board to take.

(2) Issue a stop work order and/or refuse to allow occupancy of all or part of the development if deemed necessary to protect the public interest. The order shall remain in effect until the city determines that work or occupancy may proceed pursuant to the decision of the community development board.

(3) Refer the matter to the code inspector, if it appears that the developer has committed violations within the jurisdiction of the code enforcement board.

(b) The community development board shall hold a quasi-judicial public hearing on the matter and shall take one (1) of the following actions:

(1) Order the developer to bring the development into substantial compliance (i.e., having no or only minor deviations) within a reasonable period of time. The final development order or permit may be revoked if this order is not complied with.

(2) Amend the final development order or permit to accommodate adjustments to the development made necessary by technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process. Amendments shall be the minimum necessary to overcome the difficulty and shall be consistent with the intent and purpose of the development order given and the requirements of this Code.

(3) Revoke the relevant final development order or permit based on a determination that the development cannot be brought into substantial compliance and that the development order or permit should not be amended to accommodate the deviations.

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

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

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

(Ord. No. 2004-10, § 1, 10-4-04)

Secs. 27-127—27-130. - Reserved.

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

Sec. 27-131. - Generally.

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

(Ord. No. 2004-10, § 1, 10-4-04)

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

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

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

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

(a) ***Generally.*** Any aggrieved or adversely affected person may appeal any final order or decision of the city manager or their respective designees to the community development board within thirty (30) days of the date that the order was rendered.

(b) ***Appeal application.*** The appeal shall be made in writing indicating the following:

(1) A statement of the decision to be reviewed, and the date of the decision.

(2) A statement of the interest of the person seeking review.

(3) The specific error alleged as the grounds of the appeal.

(c) ***Appeals process.*** The following procedure shall be followed to process appeals:

(1) Submittal of appeal. The aggrieved or adversely affected person shall submit a completed appeal application, as described in this part, to the city clerk who shall indicate on the application the date of submittal.

(2) The city manager, or designee, shall compile and transmit to the community development board all copies constituting the record relating to the decision being appealed.

(3) The community development board shall fix a reasonable time and place for the hearing of appeals and shall give notice thereof to the persons making the appeal and to the officer from whom the appeal is being taken.

(4) At the hearing, parties of interest may appear in person or by agent or attorney. The community development board may reverse, affirm, in whole or in part, or modify the order, requirement, decision, or determination being appealed. In so doing, the requisite board shall have all of the powers of the officer from whom the appeal is taken.

(d) ***Effect of appeal.*** An appeal stays all actions required by or relating to the decision being appealed, unless the city manager certifies to the community development board that such a stay would, in his opinion, cause imminent peril to life or property, in which case the actions shall not be stayed.

(e) ***Burden of proof.*** The burden of proof that the decision being appealed is in error shall be upon the applicant for the appeal.

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

Secs. 27-134—27-140. - Reserved.

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)

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);

(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 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)

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)

Sec. 27-145.1 – Reserved.

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)

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)

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)

Sec. 27-150. - 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 subsection 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;

(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; and

(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)

State Law reference— Water resources, F.S. Ch. 373.

Sec. 27-151. - 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)

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)

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)

Sec. 27-155. - Reserved.

DIVISION 9. - SPECIAL EXCEPTIONS

Sec. 27-156. - Generally.

This division establishes the procedures for applying for and granting special exceptions.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-157. - Definitions.

Refer to article I for definitions.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-158. - Application requirements.

(a) ***Form.*** All applications for special exceptions shall be in writing and in such form as may be determined by the city council.

(b) ***Information necessary.*** The application shall, at a minimum, 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;

(3) The current designation on the adopted future land use map and current zoning of the property for which the special exception is being sought;

(4) Information necessary to make the findings as required in this division;

(5) A site plan drawn to an appropriate scale showing the property as it is intended to be developed or modified pursuant to the proposed special exception.

(6) For special exceptions in the C-1, C-2, C-3, and CBD zoning districts, the site plan must meet all requirements for a final development plan. For special exceptions in other zoning districts, the site plan may also be required to meet all requirements for a final development plan.

(c) ***Binding.*** The site plan or final development plan, as submitted or as modified by the community development board or the city council, may be made binding upon the special exception, if granted, as a condition of approval (see section 27-161).

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-158.1. - 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. Such notice shall contain the address or location of the property and the nature of the application. The notice at the 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 city clerk 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. The advertised notice shall state the date, time, place of the 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 public hearing 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.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 28, 9-7-10)

Sec. 27-159. - Procedures for applying for and issuing a special exception.

(a) *Submittal of application.* The applicant shall submit a completed application using the prescribed form, as described in this division, to the city manager or designee along with the appropriate application fee.

(b) *Consideration by* community development board. The city manager or designee shall forward said application to the community development board for consideration.

(c) *Community development board quasi-judicial public hearing.* 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, recommendations, and/or decision for approval, approval with conditions, or denial of the application, based on the standards set forth in this division. Any person at the public hearing shall be afforded the opportunity to be heard.

(d) *Community development board action*. Unless appealed pursuant to section 27-163, the decision of the community development board shall be final for special exceptions affecting less than one acre of land in any residential zoning district. For all other special exceptions, the decision of the community development board shall be a recommendation to the city council, which will make the final decision.

(e) C*ity council action.* For special exceptions affecting more than one parcel of land in any residential zoning district, and for all other special exceptions, at the next available meeting of the city council, allowing for required notice as described in this division, the city council by way of quasi-judicial 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.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2007-11, § 1, 9-4-07; Ord. No. 2010-14, § 29, 9-7-10)

Sec. 27-160. - Required findings for a special exception.

A special exception may not be approved by the community development board or the city council without making a positive finding, based on substantial competent evidence, on each of the following, to the extent applicable:

(1) The proposed use is consistent with the comprehensive plan;

(2) The proposed use would be compatible with the general character of the area, considering the population density; the design, density, scale, location, and orientation

of existing and permissible structures in the area; property values; and the location of existing similar uses;

(3) The proposed use would not have an environmental impact inconsistent with the health, safety, and welfare of the community;

(4) The proposed use would not generate or otherwise cause conditions that would have a detrimental effect on vehicular traffic, pedestrian movement, or parking inconsistent with the health, safety, and welfare of the community;

(5) The proposed use would not have a detrimental effect on the future development of the area as allowed in the comprehensive plan;

(6) The proposed use would not result in the creation of objectionable or excessive noise, light, vibration, fumes, odors, dust, or physical activities inconsistent with existing or permissible uses in the area;

(7) The proposed use would not overburden existing public services and facilities; and

(8) The proposed use meets all other requirements as provided for elsewhere in this Code.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2007-11, § 2, 9-4-07; Ord. No. 2010-14, § 30, 9-7-10)

Sec. 27-161. - Imposition of conditions in issuing a special exception.

In reviewing a special exception, the community development board, and the city council may impose such conditions and restrictions upon the premises benefited by a special exception as may be necessary to allow a positive finding to be made on any of the foregoing factors, or to minimize the injurious effect of the special exception.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 31, 9-7-10)

Sec. 27-162. - Special exception only applies to property for which permit issued.

(a) Any special exception granted by the community development board, or the city council shall only apply to the property for which the permit was granted. Under no circumstance shall the special exception apply to any adjacent or contiguous property that may be acquired, subsequent to the issuance of the special exception.

(b) A special exception, if granted, applies to the specific land for which it was approved. Unless a specific condition on the special exception provides otherwise, the special exception and any extensions will apply equally to future owners of the same land.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-163. – Procedure for appeals of a CDB decision on a special exception.

(a) The following persons may appeal to the city council any final decision of the community development board with respect to a special exception:

(1) The applicant for the special exception;

(2) The owner of any property within three hundred (300) feet from the subject property; 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 grounds for the appeal and shall be filed, along with the filing fee, as established by resolution of the city council, with the city clerk within thirty (30) days from the date the decision of the community development board was 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 quasi-judicial public hearing; or

(3) New evidence is available because of substantial changes in circumstance.

(d) The city council shall approve, deny, or approve with conditions the requested special exception after reconsideration of the decision of the community development board, based on the standards set forth in this division. When the council acts on an appeal of a final decision of the community development board, that action shall be deemed to be the final action of the city.

Sec. 27-164. - Procedure for appeals of a final decision on a special exception.

Appeals of the final grant or denial of a special exception by the city council shall be as provided by Florida law.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-165. - Expiration of special exception.

Unless the use or construction, specially permitted by the special exception, has actually been commenced within twelve (12) months following the date the special exception is rendered, the special exception shall expire and be of no further force, validity, or effect. An extension up to an additional twelve (12) months may be granted by the City Manager, or designee, after review of a formal request in writing with supporting documentation and receipt of any applicable fees.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-04, § 1, 3-1-10)

Sec. 27-166. - Violation of special exception terms or conditions.

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

(Ord. No. 2004-10, § 1, 10-4-04)

Secs. 27-167. -27-170. - Reserved.

DIVISION 10. - AMENDING THIS CODE[8]

Footnotes: --- (8) --- State Law reference— Amending land development regulations, F.S. §§ 163.3202(1); 166.041.

Sec. 27-171. - Generally.

Any portion of this Code may be amended, supplemented, changed, modified, or repealed and the zoning map may be modified by the rezoning of land as provided for in this division, provided that all changes are consistent with the comprehensive plan.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-172. - Definitions.

Refer to article I for definitions.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-173. - Amendments to this Code and zoning map to be consistent with comprehensive plan.

Amendments to this Code, and to the zoning map, shall be consistent with the comprehensive plan.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-174. - Time periods procedural.

The time periods provided for in this division are procedural and not substantive and noncompliance with a time period shall neither confer, nor deny a substantive right to an applicant for rezoning of property.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-175. - Application requirements for rezoning of land.

(a) The application for rezoning shall contain:

(1) A current certified, signed, and sealed survey prepared by a state licensed professional land surveyor;

(2) The street location as near as may be given;

(3) The name and address of the owner of the premises;

(4) The current designation on the adopted future land use map and the current zoning district classification;

(5) The proposed zoning district classification for which the application is made, and, if a comprehensive plan amendment is being requested simultaneously, the proposed designation on the future land use map;

(6) A description of the existing uses of the premises; and

(7) A clear and concise statement of the reasons advanced why such change in zoning classification is (or will be) consistent with the comprehensive plan and the land should be rezoned.

(b) The application shall include an accurate plat or development plan of the premises involved and all premises within at least three hundred (300) feet thereof on a scale no smaller than two hundred (200) feet to the inch.

(c) The application shall be signed by the applicant or his authorized agent and by the property owner if different than the applicant, or his authorized agent and these signatures shall be notarized.

(d) The applicant may attach to such application any studies or written statements relevant upon the matter.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-176. - Withdrawal of application for rezoning of land.

An application for rezoning may be withdrawn at any time so long as no notice has been given as specified in this Code.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-177. - Procedure for rezoning of land.

(a) The applicant shall submit to the city manager, or designee, one (1) completed application and appropriate fee, together with evidence that the deposit required by law to cover all costs of each publication of every required notice of quasi-judicial public hearing thereon has been made with the city manager or designee.

(b) Within ten (10) days after receipt of an application, the city manager or designee shall determine that the information is complete or incomplete and inform the applicant of any deficiencies, if any. If the application is deemed:

(1) Incomplete, the applicant may submit the required information within thirty (30) days without payment of an additional application fee, but, if more than thirty (30) days elapse, the developer must thereafter initiate a new application and pay a new application fee; or

(2) Complete, the city manager or designee shall forward said application to the community development board.

(c) The community development board shall:

(1) Conduct such study and investigation of the matter as shall be necessary or proper;

(2) Conduct a quasi-judicial public hearing to discuss the proposed changes and make a recommendation to the city council that the application should be approved, denied, or approved with modifications.

(d) The city council upon receiving such recommendation, shall conduct a quasi-judicial public hearing on the proposed ordinance not more than sixty (60) days or less than thirty (30) days from the date the community development board submits its written recommendation.

(e) After the adoption of an ordinance rezoning land, the city clerk shall forward a certified copy to the Property Appraiser of Duval County, Florida.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 32, 9-7-10)

Sec. 27-178. - Notice and procedural requirements for rezoning of land or changes to Code.

(a) *Sign posted.* The designated sign shall be posted on the premises involved in the rezoning at least three (3) weeks prior to the community development board meeting and remain until the city council takes final action.

(b) *Required sign dimensions.* The required sign shall not be less than eighteen (18) inches in height and twenty-four (24) inches in width.

(c) *Location of posted sign.* The sign shall be posted within ten (10) feet of the street upon which the premises face and shall be plainly visible, unobstructed, and legible from the street.

(d) *Process, quasi-judicial public hearings, and notification for amendments to this Code or rezoning of land (city council public hearing).* The amendment process, including quasi-judicial public hearings and notification regarding amendments to this Code which change the actual list of permitted, conditional or prohibited uses within a zoning category or which change the actual zoning map designation of land in the city shall be as required by F.S. Ch. 166, as amended.

(e) If any aggrieved party does not contest the issue of proper notice within thirty (30) days of the city council rendering its decision, then notice shall be deemed to be in compliance with this section.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 33, 9-7-10)

Sec. 27-179. - Limitations on rezoning of land and changes to Code.

(a) No ordinance to rezone land shall contain conditions, limitations, or requirements not applicable to all other land in the zoning district to which the particular land is rezoned.

(b) No ordinance to rezone land or to change this Code that would be inconsistent with the comprehensive plan shall be adopted.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-180. - Limitations on reapplication for rezoning.

(a) Whenever the council has denied an application for the rezoning of land, no further application shall be filed for the rezoning of a part or all of the same land for a period of one (1) year from the date of the denial.

(b) In the event that two (2) or more applications for the land have been denied, no further application shall be filed for the same rezoning of a part or all of the same land for a period of two (2) years from the date of the last denial.

(c) These time limits may be waived by an affirmative vote of two-thirds of the council when this action is deemed necessary to prevent injustice or to facilitate the proper development of the city.

(Ord. No. 2004-10, § 1, 10-4-04)

Secs. 27-181, 27-182. - Reserved.

DIVISION 11. - AMENDING THE COMPREHENSIVE PLAN

Sec. 27-183. - Generally.

This division establishes the means to amend the adopted comprehensive plan.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-184. - Simultaneous action on amendment to the comprehensive plan and this Code.

In cases where a change in the comprehensive plan is needed prior to receiving a change in this Code, or the zoning map, nothing shall prohibit the application of an amendment to the comprehensive plan to be processed simultaneously, provided that the consideration of the amendment to the comprehensive plan by the community development board and the city council shall appear first on any agenda. In such instances, separate ordinances will be required for each action.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 33, 9-7-10)

Sec. 27-185. - Definitions.

Refer to article I for definitions.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-186. - Changes to five-year schedule of capital improvements.

Modifications to update the five-year schedule of capital improvements, which is an integral part of the capital improvements element of the comprehensive plan, may be accomplished by ordinance and are not required to be amendments to the comprehensive plan. See F.S. Ch. 163.3177(3).

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-187. - Preliminary procedure for amending the comprehensive plan.

(a) Any person, board, or agency may apply in writing and pay the appropriate fee to amend the comprehensive plan.

(b) The city manager, or designee, shall forward said proposed amendment to members of the community development board.

(c) The city manager, or designee, shall notify and solicit comments relative to the proposed amendment from the adjacent communities of the City of Jacksonville, the City of Jacksonville Beach, and the City of Atlantic Beach.

(d) The community development board shall hold a quasi-judicial public hearing to consider said proposed amendment and thereafter shall submit to the city council a written recommendation which:

(1) Identifies any provisions of the Code, comprehensive plan, or other law relating to the proposed change and describes how the proposal relates to them.

(2) States factual and policy considerations pertaining to the recommendation.

(3) Includes those comments or recommendations received from adjacent communities.

(4) Confirms that this public hearing complied with all requirements of the Community Planning Act (see F.S. 163.3184).

(e) After this public hearing, the proposed amendment shall be forwarded to the city council (see section 27-188)

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 34, 9-7-10)

Sec. 27-188. - Formal requirements for amending the comprehensive plan.

(a) The formal amendment process, including public hearings and notification for comprehensive plan amendments, shall be as required by F.S. Ch. 163, Part II known as the Community Planning Act.

(b) Two quasi-judicial public hearings before the city council are required by the Community Planning Act:

(1) A transmittal hearing, after which certain agencies are given an opportunity to review amendments that the city council is continuing to consider.

(2) A formal adoption hearing, where a proposed amendment may be adopted by ordinance.

(c) The effective date of amendments adopted by ordinance will be established in accordance with the Community Planning Act.

(Ord. No. 2004-10, § 1, 10-4-04)

State Law reference— Amending comprehensive plan, F.S. § 163.3184 et seq.

Secs. 27-189—27-210. - Reserved.

ARTICLE IV. - LAND USE[9]

Sec. 27-211. - Reserved.

Sec. 27-212. - Generally.

This article establishes zoning districts and describes the uses that may occur within each district and establishes minimum and maximum building requirements.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-213. - Applicability.

All uses of land or buildings that are erected, reconstructed, enlarged, moved, or structurally altered, shall comply with all the district regulations established by this article for the district in which the building or land is located.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-214. - Findings of fact.

The city council finds that unrestricted use of land and uncontrolled development can reduce the quality of life for the residents and visitors to Neptune Beach. In addition, the control of land

uses, and development promotes the public health, safety general welfare, and the natural, historical, and cultural environment.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-215. - Purpose and intent.

(a) The City of Neptune Beach, Florida is a residential community. The primary goals of the city, upon which the comprehensive plan was developed, are to preserve the natural beauty, pleasant environment and unique character of the city; to retain the quality of our existing residential neighborhoods by encouraging the residents to maintain and improve their property and protect these areas from the encroachment of detrimental and noncompatible land uses; and to ensure that future residential areas are well planned and provided with full and adequate urban services.

(b) The intent of this zoning article is to ensure that the city's adopted goals are pursued and to insure that other necessary and desired land uses are regulated. This article is also adopted for the following purposes:

(1) To regulate and limit the height and size of buildings;

(2) To regulate and limit the intensity of the use of land;

(3) To regulate traffic circulation on public streets and highways in order to lessen congestion;

(4) To provide for adequate light, air, open space, and scenic views;

(5) To promote civic amenities of natural, historical, and cultural importance and of beauty and visual interest;

(6) To regulate density of population and thus prevent the overcrowding of land in order to facilitate the provision of adequate community facilities and services such as water, sewerage, schools, parks and similar city functions;

(7) To promote a wholesome, serviceable, and attractive city, increase the safety and security of home life, and preserve and create a more favorable living environment;

(8) To classify, regulate and restrict the location of trades and industries; and

(9) To minimize the conflict between land uses.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-216. - Definitions.

The definitions are found in article I.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-217. - Zoning map.

(a) There shall be a map known and designated as the "Zoning Map: Neptune Beach, Florida" that is hereby incorporated by reference. Said map may be referred to herein as the "zoning map." This map shall show:

(1) The boundaries and designations of all zoning districts within the city and subsequent amendments;

(2) The date of adoption and subsequent amendments;

(3) The signatures of the mayor and city clerk of Neptune Beach; and

(4) The number of the adoption ordinance.

(b) The city clerk shall keep the original zoning map as a public record and a reproducible copy.

(c) Copies of the zoning map may be obtained from the city clerk for a fee established by the city manager to cover the cost of reproduction.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-218. - Amendments to zoning map.

(a) Amendments to the zoning map shall be made as set forth in article III.

(b) The city manager or designee shall update the zoning map as soon as possible after amendments are made to district boundaries or when a rezoning of land is approved by the city council and shall indicate on the map the date of revision.

(c) The city clerk shall keep copies of superseded prints of the zoning map for historical reference as a public record.

(d) Under no circumstance shall any district be established, combined, amended, or abolished that would be inconsistent with the comprehensive plan, until such time as the comprehensive plan is amended to allow such action.

(Ord. No. 2004-10, § 1, 10-4-04)

State Law reference— Amendments to zoning map, F.S. § 166.041.

Sec. 27-219. - Interpretation of zoning district boundaries.

Interpretations regarding boundaries of zoning districts shall be made in accordance with the following rules, provided that the result of such application is not inconsistent with the comprehensive plan:

(1) Boundaries shown as following or approximately following any street or alley shall be construed as following the centerline of the street or alley.

(2) Boundaries shown as following or approximately following any platted lot line or other property line shall be construed as following such line.

(3) Boundaries shown as following or approximately following natural features shall be construed as following such features.

(4) Boundaries indicated as following city limits shall be construed as following such city limits.

(5) Distances not specifically indicated shall be determined by the scale of the map.

(6) Where any street or alley is officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

(7) In cases where any further uncertainty exists, the community development board shall consider the intent of the zoning map as to location of such boundaries and provide the

city council with its recommendation; however, the city council shall make the final interpretation.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 35, 9-7-10)

Sec. 27-220. - Division of lot of record by district boundary.

Where a district boundary clearly divides a lot of record, the zoning district classification imposing the strictest regulations shall prevail throughout the entire lot, and any proposed development herein, shall be reviewed as per the special exception procedure outlined in article III.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-221. - Zoning districts established.

The following base districts are hereby established:

(1) Residential R-l;

(2) Residential R-2;

(3) Residential R-3;

(4) Residential R-4;

(5) Residential R-5;

(6) Commercial C-l;

(7) Commercial C-2;

(8) Commercial C-3;

(9) Central business district CBD;

(10) Conservation.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-222. - Purpose and intent of zoning districts.

(a) The City of Neptune Beach has developed over the years as a city with unique character and environment. Since a primary goal of the city is to retain this environment as much as possible, this zoning article must impose certain appropriate restrictions on the use of land within the city limits of Neptune Beach to ensure that future development is in keeping with the existing development.

(b) The regulations and requirements herein set forth have been made in accordance with the city's comprehensive plan, with reasonable consideration having been given to, among other things, the prevailing land uses, growth characteristics and the character of respective districts and their suitability for particular uses, and the encouragement of the most appropriate use of land throughout the city.

(1) The design goals for new construction or improvements are as follows:

a. To preserve the natural beauty of Neptune Beach and protect the residential character of the city from the effects of inharmonious and out of scale developments.

b. To encourage originality, flexibility, and innovation in site planning and development.

c. To discourage monotonous, drab, unsightly, dreary, and inharmonious developments.

d. To conserve the city's natural beauty and visual character and charm by ensuring that structures and other improvements are properly related to their sites, and to surrounding sites and structures, with due regard to the aesthetic qualities of the natural terrain and landscaping, and that proper attention is given to exterior appearances of buildings, structures, and other improvements.

e. To protect and enhance the city's aesthetic and natural appeal.

f. To maintain and improve property values.

g. To achieve the beneficial influence of pleasant environments for living and working.

h. To foster citizen participation in local government and in community growth, change and improvements.

i. To sustain the comfort, health, tranquility, and contentment of residents by reason of the city's favorable environment.

j. To preserve distinctive examples of existing architecture that have contributed to the historic development of Neptune Beach's character.

(2) The design objectives for new construction or improvements are as follows:

a. ***Site design.*** Good site design is essential to good building design. Site improvements should be compatible with, and sensitive to, the natural features of the site and the surrounding area. Design solutions should relate to and take advantage of site topography, trees, vegetation, and slope. Designs should recognize the limitations of the land and work with these limitations rather than ignoring them or trying to override them.

b. ***Neighborhood design.*** Site improvements should be compatible with structures existing on neighboring parcels and should be sensitive to their designs and property rights. Designs which conflict with the use and enjoyment of any property should be avoided. Buildings should be designed in scale with the neighborhood and should complement the character of the neighborhood, rather than conflict with it.

c. ***Scale, mass, and bulk.*** Buildings should not present excess visual mass or bulk to public view or to adjoining properties. Large box-like buildings and buildings with large, blank, or continuous, unrelieved surfaces can appear massive. When viewed from the public right-of-way, excessive mass detracts from the character of Neptune Beach's individual neighborhoods. When viewed from adjoining properties, excess mass can effectively act as a wall that dominates neighboring structures and interferes with the enjoyment of open space and the free passage of light and air. The use of natural materials, the breaking up of building planes and the creative use of landscaping can all be used to avoid excess mass as shown in Figure 27-222-1. Buildings with uninterrupted facades of more than two hundred (200) feet long are prohibited.

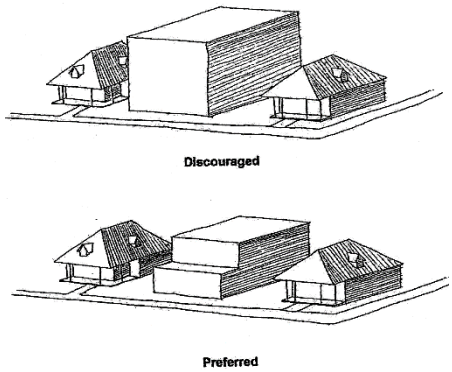


Figure 27-222-1

d. ***Recreational structures.*** Recreational improvements such as swimming pools, spas, tennis courts, basketball courts, etc., should be located on properties so that the use and enjoyment does not negatively impact adjacent properties from an activity or visual context.

e. ***Boxed-in neighbors.*** Designs should protect and preserve the light, air and open space of surrounding properties when considered cumulatively with other buildings in the neighborhood. Designs incorporating tall or bulky building elements located near the property line of an adjoining site that is already partially boxed-in by previous development should be avoided.

f. ***Architectural style.*** Neptune Beach contains an eclectic mix of architectural styles including virtually all of the traditional and contemporary architectural styles, in whole or in part. Compatibility with neighborhood character demands the use of architectural styles and elements that are commonly found in Neptune Beach and within Florida. Unique architectural styles that are uncommon in residential environments should be avoided.

g. ***Privacy.*** Designs should respect the privacy of neighbors. The placement of windows, doors, balconies, and decks should be sensitive to similar improvements on neighboring properties.

h. ***Landscaping.*** Designs should coordinate building elements with landscaping to achieve a pleasing overall site design. Landscaping can achieve other design objectives such as breaking up mass and bulk, and protecting privacy, but such use of landscaping should not substitute for good building design in conformance with all design objectives.

i. ***Protect the urban tree canopy.*** **Site** improvements should be designed to preserve significant trees and to maintain the urban tree canopy as a distinctive feature of our city's charm.

j. ***Private views.*** Design should respect views enjoyed by neighboring parcels. It is the intent of this objective to balance the private rights to views from all parcels that will be affected by a proposed building or addition. No single parcel should enjoy a greater right than other parcels except the natural advantages of each site's topography. Buildings which substantially eliminate an existing view enjoyed on another parcel should be avoided.

k. ***Equity.*** Design controls should be fair and not grant privileges to some sites while withholding them from other sites. The design review process should be fair, and decisions should be reached in an unbiased manner.

(3) The residential R-1 and residential R-2 zoning districts are intended to provide for single-family residences with densities not to exceed five (5) dwelling units per acre. Other nonresidential uses are permitted that are consistent with the residential character of this district and as specified in section 27-226. This district corresponds to the Suburban Residential I designation on the adopted future land use map.

(4) The residential R-3 zoning district is intended to provide for single-family residences with densities not to exceed five (5) dwelling units per acre. Other nonresidential uses are permitted that are consistent with the residential character of this district and as specified in section 27-226. This district corresponds to the Traditional Residential I designation on the adopted future land use map.

(5) The residential R-4 zoning district is intended to provide for single-family residences and two-family (duplex) residences with densities not to exceed ten (10) dwelling units per acre. Other nonresidential uses are permitted that are consistent with the residential character of this district. This district corresponds to the Suburban Residential II and Traditional Residential II designations on the adopted future land use map. The Residential Conservation (RC) overlay, which covers a portion of the R-4 zoning district, implements Comprehensive Plan policies adopted in 2021 regarding two-family (duplex) residences east of 3rd Street (see section 27-242).

(6) The residential R-5 zoning district is intended to provide for single-family residences, two-family (duplex) residences, and multifamily residences with densities not to exceed seventeen (17) dwelling units per acre. Other nonresidential uses are permitted that are consistent with the residential character of this district. This district corresponds to the Suburban Residential III and Traditional Residential designations on the adopted future land use map.

(7) The commercial C-l, zoning district is intended to provide for services and retail sales that meet routine needs of residents in buildings that promote walkability. This district corresponds to the Walkable Commercial Corridor designation on the adopted future land use map.

(8) The commercial C-2, zoning district is intended to provide for retail sales and services for one (1) or more neighborhoods. This district corresponds to the Commercial I and Neighborhood Center designations on the adopted future land use map.

(9) The commercial C-3, zoning district is intended to provide retail sales and services that serve the overall community. This district corresponds to the Commercial II designation on the adopted future land use map.

(10) The central business district CBD, zoning district is intended to allow a mix of commercial uses and compatible residential uses that will encourage an urban intensive, pedestrian oriented neighborhood ambiance. The CBD is further established to encourage the continuation of the present unique Central Business District of Neptune Beach, as well as, the continuation of its present aesthetically pleasing environment, to provide areas for the concentration of compatible land uses, to provide sufficient space for appropriate commercial, miscellaneous service activities and residences which will strengthen the city's economic base, and to prevent the intrusion of objectionable land

uses. This district corresponds to the Town Center designation on the adopted future land use map.

(11) The conservation zoning district provides protection for environmentally sensitive lands.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2006-08, § 1, 6-5-06; Ord. No. 2006-13, § 2, 7-10-06)

Sec. 27-223. - Regulations to apply uniformly throughout zoning district.

The regulations for each zoning district as contained in this Code shall apply uniformly to each structure and use and to all land and water within the boundaries of the zoning district, except where this code specifically indicates otherwise, such as for overlay districts.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-224. - Overlay districts established.

This code establishes several overlay districts, meaning that these districts are overlaid upon the other established base zoning districts which are listed in section 27-221. Special regulations that apply to these overlay districts are provided in other portions of this Code. The following overlay districts have been established and provide special regulations that apply in addition to regulations in the base zoning districts:

(1) Neighborhood Center (NC), as described in Table 27-239 and in section 27-247 of this article

(2) Residential Conservation (RC), as described in Table 27-239 and in Section 27-243 of this article

(3) Coastal High-Hazard Area (CHHA), as described on Maps A-3 and E-1 and in policies under Objective E.1.4 in the Neptune Beach Comprehensive Plan

(4) Areas where buildings must be elevated, from Flood Insurance Rate Maps (FIRM), as described in chapter 30 of this Code.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-225. - Uses expressly prohibited within zoning districts.

The following uses are expressly **prohibited** within the zoning districts as provided for below:

(1) *R-1, R-2, R-3, R-4, and R-5 districts:* In addition to the provisions of subsection 27-226(d) below, the following uses are expressly prohibited: Short-term rentals and all commercial activities, except Home-Based Businesses as provided for in article V.

(2) *C-1 districts:* Residential dwellings, mini-warehouses, gas stations, drive-thru facilities for any purpose, drive-in restaurants, bingo and gambling (except for as stated in F.S. Ch. 24).

(3) *C-2 district*: Residential dwellings, gas stations, mini-warehouses, bingo and gambling (except for as stated in F.S. Ch. 24).

(4) *C-3 district:* Residential dwellings, mini-warehouses, bingo and gambling (except for as stated in F.S. Ch. 24).

(5) *CBD district:* Mini-warehouses, gas stations, drive-thru facilities for any purpose, drive-in restaurants, bingo and gambling (except for as stated in F.S. Ch. 24).

(6) *All zoning districts:* Adult arcade amusement center, electronic game promotions, game centers/arcades, gaming, video poker establishments, computer game centers, and/or games played on individual machines and/or computers, including any type of card, token and/or coin-operated video and/or simulated games and/or similar activities and/or machines which are played for any type of compensation and/or reward, warehousing, and mini-warehousing.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2007-07, § 2, 6-4-07; Ord. No. 2008-10, § 2, 9-8-08; Ord. No. 2011-03, § 2, 2-17-11; Ord. No. 2016-07 , § 2, 7-6-16; Ord. No. 2016-08 , § 1, 8-1-16)

Sec. 27-226. - Allowable uses within zoning districts.

(a) All uses shall conform to the standards for each zoning district as provided below.

(1) Because the lists of permissible uses are ~~is~~ not exclusive, those uses not shall be prohibited. If a proposed use might fall within more than one group of uses identified in section 27-226, the city manager or designee will determine which most closely and most specifically matches the proposed use, taking into account the reasonably expected land-use impacts from the proposed use.

(2) Parcels with the following designations on the adopted future land use map have typically been assigned the same zoning district as comparable abutting land:

a. Government & Public Utilities.

b. Education.

c. Recreation & Open Space.

(b) **Conservation (CON):**

(1) ***Intent***. The CON zoning district is intended to provide for protection for environmentally sensitive lands. This district corresponds to the Conservation designation on the adopted future land use map.

(2) ***Permitted uses***. The uses permitted within the CON zoning district shall be:

a. Single-family residence by special exception;

b. Docks;

c. Retaining walls.

(c) **Residential-1 (R-1):**

(1) ***Intent***. The R-1 zoning districts are intended to provide for single-family residences. This district corresponds to portions of the Suburban Residential I designation on the adopted future land use map.

(2) ***Permitted uses***. The uses permitted within the R-1 zoning district shall be:

a. Single-family residence;

b. Public Park/recreation area;

c. Family day care home, as defined by F.S. §§ 402.26—402.319;

d. Accessory structures and uses as defined by article V.

(3) ***Uses by special exception***. The uses permitted by special exception within the R-1 zoning district shall be:

a. Government uses, buildings and utilities;

b. Primary/secondary Education Facilities;

c. Worship facility and childcare associated with facility.

(d) **Residential-2 (R-2):**

(1) ***Intent***. The R-2 zoning districts are intended to provide for single-family residences. This district corresponds to portions of the Suburban Residential I designation on the adopted future land use map.

(2) ***Permitted uses***. The use permitted within the R-2 zoning district shall be:

a. Single-family residence;

b. Public Park/recreation area;

c. Family day care home, as defined by F.S. §§ 402.26—402.319;

d. Accessory structures and uses as defined by article V.

(3) ***Uses by special exception***. The uses permitted by special exception within the R-2 zoning district shall be:

a. Government uses, buildings and utilities;

b. Primary/secondary Education Facilities;

c. Worship facility and childcare associated with facility.

(e) **Residential-3 (R-3):**

(1) ***Intent***. The R-3 zoning districts are intended to provide for single-family residences. This district corresponds to the Traditional Residential I designation on the adopted future land use map.

(2) ***Permitted uses***. The use permitted within the R-3 zoning district shall be:

a. Single-family residence;

b. Public Park/recreation area;

c. Family day care home, as defined by F.S. §§ 402.26—402.319;

d. Accessory structures and uses as defined by article V.

(3) ***Uses by special exception***. The uses permitted by special exception within the R-3 zoning district shall be:

a. Government uses, buildings and utilities;

b. Primary/secondary Education Facilities;

c. Worship facility and childcare associated with facility.

(f) **Residential-4 (R-4):**

(1) ***Intent.*** The R-4 zoning district is intended to provide for single-family and two-family (duplex) residences with densities not to exceed ten (10) dwelling units per acre. This district corresponds to the Suburban Residential II designation and the Traditional Residential II designation on the adopted future land use map. The Residential Conservation (RC) overlay applies to R-4 land east of 3rd Street, which has been assigned to the Traditional Residential II designation on the adopted future land use map.

(2) ***Permitted uses***. The uses permitted within the R-4 zoning district shall be:

a. Single-family residence;

b. Two-family (duplex) residence

c. Public Park/recreation area;

d. Family day care home, as defined by F.S. §§ 402.26—402.319;

e. Accessory structures and uses as defined by article V.

(3) ***Uses by special exception***. The uses permitted by special exception within the R-4 zoning district shall be:

a. Government uses, buildings and utilities;

b. Primary/secondary Education Facilities;

c. Worship facility and childcare associated with facility.

(g) **Residential-5 (R-5):**

(1) ***Intent.*** The R-5 zoning districts are intended to provide for single-family residences, two-family (duplex) residences and multifamily residences with densities not to exceed seventeen (17) dwelling units per acre. This district corresponds to the Suburban Residential III and Traditional Residential III designations on the adopted future land use map.

(2) ***Permitted uses***. The uses permitted within the R-5 zoning district shall be:

a. Single-family residence;

b. Two-family (duplex) residence;

c. Multifamily residence;

d. Public Park/recreation area;

e. Family day care home, as defined by F.S. §§ 402.26—402.319;

f. Accessory structures and uses as defined by article V.

(3) ***Uses by special exception***. The uses permitted by special exception within the R-5 zoning district shall be:

a. Government uses, buildings and utilities;

b. Primary/secondary Education Facilities;

c. Worship facility and childcare associated with facility;

d. Adult day care;

e. Child day care;

f. Nursing home;

g. Adult congregate living facility.

(h) **Commercial-1 (C-1):**

(1) ***Intent***. The C-1 zoning districts are intended to provide for office, retail sales, and professional services. This district corresponds to the Walkable Commercial Corridor designation on the adopted future land use map.

(2) ***Permitted uses***. The uses permitted within the C-1 zoning district shall be:

a. Business and professional offices including, architects, accountants, doctors, dentists, miscellaneous health offices and clinics, veterinary clinic, and legal services;

b. Financial institution, insurance, and real estate offices;

c. Personal service establishments as follows: laundry, cleaning and garment services; photographic studios; beauty and barber shops, day spa, nail and waxing salon; shoe repair and miscellaneous personal services (not including tattoo establishments); cleaning and janitorial services (no outdoor storage of vehicles, materials, equipment or supplies).

d. Travel agencies;

e. Photographic studios;

f. Public Park/recreation area;

g. Library, museum, and art gallery.

(3) ***Uses by special exception***. The uses permitted by special exception within the C-1 zoning district shall be:

a. Retail Sales

b. Parking lot (not associated with any business); excluding parking ~~garages~~ structures

c. Government uses, buildings and utilities;

d. Primary/secondary Education Facilities;

e. Dance, art, dramatic, gymnastics and music studio;

f. Worship facility and childcare associated with facility;

g. Miscellaneous personal services

h. Accessory structures and uses for storage as defined by article V.

(i) **Commercial-2 (C-2):**

(1) ***Intent***. The C-2 zoning districts are intended to provide for retail sales and service for one (1) or more neighborhoods. This district corresponds to the Commercial I and Neighborhood Center designations on the adopted future land use map.

(2) ***Permitted uses***. The uses permitted within the C-2 zoning district shall be:

a. Interior service restaurant, carry-out and delivery restaurant, fast-food restaurant, drive-in restaurant;

b. Outdoor seating/dining for restaurant on private property (see subsection 27-227(b)(5));

c. Business and professional offices as follows: Building contractors and subcontractors (no outdoor storage of vehicles, materials, equipment or supplies), architects, accountants, doctors, dentists, miscellaneous health offices and clinics, veterinary clinic, and legal services;

d. Financial institution, insurance and real estate offices;

e. Travel agencies;

f. Retail sales, shopping center, wholesale sales (no on-site storage of stock), furniture and appliance sales, package liquor store and pharmacy;

g. Personal service establishments as follows: Laundry, cleaning, and garment services; photographic studios; beauty and barber shops, day spa, nail and waxing salon; shoe repair and miscellaneous personal services (not including tattoo establishments); cleaning and janitorial services (no outdoor storage of vehicles, materials, equipment or supplies);

h. Dance, art, dramatic, gymnastics and music studio;

i. Library, museum, and art gallery;

j. Public Park/recreation area;

k. Recreation, amusement, and entertainment (including, bowling alley, skating rink, billiard and pool hall, arcade, miniature golf, indoor athletic and exercise facilities, tennis, handball, or racquetball facility);

l. Radio and television broadcasting studio;

m. Adult congregate living facilities;

n. Funeral establishment;

o. Social, fraternal club, lodge, and union hall

p. Medical marijuana treatment center.

(3) ***Uses by special exception***. The uses permitted by special exception within the C-2 zoning district shall be:

a. Outdoor seating/dining for restaurant on public property (see subsection 27-227(b)(5)),

b. Motor vehicle service;

c. Parking lot/structure (not associated with any business);

d. Moving business (no mini warehouses);

e. Government uses, buildings and utilities;

f. Recycling collection center;

g. Primary/secondary Education Facilities;

h. Worship facility and childcare associated with facility;

i. Recreation, amusement, and entertainment (including, theater, night club, private club, and bar/tavern);

j. Light manufacturing;

k. Wholesale sales (on-site storage of stock);

l. Day care facilities.

m. Accessory structures and uses for storage as defined by article V.

(j) **Commercial-3 (C-3):**

(1) ***Intent***. The C-3 zoning districts are intended to provide for retail sales and service that serve the overall community. This district corresponds to the Commercial II designation on the adopted future land use map.

(2) ***Permitted uses***. The uses permitted within the C-3 zoning district shall be:

a. Hospital;

b. Hotel/motel;

c. Interior service restaurant, carry-out and delivery restaurant, fast-food restaurant, drive-in restaurant;

d. Outdoor seating/dining for restaurant on private property (see subsection 27-227(b)(5));

e. Business and professional offices as follows: Building contractors and subcontractors (no outdoor storage of vehicles, materials, equipment, or supplies), architects, accountants, doctors, dentists, miscellaneous health offices and clinics, veterinary clinic, and legal services;

f. Financial institution, insurance and real estate offices;

g. Indoor athletic and exercise facility;

h. Personal service establishments as follows: Laundry, cleaning and garment services; photographic studios; beauty and barber shops, day spa, nail and waxing salon; shoe repair and miscellaneous personal services (not including tattoo establishments); cleaning and janitorial services (no outdoor storage of vehicles, materials, equipment or supplies);

i. Retail sales, shopping center wholesale sales (no on-site storage of stock), furniture and appliance sales, package liquor store, pharmacy;

j. Parking lot/structure (not associated with any business);

k. Trade business or vocational school, college, community college or university;

l. Dance, art, dramatic, gymnastics and music studio;

m. Library, museum, and art gallery;

n. Public Park/recreation area;

o. Recreation, amusement, and entertainment (including, bowling alley, skating rink, billiard and pool hall, arcade, miniature golf, indoor athletic and exercise facilities,

tennis, handball or racquetball facility, theater, night club, private club and bar/tavern);

p. Radio and television broadcasting studio;

q. Nursing home;

r. Adult congregate living facility;

s. Funeral establishment;

t. Medical marijuana treatment center.

(3) ***Uses by special exception***. The uses permitted by special exception within the C-3 zoning district shall be:

a. Outdoor seating/dining for restaurant on public property (see subsection 27-227(b)(5));

b. Wholesale sales (on-site storage of stock);

c. Adult entertainment and service

d. Bus or other transportation terminal;

e. Motor vehicle services;

f. Moving business (no mini warehouses);

g. Government uses, buildings and utilities;

h. Recycling collection center;

i. Worship facility and childcare associated with facility;

j. Social, fraternal club, lodge, and union hall;

k. Light manufacturing;

l. Day care facilities.

m. Accessory structures and uses for storage as defined by article V.

(k) **Central business district (CBD):**

(1) ***Intent***. The CBD zoning district is intended to allow a mix of commercial uses and compatible residential uses that will encourage an urban intensive, pedestrian oriented, neighborhood ambiance. The CBD is further established to encourage the continuation of the present unique Central Business District of Neptune Beach, as well as, the continuation of its present aesthetically pleasing environment, to provide areas for the concentration of compatible land uses, to provide sufficient space for appropriate commercial, miscellaneous service activities and residences which will strengthen the city's economic base, and to prevent the intrusion of objectionable land uses. This district corresponds to the Town Center designation on the adopted future land use map.

(2) ***Permitted uses***. The uses permitted within the CBD zoning district shall be:

a. Hotel/motel;

b. Bed and breakfast;

c. Interior service restaurant, carry-out and delivery restaurant;

d. Outdoor seating/dining for restaurant on private property (see subsection 27-227(b)(5));

e. Professional offices (including, architects, accountants, doctors, dentists, home health care services, legal services, realtors, veterinary clinic);

f. Financial institution, insurance and real estate offices;

g. Personal service establishments limited to the following: photographic studios, beauty and barber shops, day spa, nail, and waxing salon;

h. Retail sales, wholesale sales (including on-site storage of stock), package liquor store, and pharmacy;

i. Government uses, buildings and utilities;

j. Dance, art, dramatic, gymnastics and music studio;

k. Library, museum, and art gallery;

l. Public Park/recreation area;

m. Recreation, amusement, and entertainment (including, billiard and pool hall, arcade, miniature golf, theater, night club, private club, and bar/tavern);

(3) ***Uses by special exception***. The uses permitted by special exception within the CBD zoning district shall be:

a. Single-family, two-family (duplex) and multifamily residences;

b. Outdoor seating/dining for restaurant on public property (see subsection 27-227(b)(5));

c. Parking lot/structure (not associated with any business);

d. Social, fraternal club, lodge, and union hall;

e. Indoor athletic and exercise facility.

f. Accessory structures and uses for storage as defined by article V.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2004-18, 12-6-2004; Ord. No. 2011-13, § 1, 9-12-11; Ord. No. 2016-07, § 3, 7-6-16; Ord. No. 2017-32, § 3, 1-8-18; Ord. No. 2018-04, § 1, 6-4-18)

Sec. 27-227. - Special restrictions and conditions on allowable uses within zoning districts.

(a) No use that produces undue vibration, dust, smoke, fumes, or noise or that is otherwise offensive, obnoxious, or detrimental to the neighborhood shall be permitted.

(b) The following special restrictions and conditions apply to the permissible uses identified below:

(1) ***Two-family residence (duplex):***

a. Applicable building code requirements related to construction of the type of units proposed shall be met.

b. The subject lot or parcel of land shall not be subdivided illegally and shall only be developed according to the criteria established in the appropriate Code section.

c. Also see section 27-242 regarding two-family (duplex) residences east of 3rd Street.

(2) ***Multifamily units****:* Each structure containing multifamily units or each development of contiguous multifamily units shall comply with all regulations for multifamily dwellings of the districts where permitted. In addition to regulations applicable to the entire building or development, the following regulations shall apply to individual single-family units in such buildings or development:

a. No side yards shall be required for individual interior units. Exterior units shall have a minimum side yard requirement of ten (10) feet.

b. Each unit shall have access to a public or private street.

(3) ***Child day care:***

a. All facilities, operation and maintenance shall meet all applicable city or state regulations for such use and must be licensed appropriately.

b. A development plan shall be submitted indicating designated indoor and outdoor space, fences or walls, vehicular ingress and egress, off-street parking areas, and loading and unloading areas.

(4) ***Fast-food restaurant****:* Fast-food restaurants may have drive-thru facilities, provided the following conditions are met:

a. Adequate off-street areas shall be provided for the stacking of vehicles.

b. Vehicular ingress and egress shall be limited to adjacent major or secondary streets.

c. All drive-thru facilities shall be located to the side or rear of the building away from the principle abutting thoroughfares. Drive-through windows shall be located to the rear of the building facing away from the principal abutting thoroughfare.

(5) ***Interior service restaurant:***

a. Restaurants that sell alcoholic beverages shall conform to the following conditions:

1. The alcoholic beverages shall be sold only for consumption on the premises.

2. Said restaurant shall have an inside seating capacity of and be equipped to serve not less than one hundred fifty (150) people meals at one (1) time.

3. Said restaurant shall derive at least fifty-one (51) percent of its gross revenue from the sale of food and nonalcoholic beverages.

4. Any alcoholic beverage license issued to any such restaurant under the general law of the state shall not be moved to a new location, such licenses being valid only on the premises of such restaurant.

b. Outdoor seating may be permitted by right or as a special exception in commercial zoning districts, and shall only be provided in a controlled area, attached to the main interior service area and shall also be situated in a manner that allows for unimpeded pedestrian access along adjacent sidewalks or pedestrian ways.

c. Outdoor seating requests for public property not owned by the interior service restaurant may be permitted as a special exception and must follow the provisions outlined in subsection 27-479(d).

d. Dumpster enclosures shall be maintained as not to cause noticeable smells

(6) ***Retail, general:***

a. Outdoor sales must be an accessory use to the principal use and shall be limited to one (1) sale display area per retail store. Neptune Beach general retail stores may have outside sales on the premises of their licensed store. The sale shall be conducted by employees of the store and items offered for sale shall be property of the store and not a consignment operation or arrangement. Only products normally sold at these stores may be sold outside. Stores must apply for a yearly permit approved by the city manager or designee.

1. Outdoor sales and the outdoor display area must be on private property and located only in the central business district (CBD), C-1, C-2 and C-3 zoning districts.
2. Outdoor sales cannot occur in the right-of-way.
3. The outdoor sale display area cannot exceed one hundred fifty (150) square feet.
4. No outdoor sales shall be allowed in the area set aside, required, or designated for parking, ADA routes, drive isles, driveways, maneuvering areas or unloading/loading areas. An ADA clear path must be maintained around all items in display area.
5. Any items located outdoors that meet the definition of a sign must conform to the appropriate sign ordinance and regulations.
6. Items outdoors can only be displayed during the hours when the business is open to the public.
7. The outdoor display area shall not be placed so as to obstruct vehicular traffic sight.
8. Tents, lights, banners, or other items prohibited by the Code are not allowed in conjunction with outdoor sales.
9. Outdoor sales in violation of this section will result in immediate removal of the outdoor items for sale and outdoor sale privileges will be revoked for one (1) year.

b. No more than forty (40) percent of the gross floor area shall be used for storage.

c. Retail licensing shall not be construed to allow for the sale of motor vehicles on the premises.

d. Outdoor sales of fireworks are prohibited.

e. ~~All~~ Drive-thru facilities are allowed only in the C-2 and C-3 zoning districts and shall be located to the side or rear of the building away from the principle abutting thoroughfares.

e. In the C-1 zoning district only, retail shall be limited to boutiques as defined in section 27-15 and shall only operate between the hours of 10am and 8pm.

(7) ***Adult entertainment and service****:* No adult bookstore or adult motion picture theater shall be located within two thousand five hundred (2,500) feet of any worship facility,

residential district, establishment for the sale of alcoholic beverages for consumption on-premises, hotel/motel, primary or secondary school, park, or theater. All adult entertainment and service shall meet the requirements of Chapter 847, Florida State Statutes.

(8) ***Dry cleaner****:* Facilities shall not exceed two thousand five hundred (2,500) square feet in area and shall be subject to all regulatory requirements for registration and handling of hazardous materials, including all requirements in chapter 23 and in article XII of chapter 27.

a. Drive-thru facilities are allowed only in the C-2 and C-3 zoning districts and shall be located to the side or rear of the building away from the principle abutting thoroughfares.

(9) ***Parking lot:***

a. No source of illumination for such lots shall be directly visible from any window in any residence.

b. There shall be no sales or service activity of any kind on such lots without obtaining the appropriate permit from the building department.

c. If the parking lot is located in a residential district, there shall be no movement of any vehicles on such lots between the hours of 11:00 p.m. and 7:00 a.m.

d. If in a residential district, no vehicles normally prohibited from being parked in a residential district shall be permitted to be parked in such lot as outlined in section 27-335 of this Code.

(10) ***Fire station****:* Shall be located on a principal or minor arterial as delineated on the future land use and traffic circulation maps.

(11) ***Police station****:* Shall be located on a principal or minor arterial as delineated on the future land use and traffic circulation maps.

(12) ***Post office****:* Shall be located on a principal or minor arterial as delineated on the future land use and traffic circulation maps.

(13) ***Cultural, religious, philanthropic, social, and fraternal uses****:* Shall be located on a principal or minor arterial as delineated on the future land use and traffic circulation maps.

(14) ***Radio and television broadcasting studio***: No outside antenna.

(15) **Moving business by exception only***:* No more than three (3) trucks, not to exceed thirty-three (33) feet each, shall be stored on-site and no storage of items to be moved shall be permitted.

(16) ***All other drive-thru facilities****:* Drive-thru facilities are allowed only in the C-2 and C-3 zoning districts and shall be located to the side or rear of the building away from the principle abutting thoroughfares.

(17) ***Medical marijuana treatment center***:

a. Shall not be located within eight hundred (800) feet, by following the shortest route of ordinary pedestrian travel along public thoroughfares from the main entrance of any proposed location of any such business, of any other medical

marijuana treatment center, or any pre-school, elementary, middle, or high school, church, or other place of worship.

b. Shall not operate between the hours of 2:00 a.m. and 7:00 a.m., all days of the week.

c. All cannabis dispensaries, medical marijuana treatment centers, and retail locations selling or otherwise providing to any customer, patron, or individual any items under this section shall conform to all regulations set forth under F.S. 381.986.

*(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2006-10, § 1, 6-5-06; Ord. No. 2006-11, § 1, 8-7-06; Ord. No. 2008-05, § 1, 7-7-08; Ord. No. 2010-12, § 1, 9-7-10; Ord. No. 2010-21, § 1, 12-7-10; Ord. No. **2017-14** , § 1, 6-5-17; Ord. No. **2017-32** , § 4, 1-8-18)*

Sec. 27-228. - Uses permitted by special exception.

The community development board may review, and the city council may permit those uses, as listed in section 27-226, that require a special exception permit according to the procedures and conditions outlined in article III of this Code.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 36, 9-7-10)

Sec. 27-229. – Lot area requirements.

Lots shall have at least the minimum and no more than the maximum areas as provided for in Table 27-239

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2004-17, § 2, 11-1-04)

Sec. 27-230. - Minimum lot width requirements.

Lots shall have at least the minimum frontage at the building restriction line as provided for in Table 27-239

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-231. - Front yard setback requirements.

(a) Except as provided in subsections (b) and (c) below, front yards shall have at least the minimum setback distances as provided for in Table 27-239~~-1~~.

(b) [Specific areas:]

(1) West side of Penman Road from Atlantic Blvd, to Seagate Ave: Thirty-five (35) feet.

(2) North side of Seagate Avenue from Penman Road to the western city limits: Thirty-five (35) feet.

(3) Florida Boulevard from Penman Road to Atlantic Boulevard: Thirty-five (35) feet.

(c) The following special requirements shall apply where appropriate:

(1) Where lots comprising twenty-five (25) percent or more of the frontage on the same street within the block are developed with buildings having an average yard with a variation in depth of not more than six (6) feet, no building hereafter erected or structurally altered shall project beyond or behind the average front yard so established (refer to Figure 27-231-1)

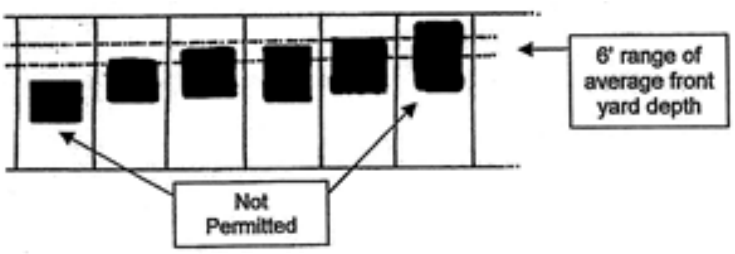


Figure 27-231-1

(2) Where interior lots have a double frontage, unless the prevailing front yard pattern on adjoining lots indicates otherwise, the required front yard shall be provided on both streets or the oceanfront for oceanfront lots. Where one (1) of the front yards that would normally be required on a double frontage lot is not in keeping with the prevailing yard pattern, the city manager or designee may waive the requirement for the normal front yard and substitute a special yard requirement, which shall not exceed the average of the yards provided on adjacent lots.

(3) Front yards on corner lots. The front yard shall be considered the area directly situated in front of the primary façade of the structure. Where the front yard on corner lots, as defined herein, is not keeping with the prevailing yard pattern, the city manager or designee may waive the requirement for the determination of the normal front yard and substitute a special yard requirement, which shall not exceed the average of the yards provided on adjacent lots.

(4) Front yards on ocean front lots. Ocean front lots shall be considered through lots or double frontage lots, such that there is a front on the street side, as well as the ocean side (refer to Figure 27-231-2

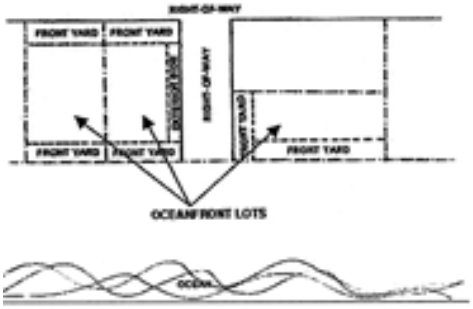


Figure 27-231-2

(5) Properties developed with minimum front yard setbacks shall be required to provide an adequate parking area with an appropriately designed side or rear driveway/parking court, garage, or carport.

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

Sec. 27-232. - Side yard setback requirements.

Side yards shall have at least the minimum setback distances as provided for in Table 27-239

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-233. - Rear yard setback requirements.

Rear yards shall have at least the minimum setback distances as provided for in Table 27-239

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-234. - Measurement of minimum required yard setback.

Front yard setbacks shall be measured from the front of the building, excluding steps, to the front of the lot. Side yard setbacks shall be measured from the side of the building, excluding steps, to the adjoining lot line. Rear yard setbacks shall be measured from the rear of the building, excluding steps and unenclosed porches, and decks with the deck floor less than thirty (30) inches above grade, to the rear lot line.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-235. – Encroachments into and use of front, side, and rear yards.

(a) Front, side, and rear yards shall be open and unobstructed from the ground to the sky, except as may be otherwise permitted by this Code and except as follows below, provided such encroachments, and uses comply with all building code and fire prevention provisions (Chapter 8 and 10, respectively). Permitted encroachment may not be added onto one another.

(1) ***Fences and Garden Elements.*** Flagpoles, fences, walls, hedges are permitted subject to other applicable provisions of this Code. Fences and garden/yard walls may encroach into required setbacks. All support structures shall be located towards the inside of the fence.

(2) ***Architectural Projections.*** Sills, belt courses, cornices, buttresses, pilasters, chimneys, fireplaces, flues, roof overhangs, and similar architectural projections (including gutters) for principal structures may encroach up to two (2) feet from the building into any required yard setback. Bay windows, which must provide habitable interior space and include at least three windows, may encroach up to three (3) feet, for existing structures only, from the building into the front, side street, and rear yards.

(3) ***Awnings and Entry Canopies*.** In residential buildings, awnings, hoods, and canopies over windows and doors may extend up to four (4) feet from the building into any required yard and shall be no closer than three (3) feet from any interior side or rear property line. They shall include appropriate design measures (e.g., rain gutters, deflection devices, etc.) to prevent stormwater from discharging onto adjacent properties. In existing commercial buildings, awnings and entry canopies may extend up to ten (10) feet into the required front, rear, or street-facing side yard setback. Awnings and entry canopies shall not encroach upon the public right-of-way, except in the Central Business District where they may cover a portion or all of the sidewalk, provided a minimum vertical clearance of eight (8) feet is maintained underneath them. In these cases, FDOT and Beaches Energy approval may be required.

(4) ***Galleries.*** These frontage types, permitted only in commercial zoning districts, may encroach up to ten (10) feet into any required front and street-facing side yard. In the Central Business District, these elements may also encroach into the public right-of-way covering a portion or all of the sidewalk, provided a minimum vertical clearance of eight (8) feet and a gap of two (2) feet between the outside of the columns and the curb

face is maintained. In these cases, FDOT and Beaches Energy approval may be required. Public works and any other public utility shall not be liable for damages to a gallery structure resulting from repairs to sidewalks, utilities, or other infrastructure within the right-of-way.

(5) ***Projecting Porches, Stoops, and Porticos***. These entry elements, including steps or ramps to access such, may encroach a maximum of five (5) feet into any required front yard and shall be no closer than five (5) feet of any property line.

(6) ***Balconies and Upper-Level Decks & Patios.*** Balconies may encroach a maximum of six (6) feet into any required yard setback for existing residential structures and shall be no closer than five (5) feet of any interior side or rear yard property line. Except within the Central Business District, balconies shall not encroach upon any public sidewalk. Upper-level decks and patios, which are distinguishable from balconies by the need for structural columns or posts, shall only be permitted in the rear yard and shall not be visible from the street or sidewalk. These upper-level decks may encroach a maximum of six (6) into the required rear yard.

(7) ***Motor Vehicle Structures.*** All carports, porte cocheres, awnings and temporary structures designed to provide shelter for motor vehicles must meet all of the building code requirements, including, without limitation, wind load requirements. As these appurtenances are defined by this Code as structures, they must meet all zoning requirements that are applicable to the main structure such as setbacks, etc.

(8) ***Uncovered or Unenclosed Outdoor Structures.*** Patios serving the ground level of a building, when constructed at ground level, shall be no closer that five (5) feet from any rear or side property line.

i. Decks constructed with a height of more than twenty-four (24) inches above the surrounding finished grade, shall be no closer than ten (10) feet away from of any rear property line.

(9) ***Accessibility structures.*** Required ADA-compliant ramps for person(s) with disabilities and fire escapes may encroach into any yard but may not be closer than five (5) feet to any property line. Such features shall not be located in a front yard if it is possible to accommodate them in a side or rear yard.

(10) ***Walkways and Driveways.*** Uncovered and unenclosed walkways and driveways may encroach up to 100% of the depth of any required setback unless a landscaped buffer is required. The combined width of driveways along any street-facing yard setback for residential lots may not exceed 20 feet and additional requirements must be met for driveways in the R-4 district (see Section 27-243).

(b) No part of a required yard or other open space provided in connection with one (1) structure or use shall be used to meet the requirements for another structure or use.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-236. - Frontage requirements and standards.

(a) ***Intent.*** This section sets forth the standards applicable to the development of private frontages. Private frontages are the components of a building that provide an important transition between the public realm (street and sidewalk) and the private realm (yard or building). For each frontage type, a description, dimensional standards, and additional standards are provided. Existing structures that do not meet these requirements and standards are to be considered valid non-conforming structures.

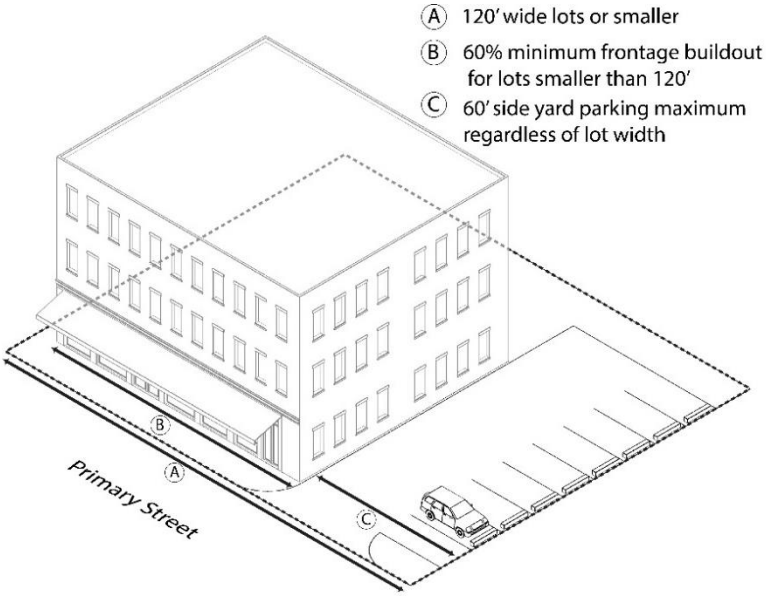


Figure 27-236-1: Frontage buildout

(b) ***Applicability.*** Standards apply to development in the C-1, C-3, and CBD zoning districts and in the NC and RC overlay districts. Encroachments listed in subsection (e) below, shall be limited to existing properties. New developments, including residential construction, shall meet all setback requirements unless granted approval of a variance through the Community Development Board and/or City Council.

(c) ***Frontage buildout requirement.*** This requirement refers to the percentage of the lot width that shall have a building façade at the primary street setback line. This requirement shall only refer to commercial development in the following districts as noted below and in Table 27-239:

(1) C-1, C-2, and C-3 District: 70% minimum frontage buildout (a reduction to 60% shall be granted for lots 120' wide or less to accommodate side yard parking). In general, side yard parking in these districts will only be permitted up to sixty (60) feet in width, regardless of lot width.

(2) CBD and NC Overlay District: 70% minimum frontage buildout

(d) ***Permitted & required frontages.*** Unless otherwise specified, all frontage elements must be contained within the encroachment areas described in Section 27-235.Table 27-236 below describes the permitted and required frontages for the R-4, CBD, C-1, C-3, and NC Overlay zoning districts,

(1) **R** Required: At least one of these is required along the primary frontage of the building.

(2) **CR** Conditionally Required: At least one of these may be required in combination with the Storefront, Lobby, or Terrace to provide shade.

(3) **O** Optional: These frontages are permitted, but not required.

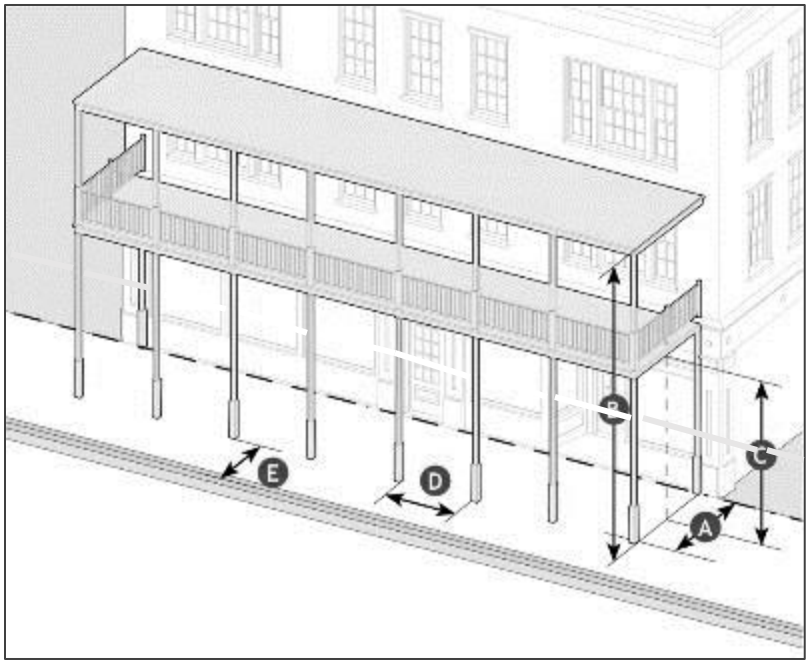
(4) **-** Prohibited: These frontages are not permitted.

Table 27-236

	Gallery	Storefront	Lobby Entrance	Awning	Entry Canopy: Large	Overhead Balcony: Large	Forecourt	Terrace	Portico	Stoop	Porch: Projecting	Porch: Engaged	Porch: Integral	Overhead Balcony: Small	Entry Canopy: Small
CBD: Residential	-	-	-	-	-	-	-	-	R	R	R	R	R	O	O
C-1: Commercial	CR	R	R	CR	CR	CR	O	O	-	-	-	-	-	-	-
C-3: Commercial	CR	R	R	CR	CR	CR	O	O	-	-	-	-	-	-	-
CBD: Commercial	CR	R	R	CR	CR	CR	O	O	O	O	O	O	O	O	O
NC Overlay: Commercial	CR	R	R	CR	CR	CR	O	O	O	O	O	O	O	O	O
RC Overlay: Residential	-	-	-	-	-	-	O	-	R	R	R	R	R	O	O

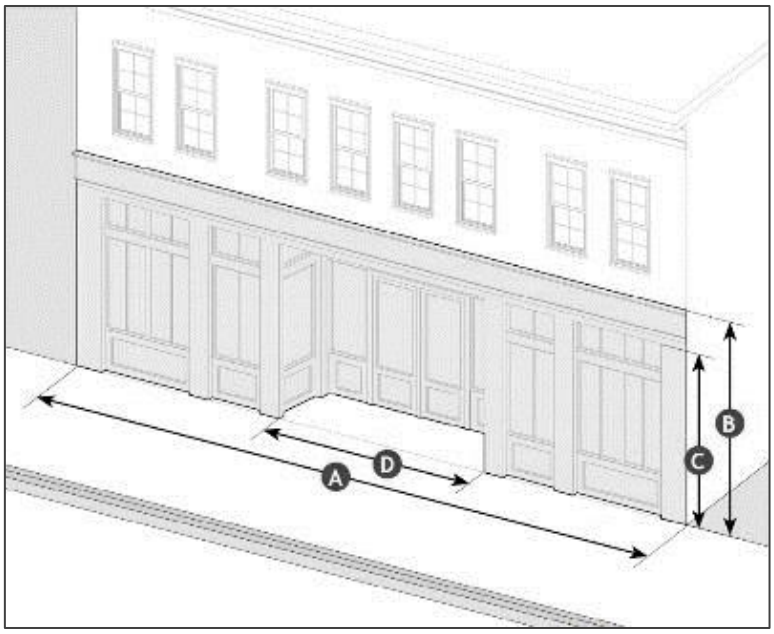
(e) ***Standards.***

(1) ***Gallery.*** A Gallery is a one to two-story colonnaded structure attached to the front of a building that projects out over the sidewalk providing shade and protection from the elements. It is typically used for ground floor commercial frontages on buildings set close to or at the right-of-way line.



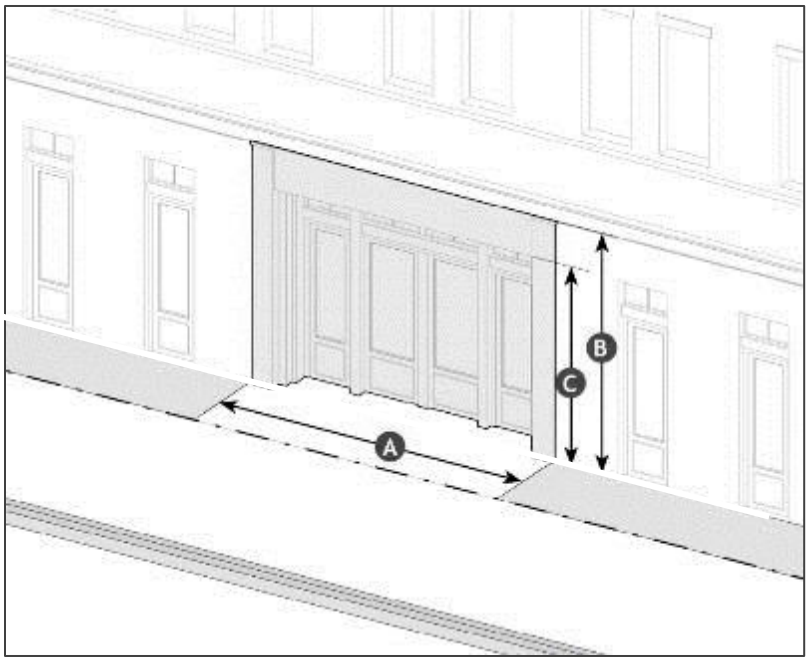
a. Standards	
Dimensions	
Depth	10’ min. A
Height	1-2 stories B
Vertical Clearance	11’ min. C
Column Spacing	10’ min. D
Clearance to Street Curb	2’ min. E
Additional	
Must extend the full length of the building façade and must have a consistent depth	
May only be combined with Storefront Frontage Type	
May encroach beyond the right-of-way line up to 10’ to cover part/all of the sidewalk. FDOT and Beaches Energy approval may be required where applicable.	

(2) ***Storefront.*** A Storefront is an assembly of commercial entry doors and windows that provide access and light into a commercial space, as well as space to display goods, services, and signage.



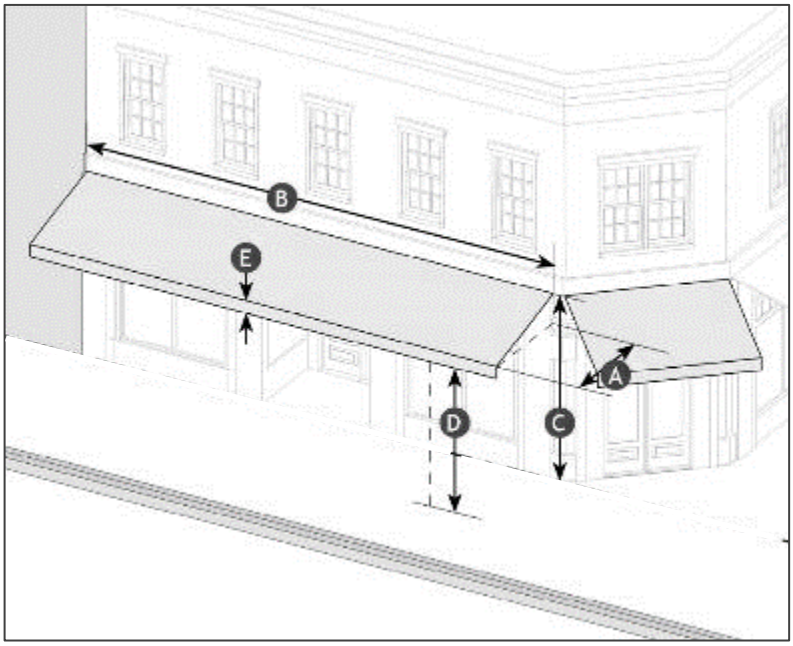
a. Standards	
Dimensions	
Length	15’ min. (A)
Height	
Overall	18’ max. (B)
Display Window	8’ min. (C)
Recessed Entry Width	15’ max. (D)
Additional	
If the sidewalk is less than 8’ wide, a recessed entry at least 3’ deep must be provided to accommodate the door swing	
Must provide an unobstructed view of the interior or a lighted and maintained display(s) area	
Must be combined with either a gallery, awning, entry canopy, or overhead balcony	
Exterior security grilles, gates, and roll-downs are prohibited	

(3) ***Lobby Entrance.*** A Lobby Entrance is an assembly of entry doors and windows providing access and light to the lobby of a building. It is appropriate for lobbies such as those found in office, civic/institutional, and multifamily residential buildings, to name a few.



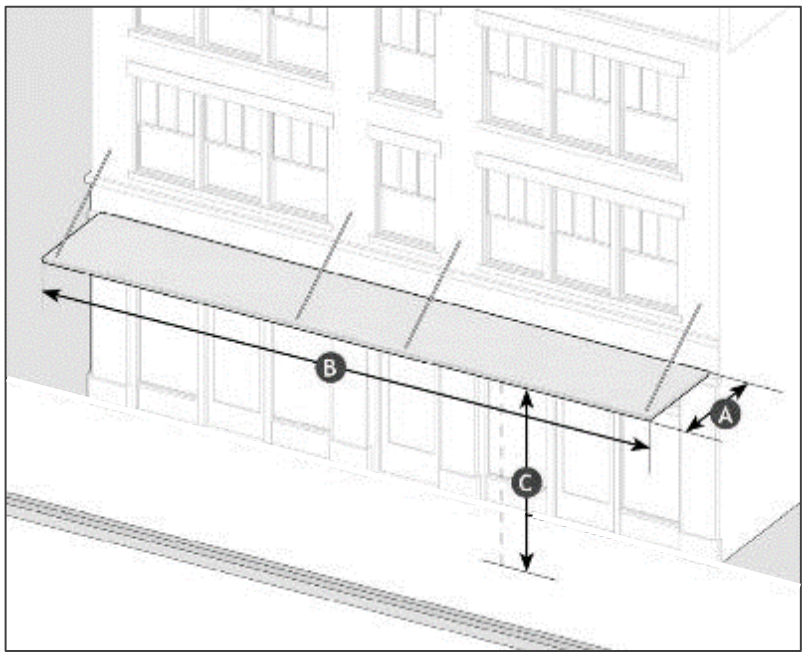
a. Standards		
Dimensions		
Length	15’ min., 30’ max.	A
Height		
Overall	18’ max.	B
Glazing/Window	8’ min.	C
Additional		
If the sidewalk is less than 8’ wide and there is no front setback, a recessed entry at least 3’ deep must be provided to accommodate the door swing		
Must provide an unobstructed view of the interior		
Unless recessed a minimum of 3’, a lobby entrance must be combined with either a gallery, awning, entry canopy, or overhead balcony		
If set back from the lot line, the frontage area must be paved		

(4) ***Awning.*** An Awning is a wall-mounted frame covered with fabric or other material that provides shade and protection over a storefront, lobby, or other entrance.



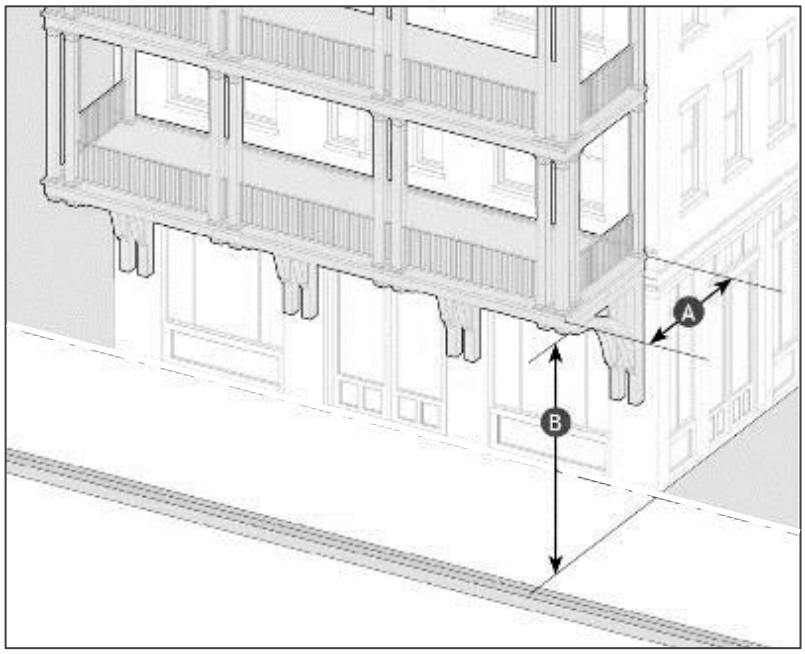
a. Standards		
Dimensions		
Projection	3’ min.	A
Length	4’ min.	B
Height	15’ max.	C
Vertical Clearance	8’ min.	D
Valance Height	12” max.	E
Additional		
Must be securely attached and must fit the full length of the door/window it is attached to		
Must be made of durable, weather-resistant material		
Internally illuminated or back-lit awnings are prohibited		
May encroach beyond the right-of-way line up to 10’ to cover part or all of the public sidewalk. FDOT and Beaches Energy approval may be required where applicable.		

(5) ***Entry Canopy – Large.*** An Entry Canopy is a solid wall-mounted structure that provides shade and protection from the elements over a storefront, lobby, or other building entrance.



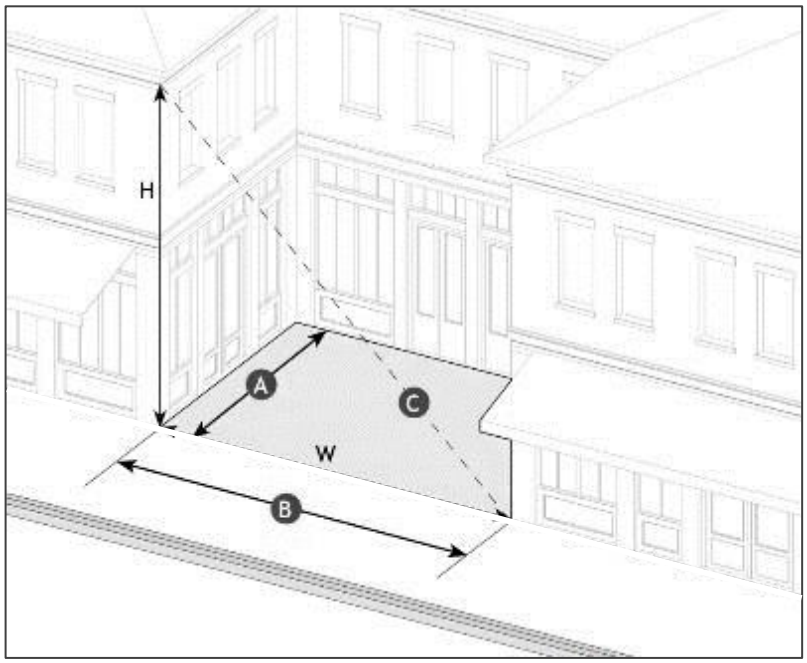
a. Standards		
Dimensions		
Projection	3’ min.	A
Length	4’ min.	B
Vertical Clearance	8’ min.	C
Additional		
Must be securely and visibly attached to the façade with brackets, cables, or rods		
The length ~~of~~ of the canopy must be equal to or greater than the width of the doorway and/or window surround or exterior casing it is mounted over		
May encroach beyond the right-of-way line up to 10’ in to cover part or all of the public sidewalk. FDOT and Beaches Energy approval may be required where applicable.		

(6) ***Overhead Balcony – Large.*** An Overhead Balcony frontage is essentially a cantilevered gallery. Like the gallery, this structure projects out over the sidewalk providing shade and protection from the elements. It is typically used for ground floor commercial frontages on buildings set close to or at the right-of-way line. These structures shall not be enclosed.



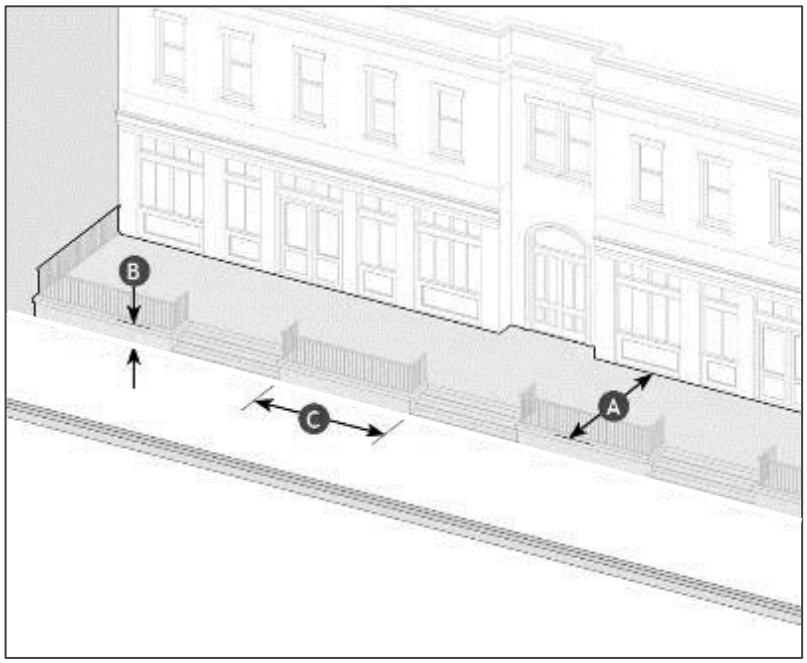
a. Standards		
Dimensions		
Depth	6’ max.	A
Vertical Clearance	8’ min.	B
Additional		
Visible brackets or structural supports must be adequately spaced so as to be well integrated and harmonious with the windows and doors below		
May only be combined with Storefront and Lobby Frontage Type and must extend at least the full length of those frontages		
May encroach beyond the right-of-way line up to 8’ to cover part/all of the sidewalk. FDOT and Beaches Energy approval may be required where applicable.		

(7) ***Forecourt.*** A Forecourt is a frontage type wherein a portion of the building façade is on or close to the minimum setback line and the central portion of the façade is pushed back to creating a small court space. This centered court space can be used as an entry court or shared garden for multifamily residential buildings, or as an additional shopping or restaurant seating area in commercial and retail service areas.



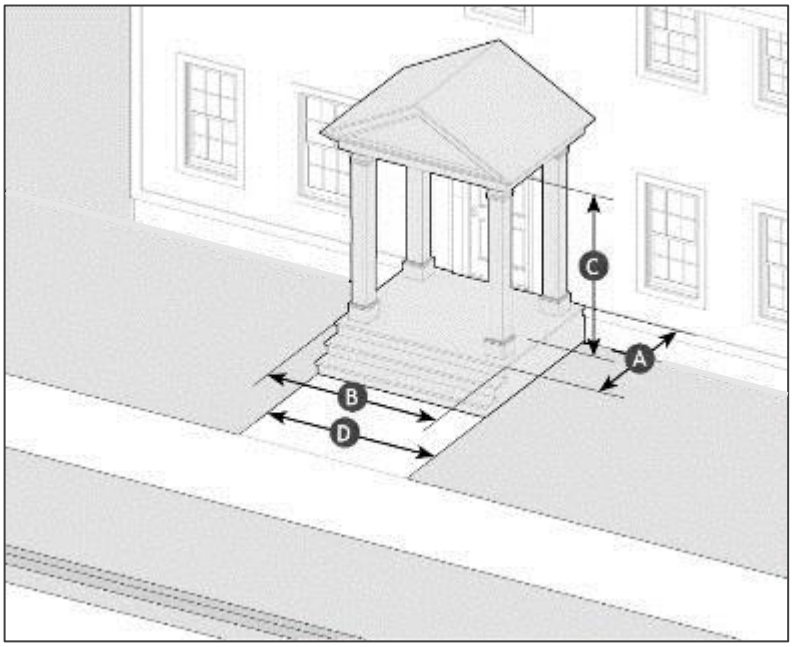
a. Standards		
Dimensions		
Depth, Clear	12’ min.	A
Width, Clear	12’ min.	B
Ratio, Height to width	2:1 max.	C
Additional		
Entry into the building is required along the primary frontage parallel to the sidewalks and encouraged along each of the three frontages within the court		

(8) ***Terrace.*** In a Terrace frontage the main façade of the building is at or near the minimum setback line with an elevated terrace providing public circulation between the building entrances and the public right-of-way. This type is typical along streets with slopes or grade changes but is also a useful for mixed-use and commercial buildings that must address changing flood elevation requirements and sea level rise.



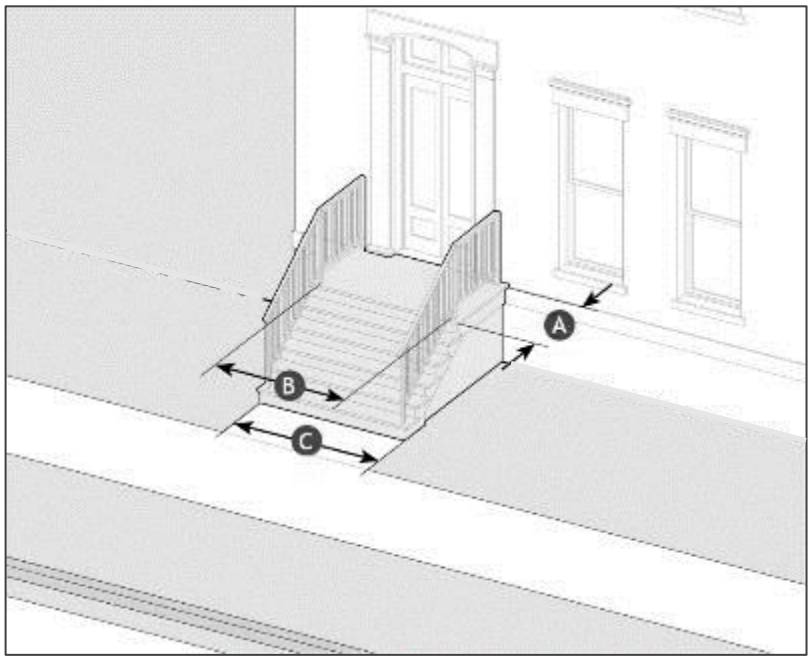
a. Standards	
Dimensions	
Depth, Clear	8’ min. A
Finish Level above Sidewalk	3’ 6” max. B
Distance between Stairs	50’ max. C
Additional	
Low walls, which can be used as seating are encouraged	
If railings are used they must allow pedestrians on the sidewalk to see through the posts and rails	
Must be implemented in conjunction with the Shopfront or Lobby frontage types and feature at least one shade element (awning, entry canopy, or similar)	

(9) ***Portico.*** A Portico is a small projecting porch at the entrance of a building that features a set of stairs leading to a covered landing with a roof structure supported by columns, piers, or posts. It is not meant to accommodate outdoor furniture like a porch is. Porticos are appropriate for ground floor residential frontages.



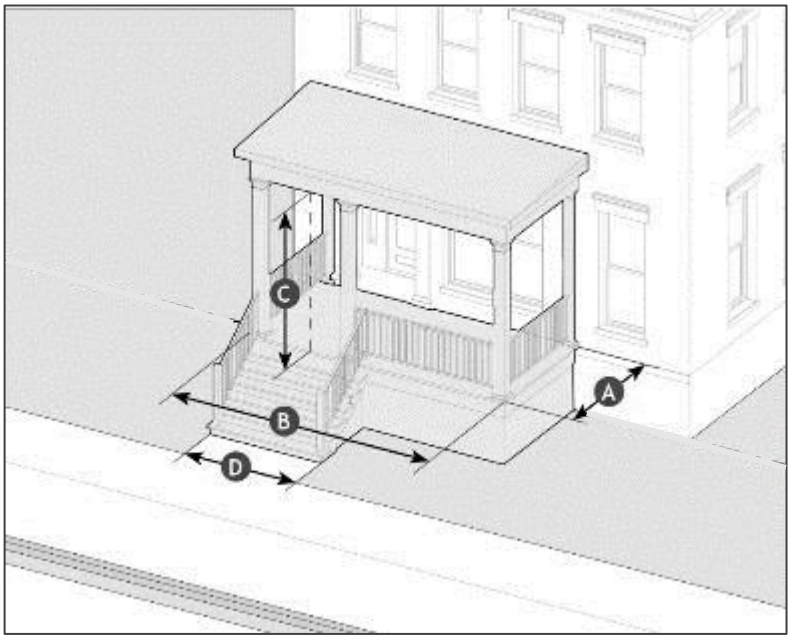
a. Standards		
Dimensions		
Landing Depth	4’ min., 6’ max.	A
Landing Width	4’ min., 8’ max.	B
Clear Height	8’ min.	C
Path of Travel, Width	3’ min.	D
Additional		
Stairs may be perpendicular or parallel to the building façade, but must lead directly to an abutting sidewalk. Stairs shall not be placed more than 5’ into the front setback.		

(10) ***Stoop.*** A Stoop is a small projecting landing at the entrance of a buildings that features a set of stairs leading to a front door. Landings are elevated off the ground with stairs or ramps that may be front or side-loaded, though in either case leading to a paved path connected to the sidewalk. It is appropriate for ground floor residential buildings with small front setbacks.



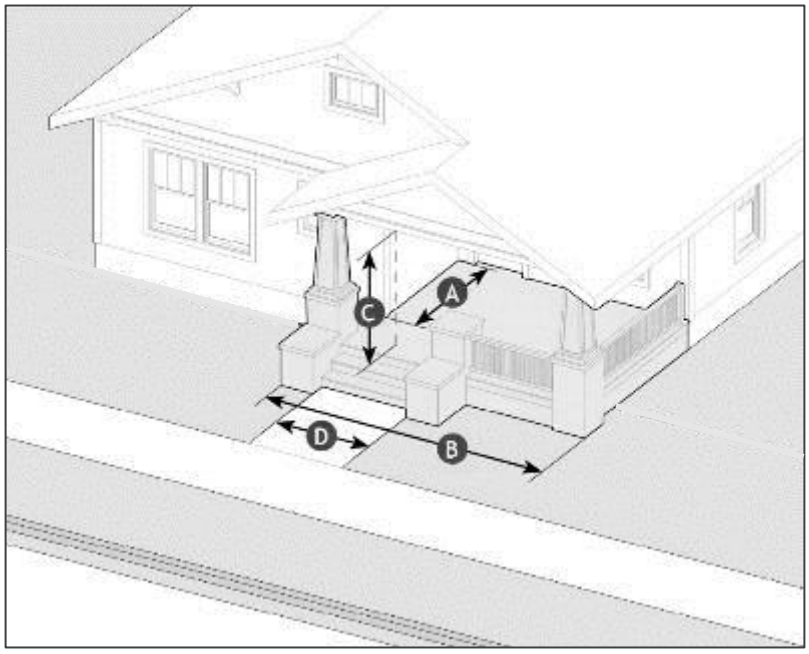
a. Standards		
Dimensions		
Landing Depth	4’ min., 6’ max.	A
Landing Width	4’ min., 8’ max.	B
Path of Travel, Width	3’ min.	C
Additional		
Uness entry doors are recessed more than 3’, stoops should also include an overhead balcony or entry canopy for shade		
Stairs may be perpendicular or parallel to the building façade, but shall not be placed more than 5’ into the front setback.		
Gates are not permitted		

(11) ***Porch - Projecting.*** A Projecting Porch is a medium-sized structure attached to a building façade that features a set of stairs leading to a covered platform with a roof structure supported by columns, piers, or posts and enclosed by railings. It is appropriate for residential buildings with small to medium setbacks.



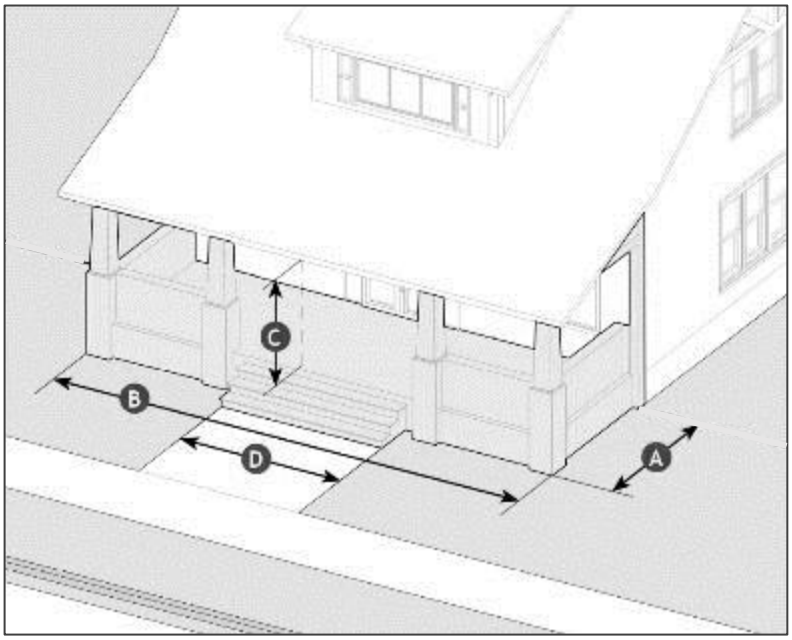
a. Standards	
Dimensions	
Depth, Clear	6’ min. A
Width, Clear	8’ min. B
Clear Height	8’ min. C
Path of Travel, Width	3’ min. D
Additional	
Must be open on three sides and have a roof	
Must have a minimum 4’ x 6’ clear floor area for furniture	
Porch railings must allow pedestrians to see through the posts and rails	
Porches may be screened but cannot be permanently enclosed. Porches shall not be placed more than 5’ into the front setback.	

(12) ***Porch - Engaged.*** An Engaged Porch is a medium-sized structure attached to a building on two sides that features a set of stairs leading to a covered platform with a roof structure supported by columns, piers, or posts and enclosed by railings. It is appropriate for residential buildings with small to medium setbacks.



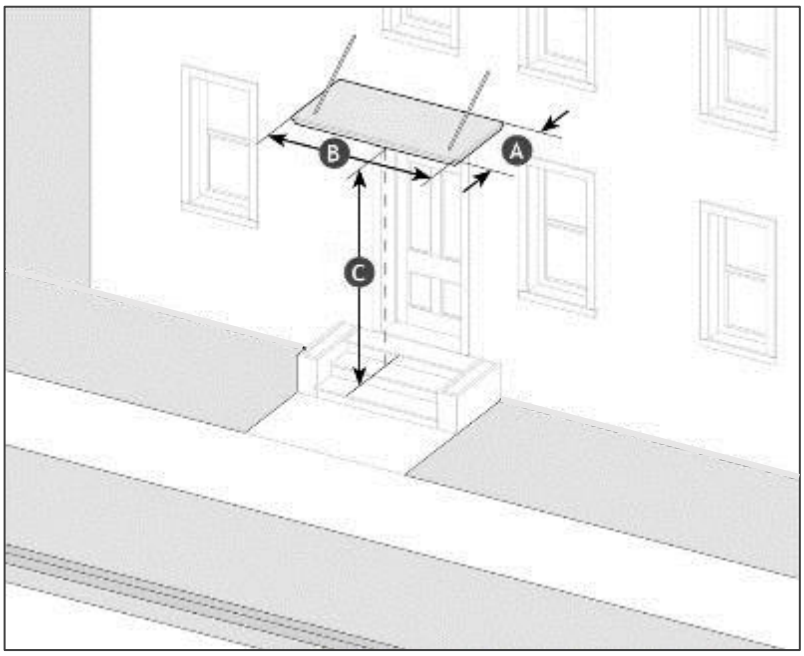
a. Standards	
Dimensions	
Depth, Clear	6’ min. A
Width, Clear	8’ min. B
Clear Height	8’ min. C
Path of Travel, Width	3’ min. D
Additional	
Must be open on two sides	
Must have a minimum 4’ x 6’ clear floor area for furniture	
Porch railings must allow pedestrians to see through the posts and rails	
Porches may be screened but cannot be permanently enclosed. Porches shall not be placed more than 5’ into the front setback.	

(13) ***Porch - Integral.*** An Integral Porch is a medium-sized outdoor space that features a set of stairs leading to a covered platform enclosed by railings or a low wall. Unlike projecting porches, the floor and roof are set within the main structure instead of being attached to it. It is appropriate for buildings with small to medium setbacks.



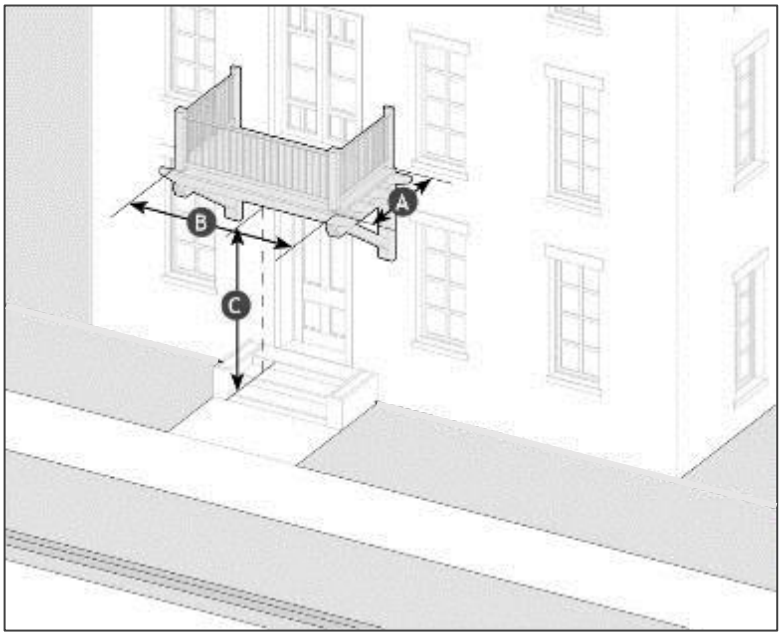
a. Standards		
Dimensions		
Depth, Clear	6’ min.	A
Width, Clear	Width of façade	B
Clear Height	8’ min.	C
Path of Travel, Width	3’ min.	D
Additional		
Must be open on three sides		
Must have a minimum 4’ x 6’ clear floor area for furniture		
Porch railings must allow pedestrians to see through the posts and rails, though a low wall up to 2.5’ in height can be used		
Porches may be screened but cannot be permanently enclosed. Porches shall not be placed more than 5’ into the front setback.		

(14) ***Entry Canopy - Small.*** An Entry Canopy is a solid wall-mounted structure that provides shade and protection from the elements over a ground floor residential entryway. It is appropriate for residential buildings with small to medium setbacks.



a. Standards	
Dimensions	
Projection	2’ min., 4’ max. (A)
Length	3’ 6” min. (B)
Vertical Clearance	8’ min. (C)
Additional	
Must be securely and visibly attached to the façade with brackets, cables, or rods	
Length of canopy must be equal to or greater than the width of the doorway surround, trim, or exteror casing	
Should be implemented in conjunction with the Stoop frontage type. Entry canopies shall not extend beyond 5’ into the front setback.	

(15) ***Overhead Balcony - Small.*** A small Overhead Balcony frontage is an attached second story balcony centered over a front entry way that provides shade and protection from the elements. It is typically used for ground floor residential frontages on buildings with small front setbacks.



a. Standards	
Dimensions	
Depth	2’ min., 4’ max.
Width	3’ 6” max. (A)
Vertical Clearance	8’ min. (C)
Additional	
Width of balcony must be equal to or greater than the width of the doorway surround, trim, or exteror casing	
Should be implemented in conjunction with the Stoop frontage type. Overhead balconies shall not extend more than 5’ into the front setback.	

Sec. 27-237. - Building area requirements.

Principal buildings shall not exceed the maximum floor areas, exclusive of the required architectural elements, as provided for below:

(1) ***R-1 district****:* Total floor area of all buildings are limited to a maximum floor area ratio (FAR) of seventy-five (75) percent of the total lot area or a maximum of three thousand five hundred (3,500) square feet, whichever is less. Balconies, porches, and other architectural features are excluded from the FAR requirement. Except, breezeways are limited to fifteen (15) feet in length from the vertical exterior wall of the principal structure to the vertical exterior wall of an accessory structure.

The FAR is calculated by dividing the gross floor area by the total lot area. The total lot area for this provision shall be the boundary of the parcel as indicated by the property lines unless the lot is non-conforming, in which case, one-half the width of the adjacent local right-of-way may be used.

(2) ***R-2 district****:* Total floor area of all buildings are limited to a maximum floor area ratio (FAR) of seventy (70) percent of the total lot area or a maximum of three thousand (3,000) square feet, whichever is less. Balconies, porches, and other architectural features are excluded from the FAR requirement. Except, breezeways are limited to fifteen (15) feet in length from the vertical exterior wall of the principal structure to the vertical exterior wall of an accessory structure.

The FAR is calculated by dividing the gross floor area by the total lot area. The total lot area for this provision shall be the boundary of the parcel as indicated by the property

lines unless the lot is non-conforming, in which case, one-half the width of the adjacent local right-of-way may be used.

(3) ***R-3 district****:* Total floor area of all buildings are limited to a maximum floor area ratio (FAR) of sixty-five (65) percent of the total lot area or a maximum of three thousand (3,000) square feet, whichever is less. Balconies, porches, and other architectural features are excluded from the FAR requirement. Except, breezeways are limited to fifteen (15) feet in length from the vertical exterior wall of the principal structure to the vertical exterior wall of an accessory structure.

The FAR is calculated by dividing the gross floor area by the total lot area. The total lot area for this provision shall be the boundary of the parcel as indicated by the property lines unless the lot is non-conforming, in which case, one-half the width of the adjacent local right-of-way may be used.

(4) ***R-4 district:*** Total floor area of all buildings are limited to a maximum floor area ratio (FAR) of sixty-five (65) percent of the total lot area. Balconies, porches, and other architectural features are excluded from the FAR requirement. Breezeways are limited to fifteen (15) feet in length from the vertical exterior wall of the principal structure to the vertical exterior wall of an accessory structure.

The FAR is calculated by dividing the gross floor area by the total lot area. The total lot area for this provision shall be the boundary of the parcel as indicated by the property lines unless the lot is non-conforming, in which case, one-half the width of the adjacent local right-of-way may be used.

(5) ***R-5 district****:* Not applicable.

(6) ***C-1 district****:* In order to promote a more human-scaled environment along the 3rd Street Corridor, no freestanding building for any permitted use shall exceed thirty thousand (30,000) square feet in total gross floor area, as defined in section 27-15 of this Code. A structure may be constructed on a single parcel so long as the structure does not exceed 100 linear feet of frontage without a 10' separation between any additional structures constructed upon the same parcel of land. Furthermore, boutiques are limited to two (2) stories and no more than 2,000sf per floor. Wholesale warehouses, or other freestanding buildings for any permitted use located within one thousand (1,000) linear feet of each other that operate under common business ownership or management, share a warehouse or distribution facility, or otherwise operate as an associated, integrated, or cooperative business shall not exceed a combined thirty thousand (30,000) square feet of total gross floor area in aggregate.

(7) ***C-2 district****:* No retail store, wholesale warehouse, nor any freestanding building for any permitted use shall exceed sixty thousand (60,000) square feet in total gross floor area, as defined in section 27-15 of this Code. Shopping centers may be constructed so long as no single unit within such center exceeds these sixty thousand (60,000) square feet limit. Furthermore, any retail stores, wholesale warehouses, or other freestanding buildings for any permitted use located within one thousand (1,000) linear feet of each other that operate under common business ownership or management, share a warehouse or distribution facility, or otherwise operate as an associated, integrated, or cooperative business shall not exceed a combined sixty thousand (60,000) square feet of total gross floor area in aggregate.

(8) ***C-3 district:*** No retail store, wholesale warehouse, nor any freestanding building for any permitted use shall exceed sixty thousand (60,000) square feet in total gross floor area, as defined in section 27-15 of this Code. Shopping centers may be constructed so long as no single unit within such center exceeds these sixty thousand (60,000) square feet limit. Furthermore, any retail stores, wholesale warehouses, or other freestanding buildings for any permitted use located within one thousand (1,000) linear feet of each other that operate under common business ownership or management, share a warehouse or distribution facility, or otherwise operate as an associated, integrated, or cooperative business shall not exceed a combined sixty thousand (60,000) square feet of total gross floor area in aggregate.

(9) ***CBD district:*** In order to preserve the small scale and quaint commercial character of the Central Business District, which also seeks to provide spaces for small local businesses, no freestanding building in the CBD shall exceed a gross floor area of twenty-five thousand (25,000) square feet.

(10) ***NC overlay:*** In order to better match the surrounding residential character, no freestanding commercial building in the Neighborhood Commercial Overlay shall exceed a gross floor area of twenty thousand (20,000) square feet.

(11) ***RC overlay:*** Total floor area of all buildings are limited to a maximum floor area ratio (FAR) of sixty-five (65) percent of the total lot area. Balconies, porches, and other required architectural features are excluded from the FAR requirement.

The FAR is calculated by dividing the gross floor area by the total lot area. The total lot area for this provision shall be the boundary of the parcel as indicated by the property lines.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2013-03, § 1, 4-2-12; Ord. No. 2015-14 , § 2, 10-5-15)

Sec. 27-238. - Maximum lot coverage.

(a) The impervious surface on any lot, or parcel of land, shall not exceed the maximum area as provided for below, and for purposes of calculation, shall include all impervious areas, such as pool areas, hot tubs, and driveways; "gross site area" is defined in article I.

(1) ***R-1 district:*** Fifty (50) percent of gross site area.

(2) ***R-2 district:*** Fifty (50) percent of gross site area.

(3) ***R-3 district:*** Fifty (50) percent of gross site area.

(4) ***R-4 district:*** Fifty (50) percent of gross site area.

(5) ***R-5 district:*** For apartment complexes, thirty-five (35) percent of gross site area. For single-family dwellings, fifty (50) percent of gross site area. For multifamily residences on lots less than one-half acre, seventy (70) percent of gross site area.

(6) ***C-1 district:*** Seventy (70) percent of gross site area unless otherwise specified in the Table 27-239.

(7) ***C-2 district:*** Seventy (70) percent of gross site area unless otherwise specified in the Table 27-239.

(8) ***C-3 district:*** Seventy-five (75) percent of gross site area unless otherwise specified in the Table 27-239.

(9) ***CBD district:*** Eighty-five (85) percent of gross site area.

(10) ***Conservation district:*** Twenty-five (25) percent of gross site area.

(12) ***NC overlay:*** Seventy (70) percent of gross site area.

(13) ***RC overlay:*** Fifty (50) percent of gross site area.

(b) Pervious pavements, as defined in section 27-516, shall not count towards impervious surface areas. Semi-pervious pavers and surfaces that do not meet the standards defined in section 27-516 for pervious pavement, engineered water detention systems, and other low-impact design strategies are encouraged in all zoning districts and shall be credited with a percentage of the covered area, as determined by the building official or licensed professional engineer, using area and volume calculations. The techniques or systems used for a credited area must be installed for long-term effect.

If the applicant desires to increase the impervious area beyond the percent coverage prescribed in this section, drainage runoff calculations shall be provided that indicate no increase in runoff between the pre-construction and post-construction condition. This calculation shall be prepared, signed, and sealed by a licensed professional engineer, registered in the State of Florida.

(c) Additionally, all stormwater management requirements of the St. Johns River Water Management District shall be met.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2006-13, § 3, 7-10-06)

Sec. 27-239. - Building height limitations.

(a) ***Height limitations***. The height of buildings and structures shall not exceed the building height limitations as provided for in Table 27-239.

(b) ***Exceptions***. The following exceptions apply to these height limitations:

(1) Church steeples, chimneys, and similar structures not intended as places of occupancy or storage may exceed the height limits;

(2) Flag poles, water towers and similar devices not intended for human occupancy may exceed the height limits;

(3) Heating and air conditioning equipment, solar collectors, satellite dishes or antenna, elevator shafts, parking and similar equipment, fixtures, and devices that are not intended for human occupancy may exceed the height limits, provided that:

a. They are set back from the edge of the roof a minimum distance of one (1) foot for every foot by which such features extend above the roof surface of the principal building at the place where they are attached, and they extend less than five (5) additional feet in height; and

b. No more than one-third of the total roof area may be occupied by such features.

(4) Parapet walls may be constructed on all sides of buildings with low-slope roofs up to five (5) feet above the adjoining roof surface.

(5) Damaged buildings over thirty-five (35) feet may be rebuilt to their original height.

(c) ***Points of reference for measurement.***

(1) The upper point of reference for determining the height of a building or structure shall be the top of the parapet for flat roofs, and for pitched roofs the highest ridgeline of the roofed structure.

(2) The lower point of reference for determining the height of a building or structure shall be 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 addition of fill material).

(3) However, the lower point of reference for determining the height of a commercial or residential building or structure 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 State of Florida.

(d) ***Charter provisions on building height.*** These building height limitations are consistent with the building height limitations set by referendum, which can be found in Section 4.07 of the Charter of the City of Neptune Beach.

(Ord. No. 2004-10, § 1, 10-4-04)

Table 27-239

	R-1	R-2	R-3	R-4[1]	R-5[2]	C-1	C-2	C-3	CBD[2]	NC Overlay	RC Overlay
	Single-Family Residential			Single/ Two-Family Res.	Multi-Family[14]	Commercial					Single/ Two-Family Res.
Building Height											
Max. Height[3]	28’	28’	28’	28’	28’	35’	35’	35’	35’	35’	28’
Max. Stories	2	2	2	2	2	3	3	3	3	3	2
Density (dwelling units divided by gross site area in acres - du/a)											
Max. Density (du/a)	5	5	5	10	17	-	-	-	10	-	10
Setbacks											
Front Yard[4]	25’ min.	20’ min.	15’ min.	Flexible[5]	30’ min.	10’ min. 25’ max.	25’ min.	15’ min. 30’ max.	0’ min.[6] 10’ max.	5’ min. 15’ max.	10’ min. 25’ max.
Rear Yard	30’ min.	25’ min.	25’ min.	Flexible[5]	30’ min.	10’ min.	15’ min.	20’ min.	5’ min.	10’ min.	15’ min.
Side Yard (Internal)	10’ min.	10% of lot width (7’min.)	10% of lot width (7’min.)	7’ min.[7]	25’ min.	5’ min.	15’ min.	5’ min.	0’ min	0’ min.	7’ min.[7]
Side Yard (Street)	15’ min.	10’ min.	10’ min.	8’ min.	25’ min.	10’ min. 25’ max.	20’ min.	10’ min. 25’ max.	5’ min. 15’ max.	10’ min. 25’ max.	8’ min. 25’ max.
Frontage Buildout											
Primary Street	-	-	-	-	-	70% min.[8]		70% min.		70% min.	-
Lot Dimensions/Size											
Min. Lot Area (SF.)	12,000	10,000	5,000	4,356	-	7,500	10,000	15,000	-	7,500	4,356[10]
Max. Lot Area (SF)	-	-	-	15,000	-	-	-	-	-	-	15,000
Min. Lot Width (FT)	100’	85’	50’	50’	200’	60’	80’	100’	-	50’	50’[11]
Max. Lot Coverage	50%	50%	50%	50%	35%	70%	70%	75%	85%	70%	50%[9]
Additional											
Max. Building Floor Area (sq. ft.)[12]	-	-	-	-	-	30,000	60,000	60,000	25,000	20,000	-

[1] The minimum R-4 and RC Overlay lot dimensions in this table are superseded by the actual dimensions of smaller lots if those lots were lawfully platted and recorded prior to December 2, 2019, in the Office of the Clerk of the Circuit Court of Duval County, Florida.

[2] Any single/two-family homes or multifamily structures in CBD shall comply with the development standards for the RC overlay.

[3] For lots in the R-1 zoning district that have a minimum lot size of twelve thousand (12,000) square feet and one hundred (100) feet lot width as measured at the building line parallel to the front face of the house and perpendicular to the primary side yard, thirty-five (35) feet of maximum building height will be permitted, so long as the primary roof structure is built at a minimum five-twelfths roof pitch, and not to exceed two (2) stories of living area.

[4] More specific front yard setbacks shall apply in locating new structures around the following road segments: Penman Road, Seagate Avenue, and Florida Boulevard (See subsection 27-231(b).)

[5] The front and rear yard setbacks may be flexible in that both measurements must total thirty-five (35) feet; however, neither can measure less than the fifteen (15) feet.

[6] New developments built to the front lot line will need to be cleared by public works first to ensure there are no infrastructure conflicts.

[7] Duplexes comprised of two attached homes shall be exempt from the interior side setback where the units meet.

[8] Lots less than 120’ wide may have a reduced minimum frontage buildout of 60% in order to accommodate side yard parking.

[9] Additionally, 25% of the overall site, or half of the required pervious area, must be comprised of greenspace.

[10] Min. lot area for duplexes shall be 8,500 square feet, or 4,356 square feet for each unit if divided into two fee simple lots.

[11] Min. lot width for duplexes that have been divided into two fee simple lots of 40’ each prior to December 2, 2019 shall be deemed conforming.

[12] No standalone building shall exceed the maximum floor area shown. Additional information can be found in Section 27-237.

[13] Lots bounded by more than two streets may elect no more than two primary streets. All other streets shall meet the setback and frontage requirements for secondary streets. In these unique cases there may not be a rear yard.

[14] Multifamily residences on lots less than one-half acre shall only utilize a maximum of 70% lot coverage.

Sec. 27-240. - Building elevation.

(a) The building elevation (the height of the slab (first floor) of a building above the crown of the road in front of the building) shall not be less than:
   (1) Eighteen (18) inches in residential districts; and
   (2) Eighteen (18) inches in the commercial districts.

(b) However, the minimum building elevation may be higher in flood zones and on land affected by the coastal construction control line; see section 27-519 and chapter 30.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-241. - Buffer areas adjacent to residential districts.

When a R-5, C-1, C-2, C-3 or CBD district abuts a R-1, R-2, R-3 or R-4 district without an intervening street or alley, a landscape buffer constructed in accordance with section 27-459 of this Code, shall be provided on the R-5, C-1, C-2, C-3 or CBD parcel.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-242. - Density calculations.

(a) Residential uses must comply with density restrictions imposed by the adopted future land use map.

(b) In certain cases, these density restrictions have effects on residential uses beyond the minimum lot areas in Table 27-239. In these cases, density will be calculated as follows:
   (1) 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.
      a. For new development and significant redevelopment (50% or more of any structure on the property), gross site area means the entire site area, including land that will become streets and open spaces, but excluding any existing public right-of-way and excluding any wetlands.
      b. 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:

         (i) 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

         (ii) 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.

   (2) Density is computed by whole number only. If a density computation results in fractional units, the computation will be rounded down to the next whole number.

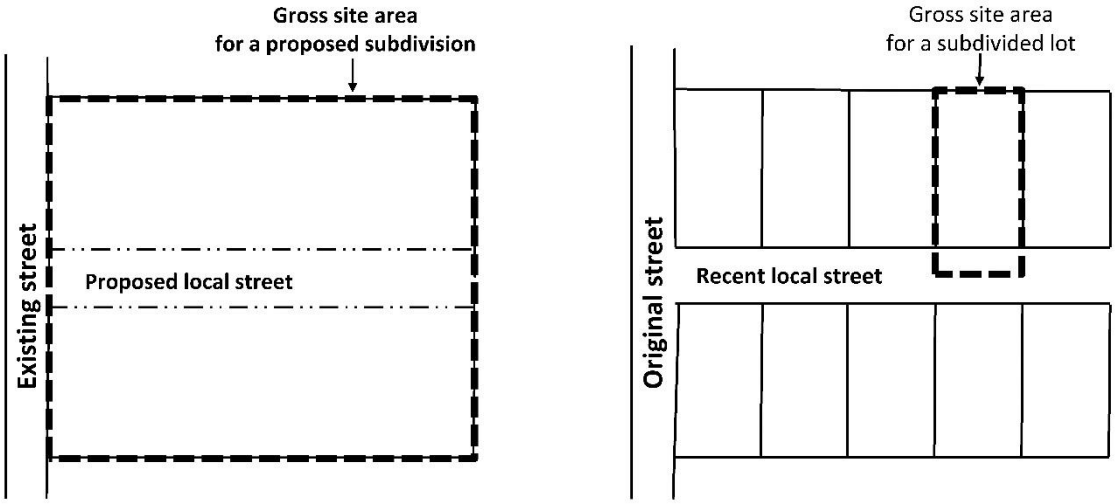


Figure 27-242-1

(c) ***R-3 zoning district.*** These density calculations apply to new development on R-3 lots that have been consolidated from the original plats. An owner of a lot whose size is consistent with the original plats may construct, reconstruct, or replace one single-family residence on that lot; lots averaged 50 feet wide and 110 feet deep in the original plats for Merimar (1923) and Jacksonville Beach Park (1925).

(d) ***R-4 zoning district.*** These density calculations do not apply to individual lots in R-4 that were lawfully platted and recorded prior to January 1, 1991, in the Office of the Clerk of the Circuit Court of Duval County, Florida. New developments and redevelopments will need to meet density requirements regardless of the platted date of the land.

(e) ***R-5 zoning district.*** These density calculations apply when multi-family residences are constructed on parcels that are not subdivided into one lot for each residence.

(f) ***RC overlay.*** These density calculations apply to new development on R-4 lots in the RC overlay that have been consolidated from the original plats.

a. Existing two-family (duplex) residences on lots 5,000 square feet or greater shall be deemed conforming as to density provided, they comply with impervious surface reductions and other retrofit requirements set forth in section 27-243 or they are reconstructed or replaced with a new duplex that meets all requirement in this code other than minimum lot size and density.

b. Existing two-family (duplex) residences on lots less than 5,000 square feet may not be physically expanded in any manner that would increase the nonconformity or violate any additional physical standards in this code. Physical expansion includes the creation of off-street parking areas.

Sec. 27-243. – Special requirements in the RC overlay.

The standards in this section apply to land in the Residential Conservation (RC) overlay to acknowledge its historic development pattern and to ensure that renovated and new residential buildings in this overlay will support safe pedestrian, transit, bicycle, and vehicular circulation and allow for infill development that is sensitive to the character and history of the surrounding neighborhood.

(a) [illegible] e required [illegible]

Figure 27-243-1: Residential building material and details

(b) ***Residential Building Design Standards.***

(1) ***Building materials and details.*** Building wall materials shall be combined on each facade only horizontally, unless the building is broken vertically by a change of plane, or a vertical architectural element. Heavier materials, such as masonry and stucco, shall be located below lighter materials, such as cement fiber or wood siding (Figure 27-243-1).

a. Changes in material or color along the vertical direction should occur at hard-edge "bump-out" transitions, which gives materials a surface to terminate into (Figure 27-243-1).

b. Facades with an overabundance of different materials or colors are discouraged.

(2) ***Architectural elements***.

a. *Front porches & entry areas.*

i. New front porches added to an existing structure should be appropriate for the architectural style or neighborhood context.

ii. Porches may be screened but cannot be permanently enclosed if they are to benefit from any permitted yard encroachments per Section 27-235 (Figure 27-243-2). If a porch is to be permanently enclosed it will be considered a part of the building façade and will be subject to all front, side, and rear yard setback requirements.

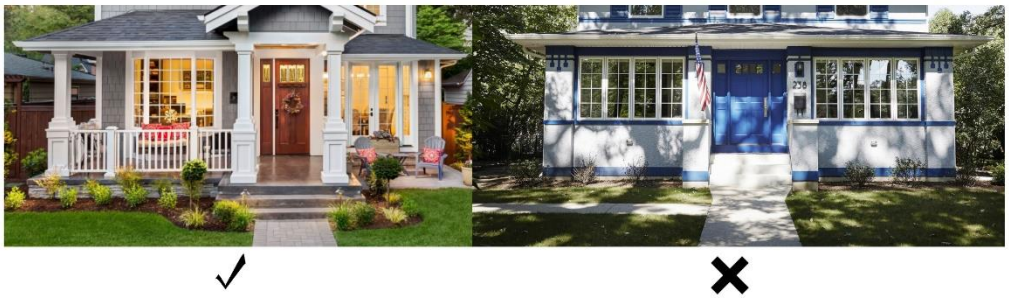


Figure 27-243-2: Front porch standard

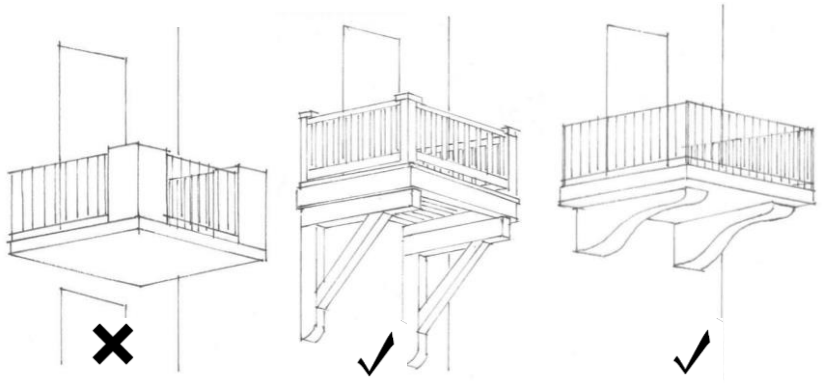


Figure 27-243-3: Visible support for balconies

b. Balconies and Railings

i. Brackets typically extend the full depth of the balcony. The thickness and number of brackets should reflect the scale and design of the balcony being supported.

ii. Balconies shall project at least two (2) feet to create a standing or "Juliet" balcony, and no more than four (4) feet from the building wall.

iii. Balconies shall be deeper than six (6) feet only if it is partially or wholly inset within the main body of the building.

iv. Balconies shall be visually supported from below, if projecting more than two (2) feet, by brackets or another structurally implicit mechanism, which must extend a minimum of 85% of the depth of the balcony, or else be supported by adjacent side walls (Figure 27-243-3). Exceptions may apply for the Mid-Century Modern and Masonry Modern architectural styles.

v. Balconies shall have a minimum underside clearance of ~~nine~~ eight (8) feet.

vi. Decorative railings should be used on building facades when they serve a function such as on an occupiable balcony, enclosing planting areas, or as a safety measure for large windows in upper stories. Like typical balcony railings, they must be designed to support ladders for emergency egress. Grills should be applied to facades without serving a true function (left). (Figure 27-243-4)

c. Columns, pillars, and posts.

i. Shall be spaced at regular intervals not exceeding 24 feet from centerline to centerline, creating openings with a height to width or width to height ratio of 1:1, 2:1, or 2:3.

ii. Always support a structural spanning element, such as a beam, arch, or entablature and shall always be positioned so that the outside edge of the beam, arch, or entablature spanning element above aligns with the neck of the column.

d. Bay Windows.

i. Shall provide habitable interior space and include at least three (3) windows.

ii. Shall not project more than three (3) feet from the building façade, nor exceed 10 feet in width.

iii. Shall fit in with the overall character and architectural style of the building.

iv. Are limited to front and rear yards, side yards are excluded

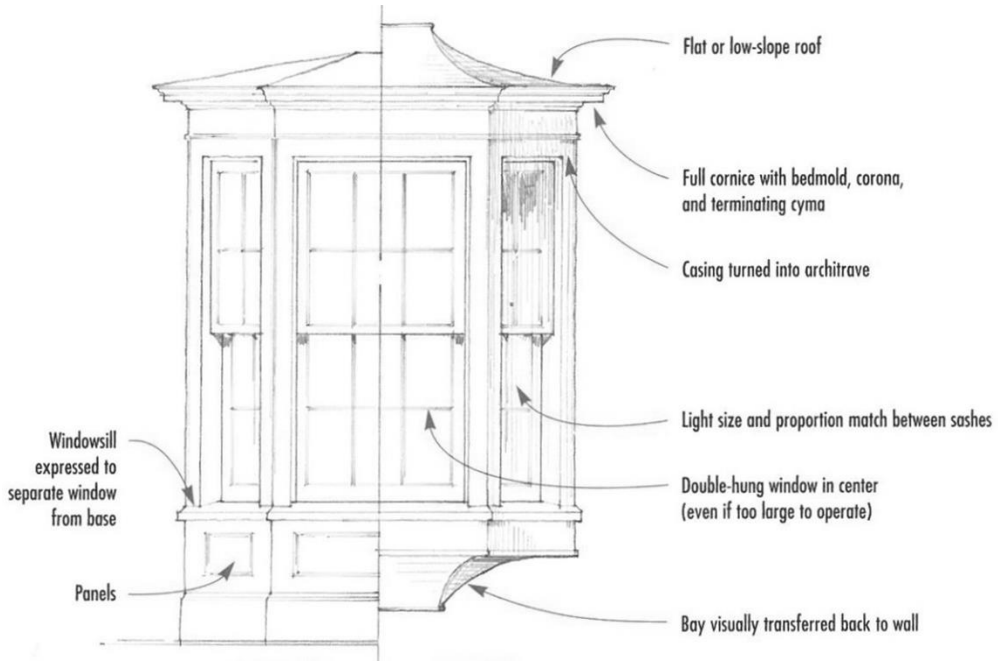


Figure 27-243-7: Bay Windows. Source: Marianne Cusato, Get Your House Right (Canada: Sterling, 2007).

e. Garages & Parking.

i. To ensure that they do not dominate the street-facing building facades or overshadow pedestrian entryways, attached and detached garages shall be subordinate in height, footprint, and proportion to the primary structure on the site, and shall be compatible with the principal structure in terms of roof form, materials, and color (Figure 27-243-8).

ii. Detached garages should be located behind the primary building in the rear yard (Figure 27-243-8, label G).

iii. Garages shall be architecturally like the residence (Figure 27-243-8). The openings of the garage shall be designed in a manner that obscures parked vehicles.

iv. The combined width of all driveways in the front yard setback may not exceed 30% of the width of the lot or 18 feet, whichever is larger. For corner lots, the combined width of all driveways in the street-facing side yard setback may not exceed 25% of the depth of the lot or 20 feet, whichever is greater.

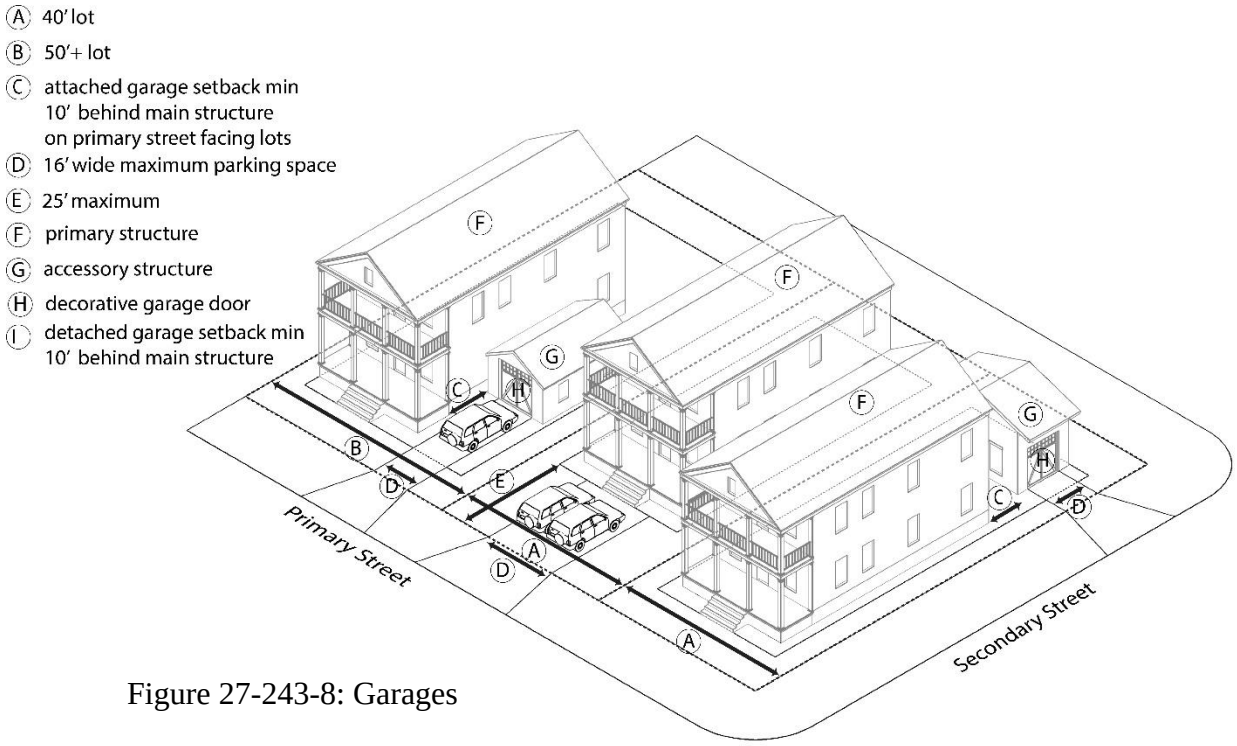
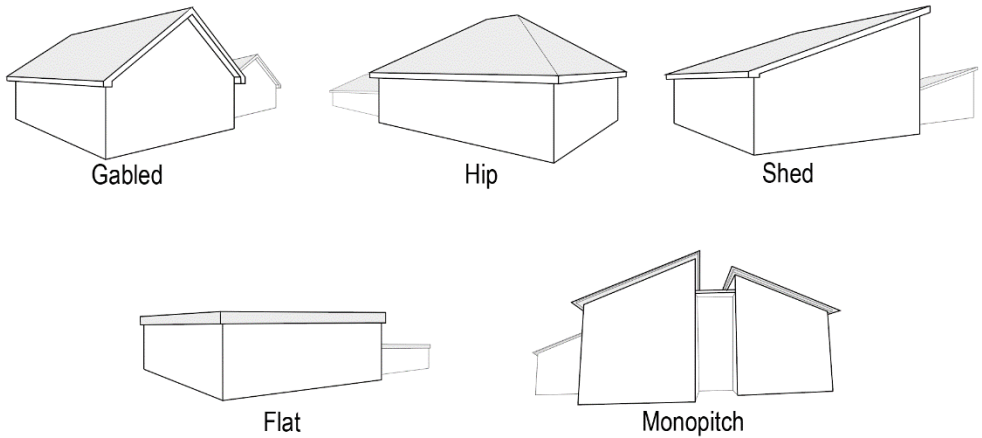


Figure 27-243-8: Garages

f. Roof Type and Pitch

i. Permitted roof forms for primary and accessory structures include gabled, hipped, shed, flat, and mono pitch, though the selected roof form must be consistent with the architectural style of the building. Applied and partial (less than 3 sides) (Figure 27-243-9).



Sec. 27-244 - Open space requirements in the R-5 zoning district.

(a) All developments larger than two (2) acres in the R-5 residential district shall provide for the following:

(1) Minimum open space: Seventy-five (75) percent of gross site area;

(2) Minimum outdoor living space: Fifty (50) percent of gross site area; and

(3) Minimum outdoor recreation space: Five (5) percent of gross site area.

(b) Terms used in subsection (a) have the following meanings:

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

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

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

(4) ***Gross site area*** means:

a. For new development and significant redevelopment (50% or more of any structure on the property), gross site area means the entire site area, including land that will become streets and open spaces, but excluding any existing public right-of-way.

b. 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:

(i) 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

(ii) 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.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-245 - Planned unit development (PUD) - special regulations.

(a) ***Intent.*** The intent of a planned unit developments (PUD) is to provide for more flexible land use controls than provided by the remainder of chapter 27, while maintaining general safety and welfare for the public as determined by the city council. The development must provide a public benefit as determined by the city council and must be in harmony with the general purpose and intent of chapter 27 and with the city's general planning program and such comprehensive plans as may from time to

time be adopted by the city council; but the development may differs in one (1) or more respects from the usual application of provisions of this chapter.

(b) ***Definition***. For the purpose of this chapter, a planned unit development (PUD) shall mean the development of land under unified control which is planned and developed as a whole in a single or programmed series of operations with uses and structures substantially related to the character of the entire development.

(c) The planned unit development will be encouraged to thoughtfully integrate multiple business uses and/or community facilities that are determined to be acceptable by the community development board and city council. A planned unit development in Neptune Beach shall not include residential uses including, but not limited to, non-transient lodging facilities.

(d) Only uses or combination of uses, which are permitted by right or by special exception in the zoning district in which the PUD is to be located shall be included in the application for a PUD; For clarification, no PUD within a zoning district may include uses not permitted by right or special exception within that zoning district, even if such uses are permissible in other zoning districts. If a PUD is proposed for multiple parcels spanning more than one zoning district, then such PUD may only include uses or combinations of uses permitted by right or special exception in all such districts unless approved by a supermajority of eighty (80%) of the city council; In all such circumstances, in addition to including only such permissible uses, the development plan must also be consistent with the applicable adopted future land use map designation and other provisions of the Comprehensive Plan and other provisions of this Code, as determined in the opinion of the city council.

(e) Applications will only be reviewed for PUD's proposed in the C-1, C-2, and C-3 zoning districts. A PUD will be provided with its own zoning overlay regulations as part of the development process provided it does not increase the intensity of commercial uses when in proximity to residential uses. An increase in intensity in this context means any of the following being placed within one hundred (100) feet of the perimeter of any land zoned for residential uses:

(1) Any portion of a building that is more than ten (10) feet taller than would be allowed on the abutting residential land

(2) Site design that would provide drive-thru facilities or loading facilities abutting residential land.

(f) ***Application for a PUD***. The application for a PUD shall include a Development Order Application and Subdivision Application as outlined in article II; and, in addition to the information required for such development application the PUD shall be required to submit the following:

(1) Plat with a legal description of the area within the PUD.

(2) The name and address of the owner(s) and, if applicable, evidence of the assignment of an agent who represents the owner(s).

(3) Evidence of unified control of the entire area within the PUD with all owner(s) within the area of same identified.

(4) An agreement by all owners within the PUD which includes their commitment to:

a. Proceed with the proposed development in accordance with a newly recreated PUD ordinance for each development and such safeguards as may be set by the city council; and

b. Provide a written statement of a proposal for completion of such development according to approved plans and for continuation of operating and maintenance to such areas, functions, and facilities as are not to be provided, operated, or maintained by the city pursuant to written agreement; and

c. To bind their successors in title to any commitments made in their application.

(5) A PUD site plan that identifies where on the site any requested code modifications would apply, including a detailed and complete listing of each proposed modification of standards in chapter 27.

(6) The PUD site plan must also identify any additional requested uses, and where on the site those uses would take place (see subsection (e) above).

(7) Any proposed public benefits.

(8) The city council may decide to approve, deny, or partially approve the requested PUD and/or any specific request for code modifications or additional uses on the site. The city council may impose special conditions on the approval of the PUD to mitigate potential effects of the proposed PUD. Approval or partial approval of any PUD requires a supermajority vote of eighty (80%) percent of the city council.

(g) ***Expiration of time limits provided for creating PUD***. If the PUD, has not started construction within twelve (12) months from the date of approval by the city council, the approval shall expire. An extension up to an additional twelve (12) months may be granted by the City Manager, or designee, after review of a formal request in writing with supporting documentation and receipt of any applicable fees.

(h) ***Deviation from approved PUD***. In order to facilitate minor adjustments to the plans approved, the city manager or designee may approve minor deviations to the approved plans provided the buildings have the same or less number of stories, and/or floors; there are the same or fewer square feet of floor area; the open space is in the same general amount, or greater amount; or, the roads and drives follow approximately the same course and have the same public or private rights therein.

(Ord. No. 2011-12, § 1, 7-11-11)

Sec. 27-246. – Central Business District (CBD) zoning district – special regulations

The standards in this chapter are intended to promote orderly community growth which will both protect and enhance property values for the community. These standards will ensure that new commercial buildings will support and define safe pedestrian, transit, bicycle, and vehicular circulation and allow for infill development that is sensitive to the character and history of the surrounding neighborhood. Existing structures that do not meet these regulations are considered legal non-conforming structures.

(a) ***Residential building design standards.*** Residential development within the Central Business District, which is permitted by special exception, shall comply with the design standards outlined in Section 27-243.

(b) ***Commercial building frontage standards.*** New commercial development shall comply with the required frontage types and associated standards detailed in Section 27-236.

(c) ***Commercial building design standards***.

(1) ***Storefront design.*** The storefront is a frontage type along sidewalk level of the ground story, typically associated with commercial uses. Storefronts are required for the ground floor of all buildings located on streets designated with Required Retail Frontage and may be incorporated on any building in the Central Business District (CBD), Neighborhood Center Overlay (NC), and C-1 districts. Storefronts are frequently shaded by awnings. Storefronts shall be directly accessible

Figure 27-246-1: Storefront design

from sidewalks; storefront doors may be recessed up to 10 feet (Figure 27-246-1).

(2) ***Entrances and Access.*** All new buildings should have the main entrance oriented to and in full view from a street or public open space. Main entrances shall have design details that enhance the appearance and prominence of the entrance so that it is recognizable from the street and parking areas. Building on corner lots shall use design elements that emphasize the importance of both streets (Figure 27-246-*2*).

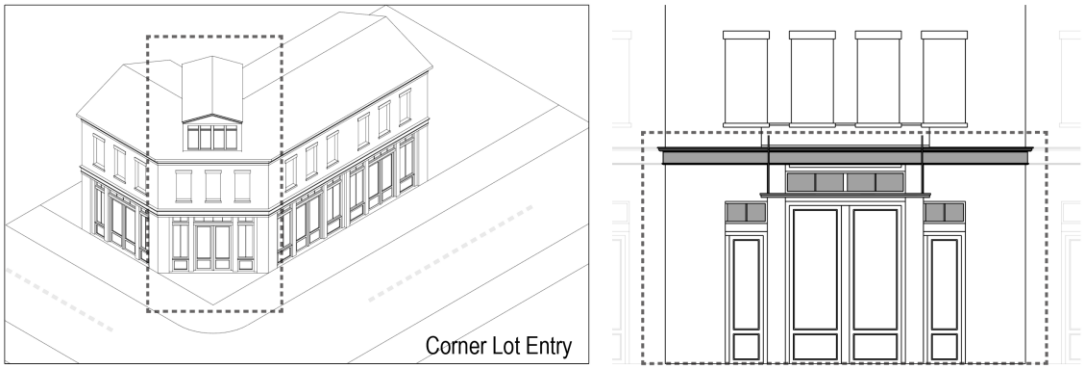


Figure 27-246-2: Primary Entry Examples

(3) ***Transparency.*** All building facades which face onto a street or public open space, shall meet the following minimum transparency requirements:

a. Buildings with Shopfronts (Figure 27-246-*3*)

i. Minimum building façade transparency for ground story: 70% and should allow a view of at least 5’ of interior space

ii. Minimum building façade transparency for upper stories: 40%

b. Building without Shopfronts (Figure 27-246-*4*)

i. Minimum building façade transparency for ground story: 30%

ii. Minimum building façade transparency for upper stories: 25%

Figure 27-246-3: Façade transparency requirement for buildings with

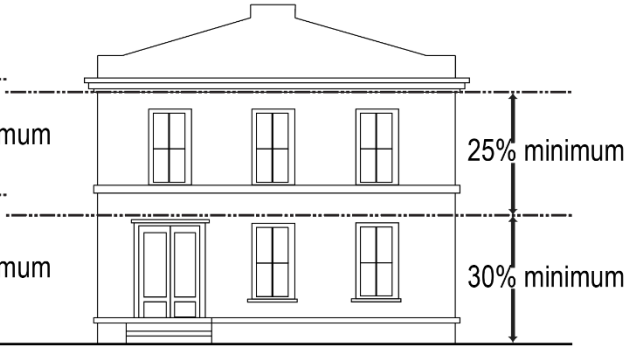


Figure 27-246-4: Façade transparency requirement for buildings without

(4) ***Door and window placements.*** Door and window openings shall extend along at least 80% of the width of the facade of the commercial space, measured by the sum of the widths of the rough openings. Storefront windows shall have a base nine inches to three feet high. Transparent glazed windows shall extend from the base to at least eight feet in height as measured from sidewalk grade. Transparent means non-solar, non-mirrored, glass with a light transmission reduction of no more than twenty percent (20%).

a. All windows shall be vertically proportioned. Window openings may be horizontally proportioned, but only if composed of vertically proportioned windows.

b. Windows shall be located no closer to the corner of a building than a dimension equal to the width of the window.

(5) ***Roof types and pitch***. Permitted roof forms include gabled, hipped, shed, barrel vaulted, flat, mono-pitch, and domes, though the selected. roof form must be consistent with the architectural style of the building. Applied and partial (less than 3 sides) Gambrel roofs are not typically permitted but may be allowed at the discretion of the Administrator or Community Development Board based on compatibility with the surrounding context (Figure 27-246-5).

a. Flat roofs shall be screened from adjacent properties and streets with decorative parapets. The maximum height of the parapet wall shall be five feet in height or sufficient height to

screen all roof mounted equipment, whichever is greater, measured from the top of the roof deck to the top of the parapet wall.

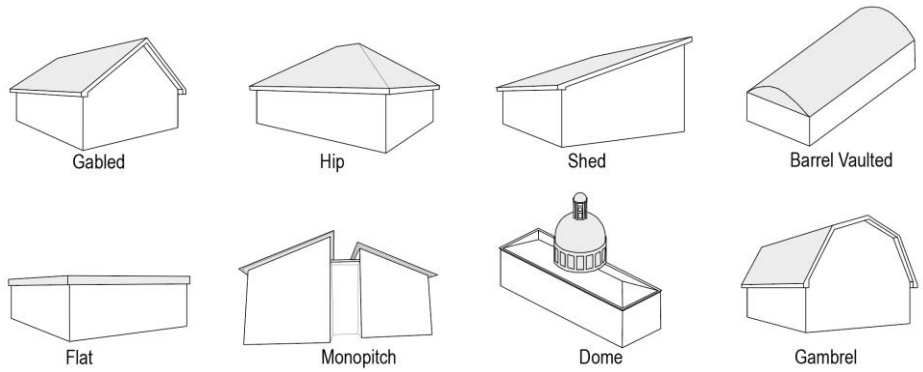


Figure 27-246-5: Roof Types

(6) ***Building materials.*** Building wall materials shall be combined on each facade only horizontally, unless the building is broken vertically by a change of plane, or a vertical architectural element. Heavier materials, such as masonry and stucco, shall be located below lighter materials, such as cement fiber or wood siding (Figure 27-246-6).

a. Changes in material or color along the vertical direction should occur at hard-edge "bump-out" transitions, which gives materials a surface to terminate into.

b. Facades with an overabundance of different materials or colors are discouraged.

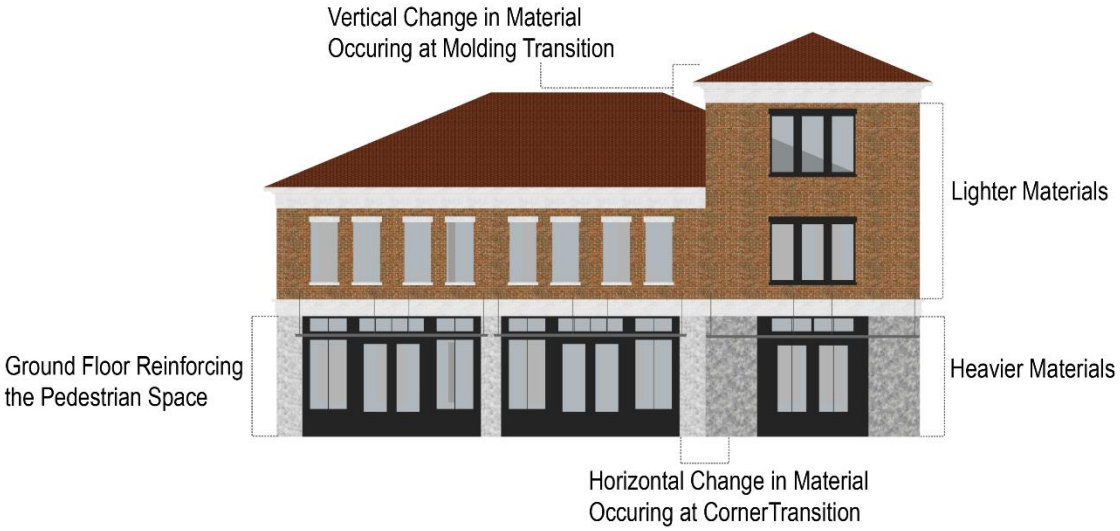


Figure 27-246-6: Material Change

(7) ***Architectural elements.***

a. ***Awnings.*** Awnings shall project a minimum of three (3) feet from the building facade. Awnings shall be consistent with the building's architecture and proportionate to the façade opening shape and size.

b. ***Cornices.*** A projecting cornice may be used to visually establish a top for a building facade (Figure 27-246-8).

i. The top of each primary and secondary mass should be emphasized with a projecting cornice. This cornice should feature a deeper projection and therefore a stronger shadow line than any other expression line on a façade (Figure 27-246-8).

Figure 27-246-8: Building with a primary and secondary cornice.

ii. A cornice may be used to visually support a pitched roof (Figure 27-246-9).

iii. Cornices shall project a minimum of six (6) inches from the building face.

iv. A wall plane may extend above a cornice to form a parapet (Figure 27-246-10).

Figure 27-246-9: Cornice with a pitched roof

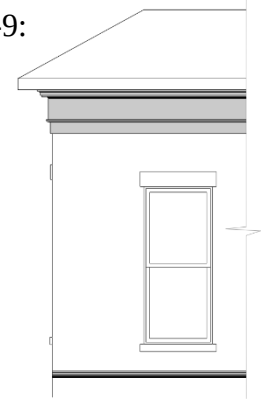
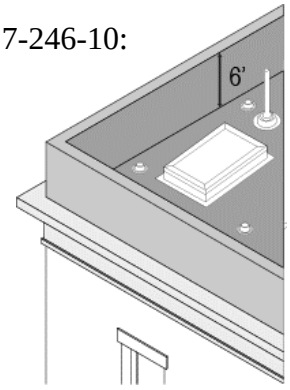


Figure 27-246-10: Parapet



c. ***Decorative Railings.*** Decorative railings should be used on building facades when they serve a function such as enclosing planting areas, or as a safety measure for large windows in upper stories. Like typical balcony railings, they must be designed to support ladders for emergency egress. Grills should not be applied to facades without serving a true function (left). (Figure 27-246-11)

Figure 27-246-11: Decorative Railings

d. ***Bay Windows.***

i. Shall provide habitable interior space and include at least three (3) windows (Figure 27-246-12).

ii. Shall not project more than three (3) feet from the building façade and shall not encroach onto any public right-of-way. See Section 27-235 (a) (2) regarding encroachments.

iii. May not exceed ten (10) feet in width (Figure 27-246-12).

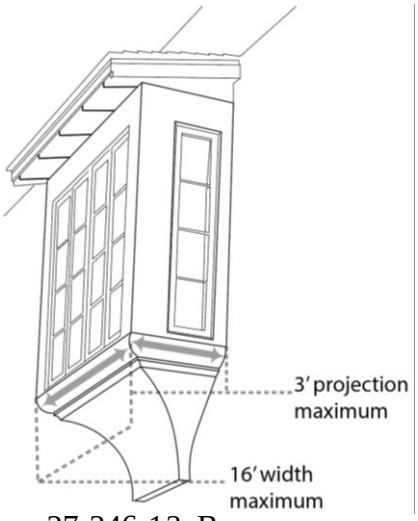


Figure 27-246-12: Bay

ii. Fit in with the overall character an architectural style of the building.

e. ***Columns, pillars, and posts.***

i. Shall be spaced at regular intervals not exceeding 24 feet from centerline to centerline, creating openings with a height to width or width to height ratio of 1:1, 2:1, or 2:3.

ii. Shall always support a structural spanning element, such as a beam, arch, or entablature and be positioned so that the outside edge of the beam, arch, or entablature of the spanning element above aligns with the neck of the column.

Sec. 27-247. - Neighborhood Center (NC) overlay district – special regulations.

These regulations will ensure that new commercial buildings will support and define safe pedestrian, transit, bicycle, and vehicular circulation and allow for infill development that is sensitive to the character and history of the surrounding neighborhood.

(a) ***Commercial building frontage standards.*** New commercial development shall comply with the required frontage types and associated standards detailed in Table 27-239, Section 27-236, and Table 27-236.

(b) ***Commercial building design standards along Florida Boulevard***. All new commercial development in this overlay district that fronts along Florida Boulevard shall comply with the building design standards detailed for the CBD in Section 27-246.

Sec. 27-248-27-320. – Reserved.

ARTICLE V. - ACCESSORY STRUCTURES AND USES[10]

Sec. 27-321. - Intent.

Accessory uses and structures are permitted in all districts provided such uses and structures are of a nature customarily incidental and clearly subordinate to a permitted principal use or structure and, unless otherwise provided, are located on the same lot (or contiguous lot in the same ownership) as such principal use or structure. Any structure or portion thereof, attached to the principal structure on a lot, shall be considered a part of the principal structure and not an accessory structure. Accessory uses shall not involve operations or structures that are not compatible with the character of the zoning district where located.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-322. - Generally.

This article establishes standards to regulate the location, installation, configuration, and use of accessory buildings and structures, and the conduct of accessory uses, in order to ensure that they are not harmful either aesthetically or physically to residents and surrounding areas.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-323. - Applicability.

It shall be unlawful to erect, cause to [be] erected, maintain or cause to be maintained, any accessory structure or to conduct any accessory use not expressly authorized by, or specifically exempted from, this Code.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-324. - Definitions.

Refer to article I for definitions.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-325. - General standards and requirements.

Any number of different accessory structures may be located on a parcel, provided that the following requirements are met:

(1) There shall be a principal structure on the parcel, as permitted by this Code.

(2) All accessory structures shall comply with standards pertaining to the principal use of the lot, unless exempted or superseded elsewhere in the Code.

(3) Accessory structures shall not be located in a required buffer, drainage areas, easements, or required landscape area.

(4) Accessory structures shall not adversely impact adjacent structures or uses and shall comply with all nuisance regulations in Chapter 28 of this code.

(5) Accessory structures shall comply with article XII, Stormwater Management and Erosion Control requirements of this chapter, and shall be included in all calculations of impervious surface and stormwater runoff or any site design requirements applying to the principal use of the parcel. Impervious surface and stormwater drainage calculations shall encompass and evaluate the entire parcel on which the accessory structure is located.

(6) Accessory structures shall be shown on any development plan with full supporting documentation as required in article III of this chapter.

(7) Accessory uses shall not alter the essential character of the area surrounding the site or involve operations or structures not in keeping with the character of the district where located.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2014-11 , § 1, 7-7-14)

Sec. 27-326. - Radio and television antennae.

The erection or construction of any outside telephone antenna, radio tower, or similar structure or tower shall be accomplished in such a manner as to be safe and secure and shall not be erected or constructed in such a manner as to constitute a hazard to the safety of the person or property of others.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-327. - Satellite dish antennae.

All satellite dish antenna installed after the effective date of this code and satellite dish antenna lawfully installed prior to the enactment of this Code that are moved or replaced shall comply with the following:

(1) The satellite dish antenna installation and any part thereof shall maintain vertical and horizontal clearances from any electric lines and shall conform to the National Electric Safety Code.

(2) The satellite dish antenna installation shall meet all FCC (Federal Communication Commission) and manufacturer specifications, rules, and requirements.

(3) The satellite dish antenna shall be of a nonreflective surface material and shall be made, to the maximum extent possible, to conform and blend, taking into consideration color and location, with the surrounding area and structures.

(4) The satellite dish antenna shall contain no advertising or signage of any type.

(5) The satellite dish antenna installation shall be permitted to be placed in side and rear areas of the principal structure or commercial structure only.

(6) The satellite dish antenna shall, to the maximum extent possible, be screened from view from any public rights-of-way.

(7) A satellite dish antenna shall be considered an accessory structure to the principal dwelling or nonresidential structure and shall not constitute the principal use of the property.

(8) The satellite dish antenna installed pursuant to this subsection shall not be used for any commercial purposes. It shall only provide service to the principal structure.

(9) Satellite dish antenna installations shall be limited to one (1) installation per residential lot.

(10) The maximum size of the satellite dish antenna shall not exceed twenty-four (24) inches in diameter.

(11) If a satellite dish antenna is to be installed on the roof of any principal structure it shall be screened from view and not visible from the principal public right-of-way.

(12) The satellite dish antenna shall not be portable.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-328. - Other accessory structures.

(a) Except as provided elsewhere in this article, accessory structures shall be permitted provided that the:

(1) Accessory structures shall be located in rear yards and the side yards of interior lots;

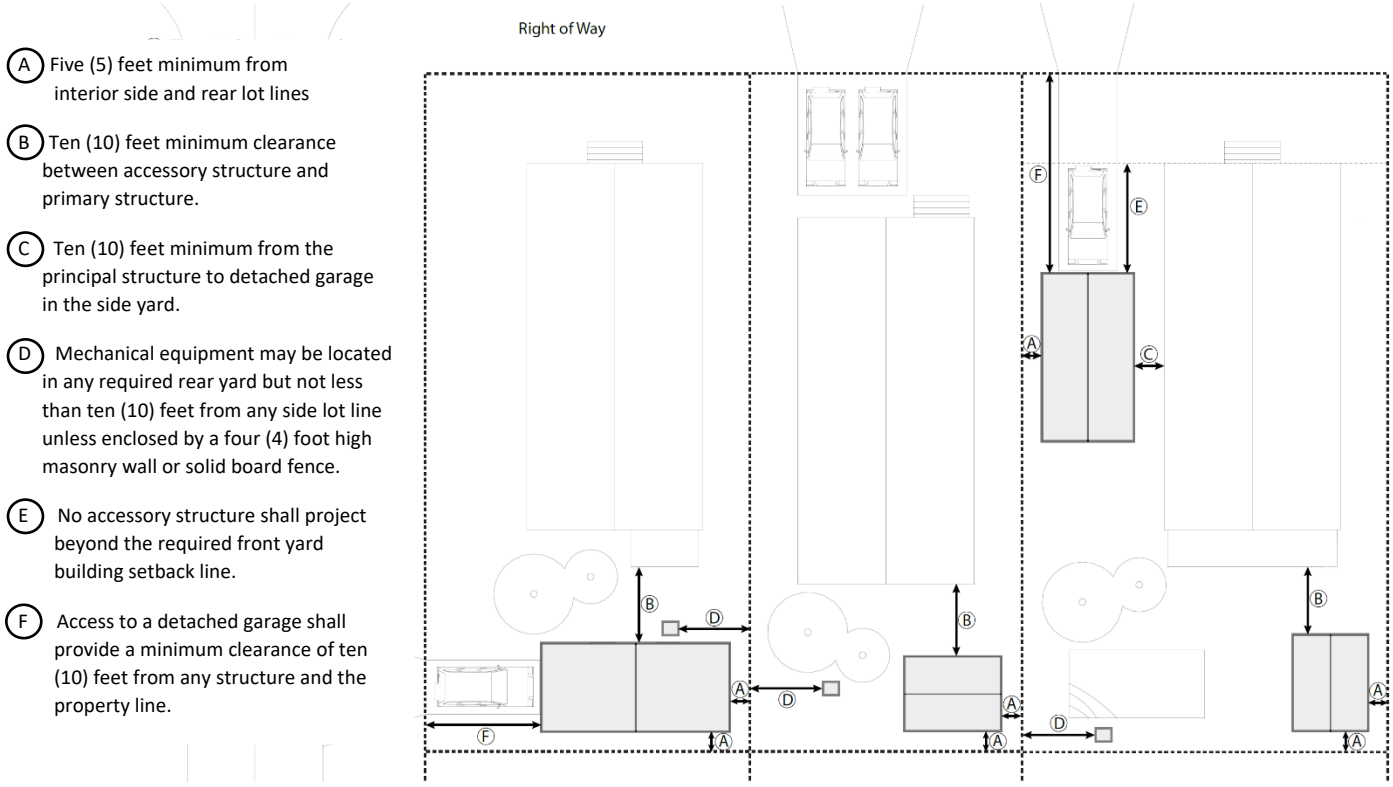
(2) Accessory structures shall not be located in front yards, exterior side yards or within three (3) feet of any side yard of an interior lot or rear property lines, in any residential district except as follows:

a. On multiple frontage lots, through lots and corner lots, accessory structures may only be located in any required interior side yard and/or required rear yard but not less than three (3) feet from any of those lot lines (refer to Figure 27-328-1 and Figure 27-328-2 [at the end of article V]).

b. Accessory structures (except as provided elsewhere in this article) shall be separated from the principal structure by not less than ten (10) feet. Detached garages located in the side yard, however, may be separated by no less than five (5) feet, as measured from the eave, of the principal structure with approval from the City Manager or designee.

c. Accessory structures may be located in required side or rear yards, but not less than five (5) feet from any lot line. In addition, no accessory building on a corner lot in a residential district shall project beyond the required front yard building setback line, required corner yard setback, or beyond either plane of the house (whichever is more restrictive) for either exterior lot line

Figure 27-328-1



d. Air conditioning compressors serving central systems (other than window units) or other shade or electrical equipment designed to serve the principal structure may be located in any required rear yards, but not in any front yard, and not less than ten (10) feet from any side lot line, except in the following instances:

1. When any mechanical or electrical equipment is proposed within a yard and is enclosed by a masonry wall at least four (4) feet high, it may be located within two (2) feet of any side lot line.

2. When any mechanical or electrical equipment is proposed within a yard and is enclosed by a solid board fence at least four (4) feet high, it may be located within five (5) feet of any side lot line.

e. Garages and carports existing or constructed shall not be enclosed at a later date, unless considerations are made so that the subsequent structure is in keeping or consistent with the main building. Where appropriate, garages should be oriented to the alley with the required yard off of the alley considered a rear yard.

(3) Accessory structure does not exceed twelve (12) feet in height or fourteen (14) feet in height for a two (2) car garage with a vertical exterior wall height not to exceed eight (8) feet in height.

(4) Accessory structures shall not exceed the floor areas described in Table 27-328-1 below.

Table 27-328-1

Lot Area (sq. ft.)	Maximum Floor Area for Accessory Structures (sq. ft.)
Less than 5,000	480
5,000 – 7,999	500
8,000 – 9,999	680
10,000 – 11,999	800
12,000 or greater	1,200 or 7% of lot size, whichever is smaller

(5) No more than three (3) accessory structures per lot, excluding subsection 27-328(2) c., and swimming pools.

(6) Detached garages shall have an access driveway as described in section 27-480 except that the use of pervious driveway material of construction material is encouraged.

(7) Access to a detached garage shall provide a minimum access clearance of ten (10) feet between any structure and the property line.

(b) Vehicles, major recreational equipment and manufactured homes shall not be used as accessory structures and shall be parked in side yards or rear yards. In no circumstance shall a major recreational vehicle or equipment be parked within a clear visibility triangle.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2012-05, § 1, 4-2-12)

Sec. 27-329. - Swimming pools, pool enclosures, hot tubs, and similar structures.

Swimming pools, pool enclosures, hot tubs, and similar structures shall be permitted, provided that the following design criteria are met:

(1) *Setbacks.* Pools, hot tubs, or similar structures shall be located in side or rear yards. The minimum front setback for a pool, hot tub, or similar structure shall be no closer to the front yard setback than the front building line of the main or principal building as shown in Figure 27-329-1. [See Figures at the end of article V.] In the case of a double frontage lot, a pool may be located in any yard provided that setback requirements are met.

(2) *Setback maintained.* A minimum of seven (7) feet from the side yard on an interior lot, fifteen (15) feet exterior side yard on a corner lot, seven (7) feet front yard setback on a double frontage lot, and five (5) feet rear yard setbacks shall be maintained (refer to Figure 27-329-2 [at the end of article V]). Minimum setbacks shall be measured from the lip of the pool.

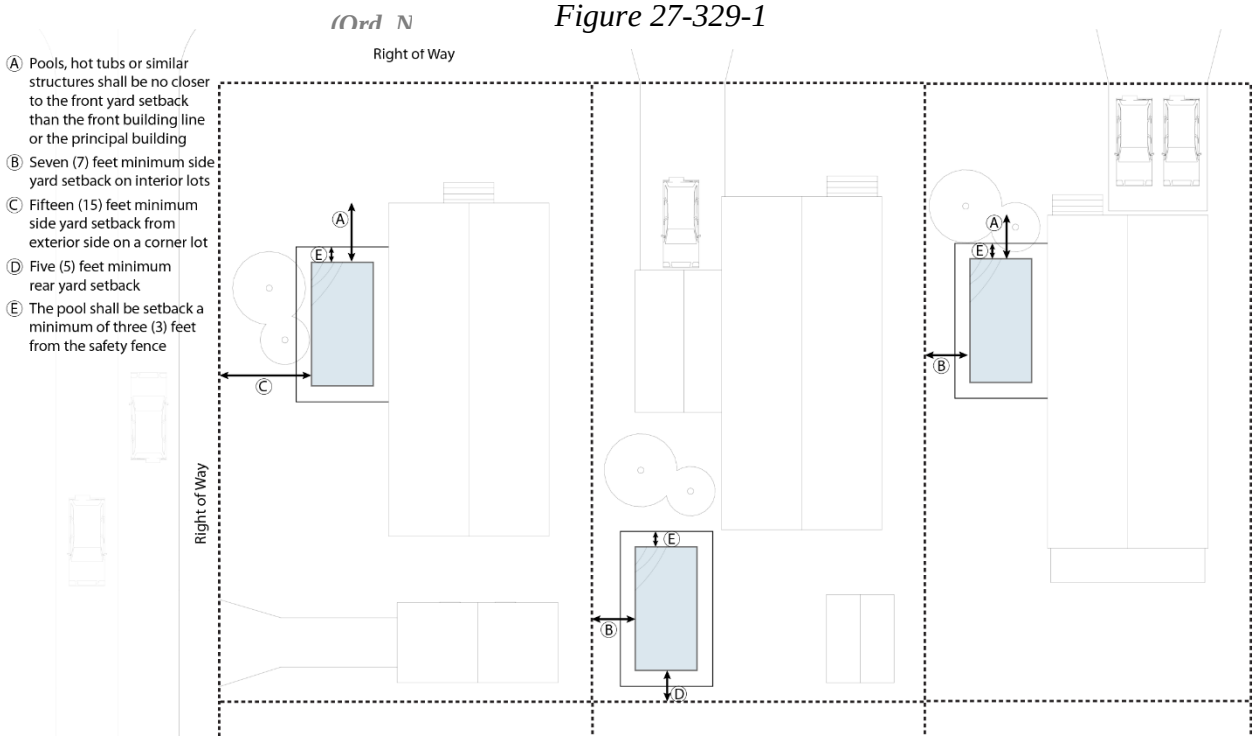
(3) *Safety fences.* Swimming pools and hot tubs shall be surrounded by an approved wall or fence, which is at least four (4) feet in height, but not over eight (8) feet, and controls unrestrained admittance to the enclosed area through the use of self-closing and self-latching doors and gates. The pool shall be setback at least three (3) feet from the wall or fence, as measured to the lip of the pool.

(4) *Electric power lines.* Swimming pools and similar structures shall not be located under overhead electric power lines unless enclosed in conduit and rigidly supported, nor shall any power line be nearer than ten (10) feet horizontally or vertically from the pool's water edge.

(5) *Excavations.* Excavations shall not exceed a 1:1 slope from the foundation of an existing house, unless a trench wall is provided.

(6) *Lights.* Underwater lights used to illuminate the interior of the pool shall be so arranged as not to reflect light onto adjoining premises.

Figure 27-329-1



Sec. 27-330. - Fences, walls and hedges.

(a) Fences, walls or hedges may be located in all fronts, side and rear yard setback areas, subject to the following conditions:

(1) *Height of fences, walls or hedges.* Fences, walls or hedges shall not exceed four (4) feet in height when placed in the front yard, six (6) feet in height when placed in the side yard, and six (6) feet in height when placed in the rear yard. In the event that a rear yard of a residentially zoned property abuts commercially zoned property, an eight-foot fence for only the rear yard may be constructed with the approval of the city manager, or designee. If a building is situated on the lot closer to the front setback line than the currently required setback, the fence shall not exceed four (4) feet in height forward of the front building line (refer to Figure 27-330-2. For anyone except public government agencies, proposed fences shall meet these height standards.

(2) Any fence located adjacent to a public right-of-way or private road shall be placed with the finished side facing that right-of-way. In residential zoning districts, fences, walls, or hedges shall not exceed six (6) feet in height when placed in exterior side yards abutting a principal arterial (third street). Such fences or walls are encouraged to meet higher quality construction standards in order to provide genuine sound attenuation. Such fences or walls shall be erected at least three (3) feet inward from the property line and shall be landscaped on the exterior (highway) side by the property owner using evergreen or other perennial plants.

(3) Fences designed to have airflow, such as shadow box or lattice style fences are to be encouraged to allow for the free flow of breezes. Picket, shadow box and other decorative style fences in keeping with the character and context of the neighborhood are encouraged; chain-link fences are generally discouraged.

(4) No fence, wall hedge, or other plantings greater than three (3) feet in height shall be located in the clear visibility triangle on corner lots or in such a way to block the line of sight for motorized vehicles leaving driveways. The vision triangle area shall be determined as follows:

a. *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 point shall be fifty (50) feet from their intersection.

b. *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 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 points. For driveways intersecting arterial roads the triangle shall extend thirty (30) feet in both directions.

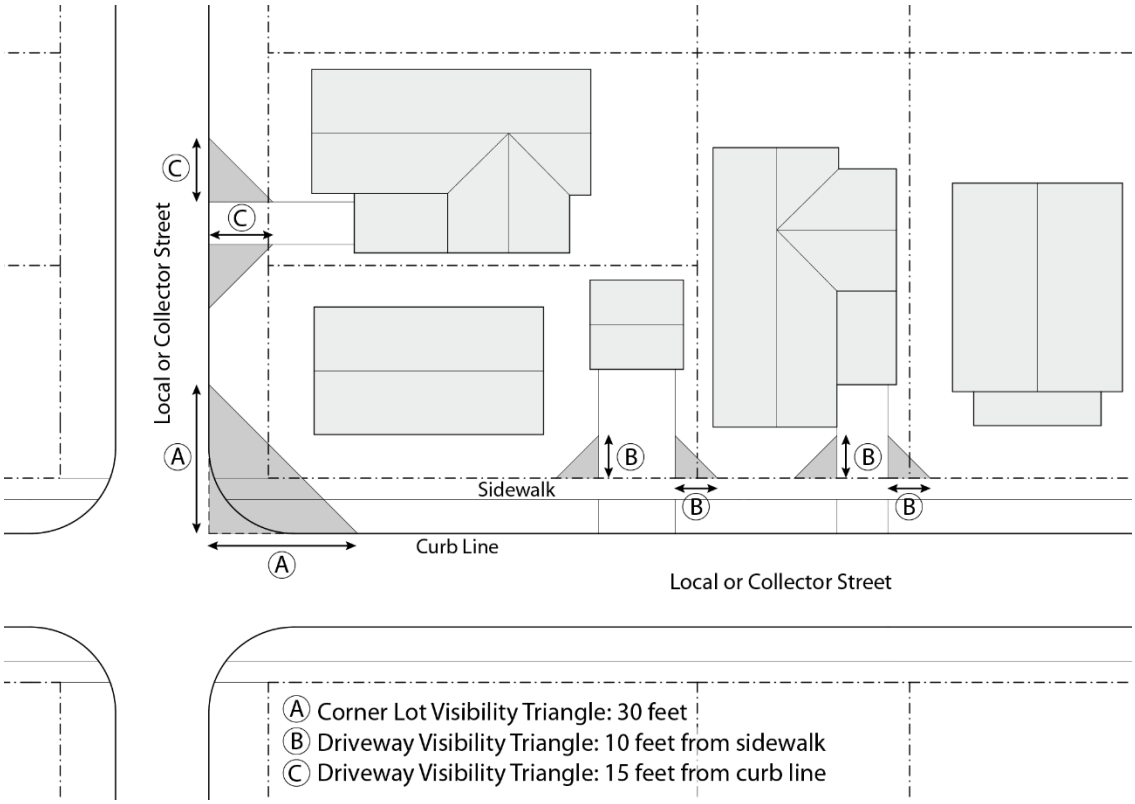


Figure 27-330-1

(5) No fence, wall, hedge, or other plantings shall be constructed or installed in such a manner as to interfere with drainage on the site.

(6) Fence posts shall be resistant to decay, corrosion, and termite infestation. The posts must also be pressure-treated for strength and endurance.

(7) Fences installed on the ocean side of ocean front lots shall not exceed four (4) feet in height within the required front setback.

(8) All replacement fences must meet current zoning requirements.

(9) The use of barbed-wire and razor wire is prohibited by section 8-4 in all zoning districts.

(10) All fences shall be maintained in a good state of repair and structurally sound condition, including but not limited to, painting and repainting; replacement of missing, decayed, corroded, or damaged component parts, and keeping level. Failure to maintain and repair fences may result in the fence being declared a nuisance and abated in accordance with the provisions of chapter 28 of this Code.

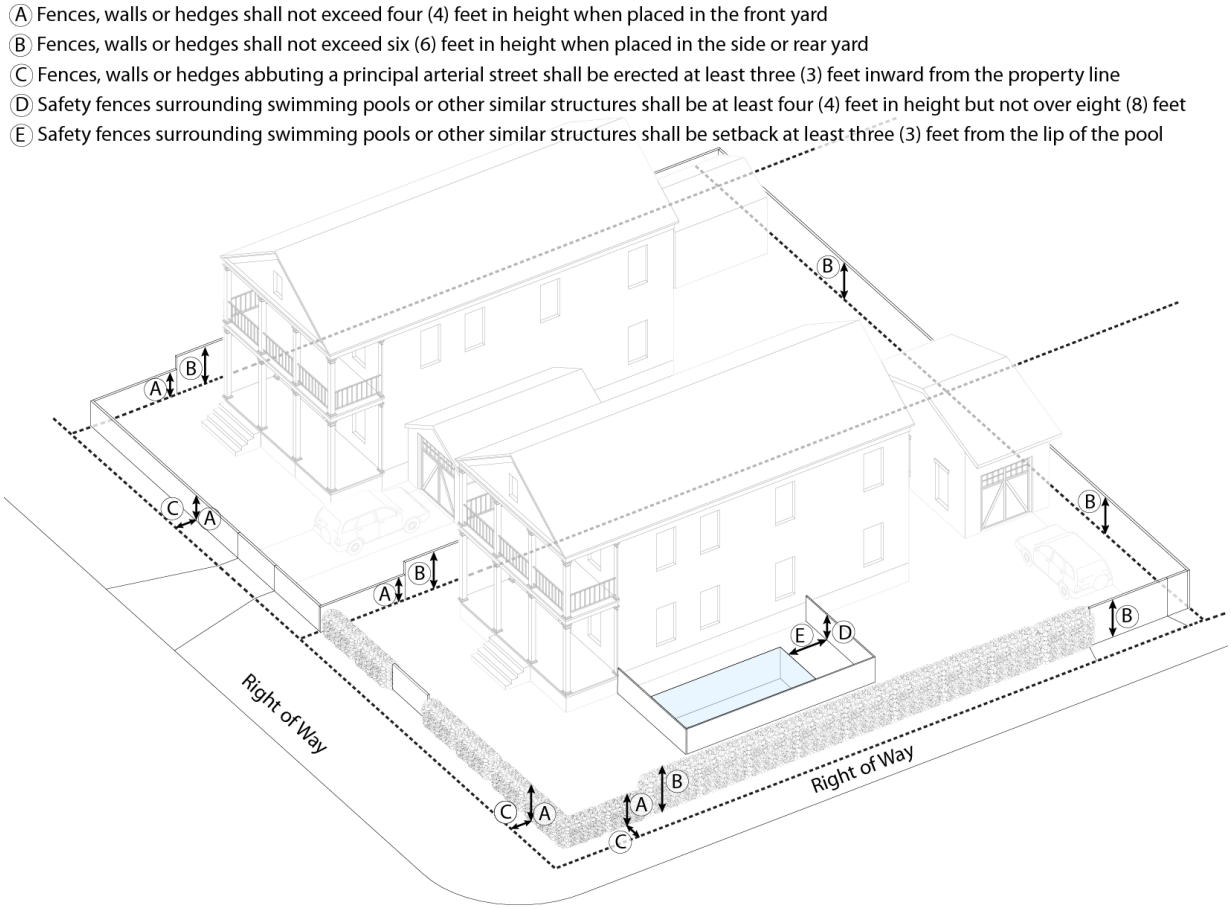


Figure 27-330-2

(b) *Point of reference for measurement.* The point of reference for determining the height of a fence, wall or hedge shall be the natural lay of the land along the fence, wall or hedge.

(c) *Height exemption for public agencies.* A fence required for safety and protection of hazard by a public agency may not be subject to the height limitations above. Approval to exceed minimum height standards may be given to public agencies by the city upon receipt of satisfactory evidence of the need to exceed height standards for safety/security.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2004-15, § 1, 9-20-04; Ord. No. 2005-10, § 1, 5-2-05; Ord. No. 2014-02, § 1, 3-3-14; Ord. No. 2016-10 , § 1, 8-1-16)

Sec. 27-331. - Temporary structures.

(a) *Temporary construction trailers or structures.*

(1) Subject to the following provisions, any person shall obtain a building permit for the construction and/or use of a temporary trailer or structure to be used only as a construction shed and tool house for contractors and construction workers on the site and limited to the time period of construction. This temporary trailer or structure shall not be placed or erected on the property prior to the issuance of a building permit for the applicable construction and shall be immediately removed upon completion of the construction project or in the absence of a valid, unexpired building permit.

(2) It shall be a violation of this section for any person to use the construction trailer or structure for sales purposes without first applying to and receiving written permission from the city council.

(3) Construction trailers and structures shall not be used for the purpose of living quarters, and the trailers or structures shall have upon the unit, or attached thereto, an identification sign designating the owner or company and the words "construction office" in full view.

(b) *Temporary storage structures and uses.* Enclosed portable storage units and structures and accommodations intended only for temporary storage may be used following the receipt of a building permit, payment of the required fee, and subject to the following provisions:
The building permit submittal package must contain a construction plan designating the proposed location of the temporary storage structure on the lot.

(1) Within all residential zoning districts, enclosed portable storage units and structures and accommodations intended only for the temporary storage of personal household belongings of occupants of the property may be placed on the property for a period not to exceed fifteen (15) days or three hundred sixty (360) hours. Registration shall be required for each such use of any temporary storage structures. An extension may be requested in writing to the City Manager or his designee for extenuating circumstances.

(2) In the event of damage to a residential dwelling by fire, storm, flood or other such property loss, this period of time may be extended to forty-five (45) days upon request to and written approval of the city manager.

(3) Within all nonresidential zoning districts, enclosed portable storage units and structures and accommodations intended only for storage, may be used for temporary storage of items related to the business located on the property, for a period not to exceed thirty (30) days. Such structures shall not be located within required front yards and shall not be used to store any chemical, hazardous, flammable, or combustible materials.

(4) Temporary storage structures and portable storage units shall not be placed on any street or alley right-of-way or public property. These structures must be placed on the lot in which the use is intended.

(c) *All structures.* All temporary and portable storage units and structures, construction trailers and the like, shall be constructed, altered, repaired, enlarged, placed, moved or demolished in accordance with applicable provisions of the Florida Building Code as well as all applicable federal, state and local regulations applying to the use and development of land. The issuance of building permits, where required, verifying such compliance shall be administered by the building official.

(Ord. No. 2005-03, § 2, 3-7-05; Ord. No. 2007-20, § 1, 2-4-07)

Sec. 27-332. - Home-based businesses.

This section acknowledges the ability of residents to conduct small-scale home-based businesses that are secondary to the primary use of their residence, in accordance with F.S. § 559.955. This section also provides regulations to preserve the character of residential neighborhoods.

(a) As an accessory use, the activities of the home-based business must remain secondary to the property's legal use as a residence. The home must remain consistent with the surrounding residential area as viewed from the street, without additional client or consumer entrances for the home-based business. External modifications to a home to accommodate a home-based business must conform with the residential character and architectural aesthetics of the neighborhood.

(b) An employee or proprietor of the business must live in the home. Up to two (2) non-resident employees or independent contractors may also work at the business. The business may also have remote employees that neither live in the home nor work on-site.

(c) The business may not conduct retail transactions from a structure other than the home; however, incidental business uses, and activities may be conducted at the residential property.

(d) Additional parking spaces are not required for the business, but any on-site parking spaces that serve the business must comply with requirements of this code. Any vehicles or trailers parked at or near the business must be parked in legal parking spaces that comply with all restrictions in this Code that apply to the home, and they may not be parked over a sidewalk. Heavy equipment (commercial, industrial, or agricultural vehicles, equipment, or machinery) shall not be parked or stored where it would be visible from the street or neighboring property in any residential district except as may be required for normal loading or unloading of such vehicles and during the time normally required for service at dwellings, or at structures or activities permitted in such residential districts by the terms of this chapter.

(e) No signs are allowed for the business; signs are regulated by article XV of chapter 27.

(f) The business must comply with all local, state, and federal regulations with respect to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids, including the requirements in section 23-60 of this code regarding prohibited substances.

(g) Home-based businesses may be restricted further on land that is subject to deed restrictions when such documents are valid and recorded in the public records of Duval County.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-333-27-337. - Reserved.

Sec. 27-338. - Docks, retaining walls and boathouses.

(a) *Purpose and intent.* It is the intent of this section to insure that on intracoastal, lake front, marsh front, canal front, and stream front lots, no boating hazards will be created, effective flow of stormwater runoff will be maintained and water pollution from stormwater runoff and other sources will be minimized.

(b) *Site plan.* A building permit shall not be issued for any new dock, addition to any existing dock, fence or wall, or significant change of an existing property on an intracoastal, lake front, marsh front, canal front, or stream front lot until a satisfactory site plan therefore is reviewed and approved.

(c) *Docks.* The following minimum or maximum standards shall apply to all construction or renovation of docks:

(1) A building permit is required, and all construction will adhere to Florida Building Code. Construction plans for docks shall be submitted for development review. All dock facilities are subject to and shall comply with all federal and state requirements and permits, including but not limited to, the requirements and permits of the Florida Department of Environmental Protection, the U.S. Army Corps of Engineers, and the St. Johns River Water Management District. Permits from the Neptune Beach Building Department shall be approved but not issued until receipt and confirmation of required federal and state approvals.

(2) No dredging or filling of marshlands shall be permitted except for that necessary to install dock pilings. Reasonable maintenance dredging within the main channel banks is permitted.

(3) Docks shall only extend far enough to reach a maximum water depth of four (4) feet below mean low-water, twenty (20) percent of the width of the waterbody (measured from mean high-water line to mean high-water line), or five hundred (500) feet, whichever is less. Docks shall be sited so as to extend to the nearest navigable waterbody and no further. If a bulkhead exists along the shoreline and the water depth at that point is already four (4) feet below mean low water, the dock shall not extend more than twenty-five (25) feet beyond the bulkhead.

(4) The access walkway of docks shall be a maximum of four (4) feet in width. A single terminal platform of any dock shall be a maximum of two hundred (200) square feet and shall be constructed and located only at the terminal end portion of the dock, furthest from the shoreline. Boards used to construct the surface of the dock shall not exceed eight (8) inches in width and shall be spaced at least one-half inch apart.

(5) If the length of the shoreline is sixty-five (65) feet or more any new dock with an access walkway (a walkway extending out from the abutting property) shall be constructed twenty-five (25) feet from a side lot line. Docks without an access walkway must be set back at least ten (10) feet from the property line. If the shoreline length is less than sixty-five (65) feet a dock shall be centered between the property lines.

(6) Only one (1) dock is permitted per lot of record with no more than one (1) dock allowed per single-family home.

(7) Docks shall be constructed no higher than five (5) feet above the mean high-water line (for open water) and above the average ground contour (for ephemeral lands).

(8) To ensure that all docks shall be utilized only for boating or other recreational activities and not as living space, there shall be no bathrooms or cooking facilities permitted on docks, nor as an improvement to an existing boathouse. No enclosed walls shall be permitted.

(9) Boat storage includes the area to store a boat and the necessary ramp/walkway to access the boat if applicable. The total area calculation for a dock includes the boat storage, ramp/walkway and any portions of the roof that hangs over the water beyond the dock platform.

(10) Boat storage mechanisms can be ride-on-ramp, vertical wench or any other industry acceptable standard.

(11) The sale or lease of a portion of an intracoastal, lakefront, marsh front, canal front and stream front lot after June 4, 2007, shall be construed as a subdivision and shall not enable the owners to make application for a dock and/or boathouse unless that subdivision has received the approval of the city council.

(12) Lighting fixtures may be installed upon docks, boat davits and boat lifts only in accordance with the following standards:

a. Lighting required under federal laws or regulations as an aid to navigation is permitted on the docks, boat davits and boat lifts, in accordance with United States Coast Guard standards.

b. Other lighting fixtures may be installed on docks only providing they are mushroom-type fixtures designed to direct light downward, installed at least twenty-five (25) feet apart, not more than one (1) foot above the surface of the dock, and limited to twenty-five-watt incandescent yellow bulbs.

c. All existing lighting on docks, boat davits and boat lifts which does not conform to these standards shall be deemed nonconforming and shall be made to conform.

(d) *Retaining walls.* The construction of retaining walls or seawalls shall be performed in accordance with this chapter and chapter 8 of Code of Ordinances for the City of Neptune Beach.

(e) *Boathouse lots.* 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. In accordance with the policies contained with chapter 27, Land Development Regulations, the following regulations shall apply:

(1) The buildability and use of all boathouses lots, which are determined to be accessory lots shall be restricted to the owners of real property within the subdivision in which these accessory boathouse lots were platted.

(2) Boathouse lots which are held June 4, 2007, by property owners residing outside of the subdivision for which they are platted shall be nonconforming boathouse lots which may still be used for constructing a boathouse and for water access. However, any boathouse lots owned by real property owners on June 4, 2007, in the subdivision for which they were platted, shall only be buildable and used to serve the lake access need of residents of that subdivision.

(3) Minimum lot widths shall be fifty (50) feet.

(f) This section is exempt from the provisions of section 27-328, Other accessory structures.

(Ord. No. 2017-15 , § 1, 6-5-17)

Sec. 27-339. - Allowing dogs in outside dining areas under certain conditions.

(a) The city manager may issue a permit to eating establishments allowing dogs in outside dining areas.

(b) The issue of the permit will be based on the required guidelines in F.S. § 509.233.

(c) Permit holders permit will be revoked for failure to adhere to the guidelines set out in the permit as required by F.S. § 509.233.

(Ord. No. 2008-14, § 1, 12-2-08)

Sec. 27-340. – Reserved.

ARTICLE VI. - CONCURRENCY[11]

Sec. 27-341. - Reserved.

Sec. 27-342. - Generally.

This article describes the requirements and procedures to ensure that public facilities and services needed to support proposed developments are available concurrent with the impacts and consistent with the adopted level of service standards.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-343. - Applicability.

The terms and provisions of this article apply to all lands within the city.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-344. - Findings of fact.

The city council finds that:

(1) The requirements of this article are necessary for the health, safety, and welfare of the citizens of the City of Neptune Beach; and

(2) Not all development will cause significant impacts upon the level of service of public facilities to warrant full compliance with concurrency requirements.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-345. - Purpose and intent.

The provisions of this article shall be implemented to ensure that public facilities are available concurrent with the impact of the development.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-346. - Reserved.

Sec. 27-347. - Concurrency certificate required.

A concurrency certificate shall be required prior to the issuance of any final development order.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-348. - Exemptions.

The following are exempt from all concurrency requirements, except that the developer shall submit a concurrency certificate application as provided for in this article:

(1) Developments that were issued a development permit prior to April 1, 1990;

(2) An amendment to a development order that does not result in increased impacts as stated in the concurrency certificate;

(3) Development orders and permits that may be needed for:

a. Accessory structures as defined in article V of this Code;

b. Additions or changes to approved existing residential structures which will not result in an increase in dwelling units;

c. Changes in use of commercial or industrial structures that do not result in uses of greater intensity.

(4) Developments with a vehicular trip rate of ten (10) or less average daily trips (ADT).

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-349. - Concurrency certificate application requirements.

(a) All applications shall be in writing and in such form as may be determined by the city council.

(b) The application shall, at a minimum, include the following:

(1) Name and address of the owner and agent, along with signatures of the same;

(2) Address and legal description of the property;

(3) The proposed type of development;

(4) When the proposed development will occur and whether the proposed development will be phased; and

(5) Whether the development is exempt from concurrency requirements as provided for in this article.

(6) Payment of the official filing fee as set by resolution of the city council.

(c) The developer may include as part of the application any studies, calculations, or measurements that can be used to determine the impact of the proposed development on public facilities.

(d) If the developer decides to provide some or all of the needed facilities to satisfy the concurrency requirements, the application shall include appropriate plans for improvements, documentation that such improvements are designed to provide the capacity necessary to achieve or maintain the level of service, and recordable instruments guaranteeing the construction, consistent with calculations of capacity above.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-350. - Procedure for applying for and issuing a concurrency certificate.

(a) Prior to submitting a concurrency certificate application, the developer shall meet with the city manager or designee to informally discuss the application.

(b) The following steps shall be followed to apply for and to issue a concurrency certificate:

(1) *Submittal of application.* Prior to submitting an application for a development order, the developer shall submit a completed concurrency certificate application, as described in this article, to the city manager, or designee.

(2) *Determination of completeness.* The city manager, or designee, shall determine that the information on the application is complete or incomplete and notify the developer of any deficiencies.

(3) *Determination of concurrency.* If the proposed development is not exempt from concurrency requirements, as provided for in this article, the city manager or designee shall prepare an assessment of project-related impacts, as described in this article, and an assessment of public facility capacity, as described in this article. The city manager or designee may require a professional study done by a certified specialist in the impacted field. All studies shall be commissioned by the city and done at the expense of the developer in conformance with this article. Based on these, the city manager or designee shall determine if available capacity for all public facilities exceeds project-related impacts.

(4) *Notification.* Within fifteen (15) days from the date the developer submits a completed concurrency certificate application, the city manager shall either:

a. Issue the concurrency certificate, if the proposed development is exempt from concurrency requirements or if available capacity exceeds projected-related impacts for each public facility; or

b. Notify the developer in writing that a concurrency certificate cannot be issued for the development as proposed, if the project-related impacts exceed the available capacity for one (1) or more public facility.

(5) If the proposed development is not exempt from concurrency requirements, as provided for in this article, the city manager or designee shall physically attach the assessment of project-related impacts and assessment of public facility capacity to the concurrency certificate application.

(Ord. No. 91-1-5, § 2, 5-6-91; Ord. No. 2007-04, § 1, 6-4-07)

Sec. 27-351. - Adopted levels of service standards.

The following level of service standards, as provided for in the comprehensive plan, shall be used to determine whether the proposed development is or will be served by adequate public facilities:

Type of facility	Level of service
(6) State Roads	"D" for Third Street and Atlantic Boulevard (unless deemed constrained or backlogged)

(2)	Sanitary Sewer: Residential Service Commercial Service	110 gallons per capita per day Consistent with estimated flows in Table 1 of Chapter 62-6, F.A.C.
(4)	Potable Water: Residential Service Commercial Service	130 ~~129~~ gallons per capita per day Consistent with estimated flows in Table 1 of Chapter 62-6 F.A.C.
(5)	Drainage	Meet City's rules per Article XII for all new development and significant redevelopment, excluding residential lots less than 0.25 acres; provide treatment and attenuation for both flow and volume.
(3)	Solid Waste	7.1 pounds per capita per day
(1)	Parks & Recreation: Neighborhood Park Playground (w/ equipment) Volleyball Court Tennis Court/Pickleball Beach Access Jogging/Exercise Trail	2 acres/1,000 population (not including preserves or beaches) 1 per 2,500 population 1 court per 5,000 population 1 court per 5,000 population 1 access per 1,000 population 1 mile of trails per 2,000 population
(7)	Public School	105% of the permanent Florida Inventory of School House (FISH) capacity, plus portables, based on the utilization rate as established by the State Requirements for Educational Facilities (SREF)

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-352. - Criteria for satisfaction of concurrency requirements.

The following criteria shall be used to determine when concurrency has been satisfied:

Category 1.

(1) The facilities needed to meet the adopted level of service standards are in place at the time a development order is issued; or

(2) A development order is issued subject to the conditions that the facilities needed to meet the adopted level of service standards will be in place when the impacts of development occur; or

(3) The facilities needed to meet the adopted level of service standards are under construction when a development order is issued; or

(4) The facilities needed to meet the adopted level of service standards are guaranteed in an enforceable development agreement that includes the provisions of 1, 2, and 3 above.

Category 2.

(1) The facilities needed to meet the adopted level of service standards are subject to a binding executed contract which provides for commencement of construction or provision of the required facilities and services within one year of the issuance of the development order; or

(2) The facilities needed to meet the adopted level of service standards are guaranteed in an enforceable development agreement that requires commencement of construction of the required facilities or provision of the required facilities and services within one year of the issuance of the development order.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-353. - Satisfaction of concurrency requirements for potable water, sanitary sewer, solid waste, and drainage.

For potable water, sanitary sewer, solid waste, and drainage, concurrency shall be met if one of the Category 1 provisions, as listed in section 27-352 of this Code, has been satisfied.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-354. - Satisfaction of concurrency requirements for recreation and open space.

For recreation and parks, concurrency requirements shall be met if one of the Category 1 or Category 2 provisions, as listed in section 27-352 of this Code, has been satisfied.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-355. - Satisfaction of concurrency requirements for state roads.

For state roads, concurrency shall be met if:

(1) One of the Category 1 or Category 2 provisions, as listed in section 27-352 of this Code, has been satisfied; or

(2) If the road is scheduled for improvement prior to the beginning of the fourth year of the currently adopted Five-Year Schedule of Capital Improvements in the Neptune Beach comprehensive plan; or

(3) At the discretion of the City, developments may satisfy concurrency requirements by entering into a development agreement to pay for or construct a proportionate share of one or more mobility improvements that will benefit a regionally significant transportation facility. The terms of this agreement must comply with the proportionate fair-share requirements in Chapter 163.3180(5), *Florida Statutes*.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-356. - Remedies for meeting concurrency requirements.

If any concurrency requirements cannot be satisfied as specified in this article, the developer may take the following corrective actions:

(1) Provide the necessary improvements to maintain the adopted level of service; or

(2) Reduce the impact of the proposed project so that concurrency requirements are met.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-357. - Required action if development fails to meet a condition of approval.

If a development fails to meet a condition of approval as specified in sections 27-353 to 27-355, no additional development orders, development permits, or certificates of occupancy may be issued for the development until such time as the conditions of approval have been fully satisfied.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-358. - Development to be consistent with terms of development order or development permit.

(a) All development shall be consistent with the terms and conditions of the development order or development permit for which a concurrency certificate was issued.

(b) Any proposed change from the development order or development permit, except for deviations required by governmental action and minor deviations, as described in article III, shall cause the proposed change to be subject to concurrency review and issuance of a concurrency certificate if applicable.

(c) In those portions of the development which are not affected by the proposed change, development that is unrelated to the change may continue, as approved, during the review of the proposed change.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-359. - Assessment of project-related impacts.

(a) The assessment of project-related impacts shall be in writing and in such form as determined by the city manager.

(b) The assessment of project-related impacts may be based on any studies, measurements, or calculations prepared by the developer or upon professionally acceptable methods.

(c) The selected methodologies must be clearly described, and the data sources must be clearly identified.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-360. - Assessment of public facility capacity.

(a) The assessment of public facility capacity shall be in writing and in such form as determined by the city manager.

(b) The assessment shall, at a minimum, include the following types of information for each public facility:

(1) Design capacity;

(2) Improvement capacity of new facilities that will become available on or before the date of occupancy of the development, if any, provided that:

a. Construction of the new facilities is under way at the time of issuance of the final development order;

b. The new facilities are the subject of a binding executed contract for the construction of the facilities or the provision of services at the time of issuance of the final development order; or

c. The new facilities are guaranteed in an enforceable development agreement. An enforceable development agreement may include, but is not limited to, development agreements pursuant to F.S. § 163.3220, or an agreement or development order pursuant to F.S. Ch. 380. Such facilities shall be consistent with the capital improvements element of the comprehensive

plan. The agreement must guarantee that the necessary facilities and services will be in place when the impacts of the development occur;

(3) Used capacity;

(4) Reserve capacity; and

(5) Available capacity.

(c) In determining the facilities to be impacted by the proposed development, the city manager shall use the following criteria:

(1) Roads, determined on a case-by-case basis;

(2) Sanitary sewer, treatment plant service area;

(3) Solid waste, city-wide;

(4) Drainage, drainage sub-basin;

(5) Potable water, treatment plant service area; and

(6) Parks and recreation, city-wide.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-361. - Expiration of concurrency certificate.

(a) If a development fails to commence in good faith within one (1) year from the date the development order is issued, the concurrency certificate shall be null and void.

(b) If a development commences in good faith but is not completed within one (1) year from the date the development order is issued, the community development board may grant extensions to the concurrency certificate.

(Ord. No. 91-1-5, § 2, 5-6-91; Ord. No. 2010-14, § 37, 9-7-10)

Sec. 27-362. - Annual report required.

By January 1 of each year, the city shall prepare an annual report that includes, at a minimum, a summary:

(1) For each public facility including:

a. Current capacity used;

b. Reserved capacity;

c. The remaining facility capacity.

(2) Of building permit activity, indicating:

a. Those that expired without commencing construction;

b. Those that are active at the time of the report;

c. The quantity of development represented by the outstanding building permits;

d. Those that result from final development orders issued prior to the adoption of this Code; and

e. Those that result from final development orders issued pursuant to the requirements of this Code.

(3) A summary of final development orders issued, indicating:

a. Those that expired without subsequent building permits;

b. Those that were completed during the reporting period;

c. Those that are valid at the time of the report but do have associated building permits or construction activity; and

d. The phases and quantity of development represented by the outstanding final development orders.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-363. - Procedure for appeal.

Any administrative decision that is made by any city official or board in the administration or enforcement of this article, may be appealed within fifteen (15) days of said decision to the community development board as provided for in article III.

(Ord. No. 91-1-5, § 2, 5-6-91; Ord. No. 2010-14, § 38, 9-7-10)

Secs. 27-364—27-370. - Reserved.

ARTICLE VII. - PROTECTION OF POTABLE WATER WELLFIELDS

Sec. 27-371. - Reserved.

Sec. 27-372. - Generally.

This article establishes regulations for controlling development activities surrounding wellheads.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-373. - Findings of fact.

The city council finds that a clean source of potable water is vital for the continued welfare for citizens and visitors to Neptune Beach.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-374. - Purpose and intent.

The provisions of this part shall be implemented to achieve the following intentions and purposes of the city council:

(1) To safeguard the health, safety, and welfare by ensuring the protection of the principle source of water from potential contamination; and

(2) To control development in and adjacent to designated wellheads to protect water supplies from potential contamination.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-375. - Reserved.

Editor's note— Ord. No. 2017-16, § 1, adopted June 5, 2017, relocated the provisions of § 27-375, Definitions, to § 27-15 herein. Former § 27-375 derived from Ord. No. 91-1-5, § 2, adopted May 6, 1991.

Sec. 27-376. - Reserved.

Sec. 27-377. - Development activities within wellhead buffer zones.

(a) The following land uses are prohibited within wellhead buffer zones, which consist of all land within 200 feet of a potable water well:

(1) Facilities for the bulk storage, handling or processing of materials on the Florida Substance List (F.S. Ch. 442);

(2) Activities that require the storage, use, handling, production or transportation of restricted substances: agricultural chemicals, petroleum products, hazardous/toxic wastes, industrial chemicals, medical wastes, etc;

(3) Wastewater treatment plants, percolation ponds, and similar facilities; and

(b) These prohibitions are in addition to other protective measures for wellfields that may be imposed by county, regional, state, or federal authorities.

(Ord. No. 91-1-5, § 2, 5-6-91)

Secs. 27-378—27-390. - Reserved.

ARTICLE VIII. PROTECTION OF ENVIRONMENTALLY SENSITIVE LANDS

DIVISION 1. GENERALLY

Sec. 27-391. - Reserved.

Sec. 27-392. - Generally.

This article establishes standards and requirements for the protection of floodplains, wetlands, and habitat for threatened or endangered species and species of special concern.

(Ord. No. 91-1-5, § 2, 5-6-91)

Secs. 27-393—27-400. - Reserved.

DIVISION 2. - RESERVED[12]

Footnotes:

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Editor's note— *Ord. No. 2017-13 , § 1, adopted June 5, 2017, deleted Div. 2 §§ 27-401—27-418 entitled "Floodplains," which derived from: Ord. No. 91-1-5, § 2, adopted May 6, 1991; Ord. No. 2001-03, §§ 1—5, adopted May 7, 2001; Ord. No. 2010-14, §§ 39, 40, adopted Sept. 7, 2010; Ord. No. 2011-25, §§ 4—11, adopted Dec. 5, 2011; Ord. No. 2012-11, § 2, adopted Dec. 4, 2012; and Ord. No. 2013-01, § 2, adopted May 6, 2013. Said provisions have been relocated to Ch. 30 of this Code of Ordinances.*

Secs. 27-401—27-420. - Reserved.

DIVISION 3. - HABITAT OF ENDANGERED OR THREATENED SPECIES

Sec. 27-421. - Generally.

This division establishes standards necessary to protect threatened and endangered species and species of special concern.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-422. - Definitions.

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

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.

Species of special concern means any flora or fauna designated as such by the State of Florida.

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.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-423. - Submittal of field inventory.

In areas with known habitat for threatened or endangered species or for species of special concern, the developer shall submit a detailed field inventory of the proposed development site indicating the presence of threatened or endangered species or species of special concern. The inventory shall be conducted by a qualified ecologist, biologies, or other related professional.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-424. - Preparation of habitat plan.

If the field inventory indicates the presence of said flora or fauna, a habitat plan shall be prepared by a qualified ecologist, biologist, or other related professional and shall include, at a minimum, the following:

(1) An analysis of the likelihood of the species surviving on the proposed development site as a viable population, assuming that the proposed development would not occur and taking into account the quality and quantity of habitat needed to maintain said species;

(2) An analysis of existing viable habitat on adjacent property for the said species;

(3) The land needs of the species that may be met on the development site; and

(4) Measures that should be taken to protect the habitat of said species on the property, if the species will likely remain a viable population.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-425. - Preservation of land.

(a) Habitat of said species shall be protected from development where said habitat is adjacent to existing viable habitat of the same species, a significant wetland system, floodplain, or wildlife corridor.

(b) Where the habitat is not adjacent to existing viable habitat, a significant wetland system, floodplain, or wildlife corridor, said habitat of said species shall be protected when the protection of the habitat will support a viable population.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-426. - Fee in lieu.

As an alternative to preservation of land, the developer may contribute to a habitat fund in such amount as established by the city council to compensate for the loss of habitat.

(Ord. No. 91-1-5, § 2, 5-6-91)

Secs. 27-427—27-430. - Reserved.

DIVISION 4. - WETLANDS[13]

Footnotes:

*--- **(13)** ---*

State Law reference— *Water resources, F.S. Ch. 373.*

Sec. 27-431. - Generally.

This division establishes standards for the protection of wetland areas.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-432. - Definitions.

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

Wetland protection zone includes the most landward extent of the following:

(1) Areas within the dredge and fill jurisdiction of the Department of Environmental Regulation as authorized by F.S. § 403.

(2) Areas within the jurisdiction of the U.S. Army Corps of Engineers as authorized by section 404, Clean Water Act or Section 10, River and Harbor Act.

(3) Areas within the jurisdiction of the St. Johns River Water Management District pursuant to Section 40(c)4, Florida Administrative Code.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-433. - Development activities within wetland protection zones.

Except as expressly provided herein, no development activity shall be undertaken in a wetland protection zone.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-434. - Exceptions.

Certain activities may be allowed in a wetland protection zone when it is shown by competent and substantial evidence that the proposed activity would not have a significant adverse effect on the wetland zone.

(Ord. No. 91-1-5, § 2, 5-6-91)

Secs. 27-435—27-440. - Reserved.

ARTICLE IX. - TREE PROTECTION AND LANDSCAPING[14]

Sec. 27-441. - Reserved.

Sec. 27-442. - Purpose and intent.

The purpose of this article is to preserve and protect trees within the city; to provide minimum landscaping criteria; to ensure preservation of the existing native landscape; and to ensure quality landscape design, installation, and maintenance of new landscaping that will enhance the city's natural landscape. To this end, the subsequent sections are provided to achieve the following goals:

(1) Improve the appearance of commercial, governmental, industrial and residential areas through incorporation of landscaping into development in ways that harmonize and enhance the natural and manmade environment;

(2) Preserve existing natural trees and vegetation. Discourage removal of any healthy, noninvasive trees and clear-cutting of wooded land;

(3) Incorporate native plants, plant communities and ecosystems into landscape design where possible;

(4) Maintain the existing natural character of the city through preservation of existing trees and vegetation;

(5) Balance the existing landscape with new landscape additions that are complementary;

(6) Provide landscape buffers to enhance transportation corridors, abate noise, minimize adverse impacts of adjacent differing land uses, and reduce surface heat of impervious surfaces;

(7) Promote water and energy conservation through Xeriscape principles;

(8) Reduce maintenance costs through preservation of existing landscape, and through appropriate and proper use of plant materials; and

(9) Promote and support city-wide tree planting to enhance the city's designation as a Tree City U.S. A by upholding the program’s four (4) overarching standards:

- Maintaining a tree board or department;
- Having a community tree ordinance;
- Spending at least $2 per capita on urban forestry; and
- Celebrating Arbor Day.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-443. - Applicability.

The terms and provisions of this article shall apply to all land uses within the city. Special provisions for single-family or two-family (duplex) lots are addressed in section 27-457 of this article.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-444. - Definitions.

Refer to article I for definitions.

Sec. 27-445. - Permit required for tree removal or relocation.

No person shall directly or indirectly cut down, destroy, remove move, or effectively destroy through damaging, or authorize the cutting down, destroying, removing, moving, or damaging of any and all living trees greater than six (6) inches or more in caliper or two (2) feet in circumference, whichever dimension is lesser, at a point four and one-half (4½) feet above ground level, without Tree Permit. Trees which require such permit for removal or relocation shall hereinafter be called "regulated trees."

(1) Exceptions are as follows:

a. No heritage or champion tree as defined in this article may be removed or relocated except as noted in section 27-448.

b. Hazard trees which have been identified by an ISA certified arborist or Florida licensed landscape architect with up-to-date Tree Risk Assessment Qualification and which have been inspected and documented per ISA standards may be removed, relocated, ~~or~~ replaced, trimmed, or pruned, without a Tree Permit or replacement trees. Removal or replacement shall only be permitted in this instance if the risk assessment documentation does not indicate any other practical mitigation alternatives, such as pruning, topping, bracing, or removal of the target. The city manager or designee shall review all risk assessment documentation to verify the conditions for removal prior to any action.

c. Removal or relocation of regulated trees subject to development plan approval shall not require a separate Tree Permit in conjunction with the development plan. Plans for tree removal or relocation will be considered and either approved or denied as part of the development review process. After a certificate of occupancy has been issued for a development, any tree removal shall require either Tree Permit or an approved plan amendment. Failure to obtain a permit before removing or relocating a regulated tree shall be subject to the measures in section 27-452.

d. Any tree that poses a danger to life safety, city infrastructure, or property, as verified by an ISA certified arborist or Florida licensed landscape architect with up-to-date Tree Risk Assessment Qualification, may be removed by order of the city manager or designee.

e. Any tree species identified by an ISA certified arborist or Florida licensed landscape architect as a Category I or Category II invasive by the Florida Exotic Pest Plant Council shall be identified and removed from the property. No Tree Permit or replacement trees are needed for their removal.

f. Replacement trees from the city's tree list, located in section 27-450 shall be required for any trees removed per section 27-447

(2) Removal of trees located in a buildable area or yard area where a structure or improvement is to be placed and for which a Tree Permit application has been filed may be approved by the city manager or designee, so long as it has it has been demonstrated by the property owner that the tree or trees unreasonably restricts the permitted use of the property and that no other building footprint and/or site configurations are possible without removal of said trees. Trees located in the front yard setback shall not be considered to be located within the buildable area or yard. Ingress and egress to the garages are not considered the buildable area or yard. Trees on the public right-of-way shall not be considered for removal as a result of restrictions to ingress or egress to garages or parking on the site, except if

demonstrated that there is no other reasonable access to and from the property from the public right-of-way. An application for a Tree Permit must be filed, per the requirements of section 27-446. Replacement trees may be required for any trees removed.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2004-19, § I, 1-3-05; Ord. No. 2006-02, § 1, 3-6-06; Ord. No. 2006-12, § I, 7-10-06)

Sec. 27-446. - Permit application procedures.

The following procedures shall be followed and shall govern the granting of Tree Permits pursuant to this section:

(1) ***Application.*** Permits for removal, relocation or alteration of trees shall be obtained by making application in a form prescribed by the city council to the following appropriate public bodies:
   a. For removal or relocation of regulated trees not associated with a site plan approval of the community development board, an application shall be filed with the city manager's office, as described below.
   b. For pruning of six-inch or larger diameter limbs on regulated trees, Tree Permit will be required. This provision relates to pruning or alteration only and applies to any development.

(2) ***Submittals***. No permit fee shall be charged for authorized tree removal within the city. Each application for Tree Permit to alter, remove, relocate, or replace trees covered herein shall be accompanied by a written statement indicating the reasons for the requested action, at least one (1) photograph for each tree designated for removal showing its current overall condition, and two (2) copies of a legible site plan drawn to the largest practical scale indicating the following:
   a. Location, species and size of all existing trees on the site, assigned with a unique identification number, and a proposed outcome (e.g.: donated, retained, removed, or relocated).
   b. Trees designated for on-site relocation shall clearly illustrate both the existing and proposed locations and shall identify likely means of access and method of relocation.
   c. Champion and heritage trees, as defined in section 27-448, shall be identified as such on all submittals and any associated removal or replacement calculations shall be separate from all other trees and considered on a tree-by-tree basis. Size of tree shall be measured per section 27-445.
   d. Location of all existing or proposed structures, improvements, and site uses, properly dimensioned in reference to property lines, setback and yard requirements in spatial relationship.
   e. Location and dimension of all required landscape buffers or screening areas.
   f. Proposed changes, if any, in site elevations, grades and major contours.
   g. Location of existing or proposed utility service.
   h. Applications involving developed properties may be based on drawings showing only that portion of the site directly involved and adjacent structures and vegetation.
   i. For trees that are to be retained, each application should contain the extents of all tree protection boundaries on site per section 27-449 and a statement of how these tree areas are to be protected during construction and landscape operations.
   j. A statement that identifies replacement trees for any trees removed. Any regulated tree being removed that requires a Tree Permit, per section 27-445, shall be replaced with ~~two (2)~~ trees per the requirements of section 27-447.

k. Application review and permit issue. Upon receipt of proper application, the city manager or designee shall review the application, and may request more documentation before making a determination to either approve, approve with conditions, or deny the permit within ten (10) working days of filing. This may include a field check of the site and referral of the application for recommendations to other appropriate administrative departments or agencies.

(3) *Permit form.* Permits shall be issued by the city manager and may set forth in detail the conditions upon which the permit is granted. One (1) permit may cover several trees or groups of trees for one (1) parcel of land, or for multiple, contiguous parcels.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2006-02, § 2, 3-6-06; Ord. No. 2010-14, § 41, 9-7-10)

Sec. 27-447. - Standards for replacement or relocation

(a) ***Replacement or relocation.***

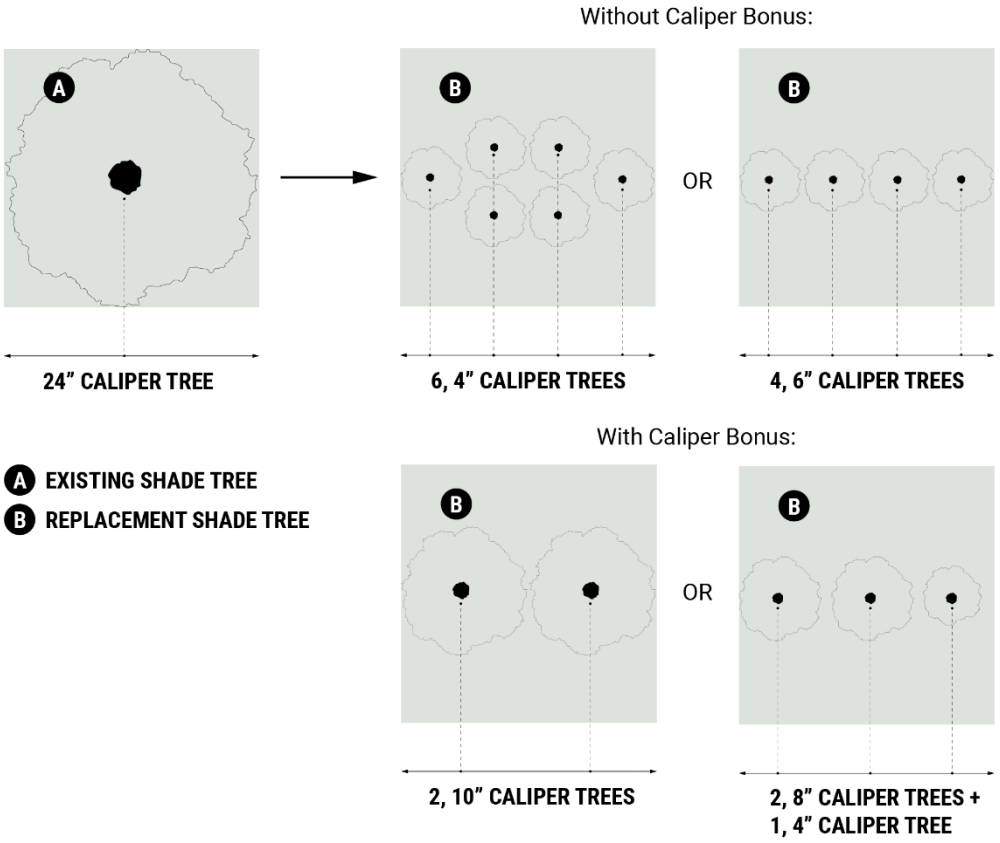
(1) ***Replacement.*** In all cases wherein this Code shall require replacement of any tree removed, the replacement shall be made as defined in this section. In determining the required replacement of trees, the city manager or designee shall consider the intended use of the property, with an evaluation of the following:

a. *Size*. Replacement trees shall be a minimum of four (4) inch caliper with a height of at least ten (10) feet for shade trees, or eight (8) feet for ornamental and understory trees. All replacement trees shall be Florida Nursery Grade Number 1 or better. The property owner shall guarantee survival of replacement trees for one (1) year from the date of planting, barring any force majeure events.

b. *Caliper Bonus*. The use of larger diameter trees to accommodate the required replacement is strongly encouraged. Each additional inch of size provided, including and above eight (8) inch caliper shall be counted with a two (2) inch bonus (e.g.: a ten (10) inch caliper replacement tree may be counted as a twelve (12) inch caliper replacement tree). The caliper bonus shall not apply to the replacement of heritage or champion trees.

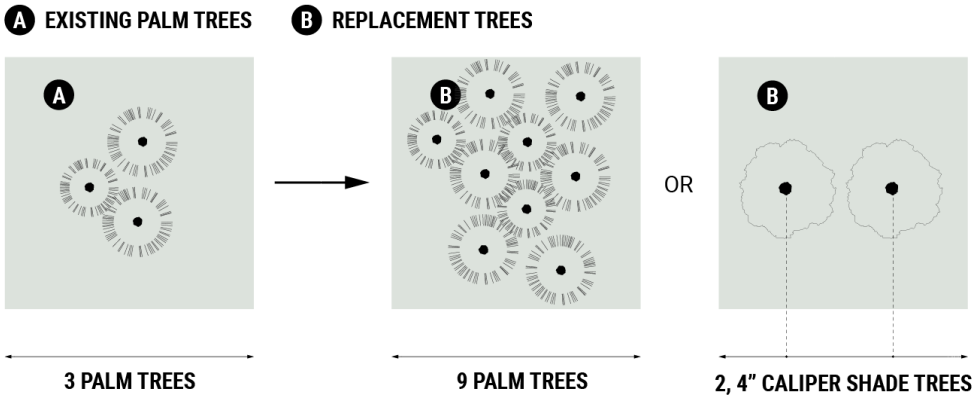
c. *Shade trees*, as defined by the city's approved tree list located in section 27-540, which are designated for removal, shall be replaced on an inch-for-inch (1:1) diameter basis with one or more trees from the same shade tree portion of the city's tree list. The sum total of the calipers of the replacement trees must equal or surpass that of the removed tree or trees (e.g.: a twenty-four (24) inch caliper oak designated for removal may be replaced by six (6), four (4) inch caliper shade trees or four (4), six (6) inch caliper shade trees – or – utilizing the caliper bonus defined in this section, two (2), ten (10) inch caliper shade trees or two (1), eight (8) inch caliper and one (1), four (4) inch caliper shade trees). Caliper measurement shall be rounded up to the nearest inch.

Figure 27-447-1



d. *Palm trees* of any species designated for removal may be replaced on a one-to-three (1:3) basis with palm species from the city's approved tree list located in section 27-450 (e.g.: three (3) palms designated for removal shall be replaced by a minimum of 9 palm trees). Palm trees designated for removal may also be replaced on a two-to-one (2:1) basis, rounding up to the next even number, with tree species from the shade tree portion of the city's approved tree list (e.g.: five (5) palm trees designated for removal shall be rounded to six (6), requiring a minimum of three (3), four (4) inch caliper shade trees as replacement – or – utilizing the caliper bonus defined in this section, one (1), ten (10) inch caliper shade tree).

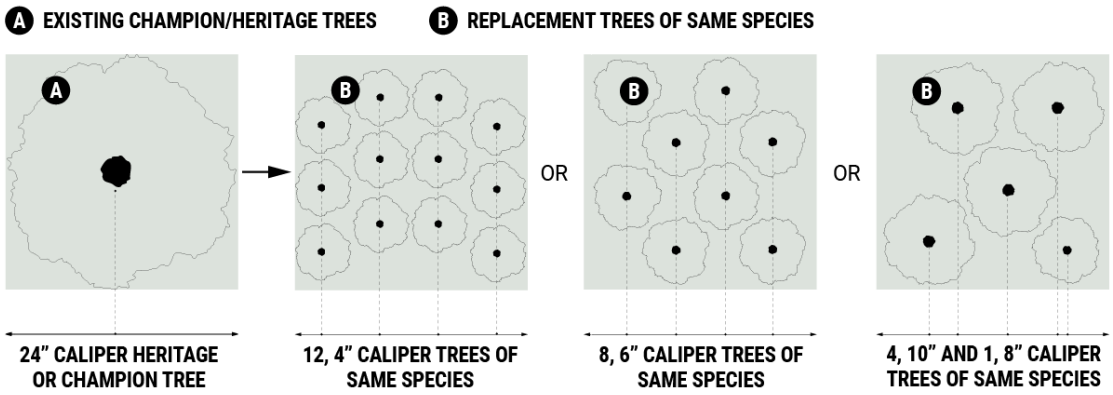
Figure 27-447-2



e. *Understory and ornamental trees*, as defined by the city's approved tree list, located in section 27-450, designated for removal, shall be replaced on an inch-to-inch (1:1) diameter basis, or equivalent measure, with tree species from the shade tree or understory and ornamental tree portions of the city's tree list. As with shade tree replacement (see figure 27-447-1), the sum total of the calipers of the replacement trees must equal or surpass that of the removed understory / ornamental tree or trees (e.g.: a twelve (12) inch caliper ornamental tree designated for removal shall require a minimum of three (3), four (4) inch caliper trees or two (2), six (6) inch caliper trees as replacement – or – utilizing the caliper bonus defined in this section, one (1), ten (10) inch caliper tree). Caliper measurement shall be rounded up to the nearest inch.

f. *Heritage or champion trees*, as defined in section 27-448, designated for removal shall be replaced on a one-for-two-inch (1:2) diameter basis, with a tree or trees of the same species. The sum total of the calipers of the replacement trees must at least double that of the removed heritage or champion tree (e.g.: a twenty-four (24) inch caliper bald cypress designated for removal shall require replacement bald cypress trees of a combined forty-eight (48) inch caliper, such as twelve (12), four (4) inch caliper trees; eight (8), six (6) inch caliper trees; six (6), eight (8) inch caliper trees; or four (4), twelve (12) inch caliper trees). Caliper measurement shall be rounded up to the nearest inch. The caliper bonus may not be used for the replacement of heritage or champion trees.

Figure 27-447-3



g. Replacement may not be required for diseased trees being removed. Documentation of diseased trees shall accommodate all submittals as described in section 27-446.

h. *Maintenance of replacement trees.* Replacement trees shall be maintained through appropriate watering, nutrients, and pruning to guarantee their survival and growth. The city manager or designee shall require any replacement trees that die within five (5) years of planting shall be replaced to meet the original requirements.

(2) ***Relocation*.** Trees relocated within the site, shall be placed as close as possible to the original tree location, and shall not be relocated to interfere with the root systems or canopy of any champion or heritage tree. The relocation of palm trees into clusters of the same species is encouraged. All relocated trees shall be warrantied for a period of five (5) years and kept in good health. Replacement of relocated trees, should they not survive the warranty period, shall be replaced at a one-to-one (1:1) ratio.

(b) ***Alternatives to on-site replacement.*** If upon evaluation of these conditions, it is determined by the city manager or his designee that the applicant's site may not best be suited for the location of some or all of the required replacement trees, the city manager may allow the applicant to contribute to the city's tree fund per section 27-458.

(c) ***Off-site tree replacement locations.*** Staff will evaluate locations for tree replacement out of the tree fund, section 27-458, based on location and type of tree to be planted.

(d) ***Credit for existing trees***. Existing vegetation may be credited for landscape materials required by this section. Such vegetation shall meet the minimum specifications for new landscape material and be located within the area for which credit is requested.

(1) Credit for trees shall be granted at an inch-for-inch basis. No credit shall be granted where existing vegetation does not satisfy screening purposes, serve necessary functions or meet minimum planting standards, as defined in this Code.

(2) The city may grant credit for existing trees which are defined as heritage or champion trees in this Code at a two-inch for one inch (2:1) basis. This provision shall be reviewed on a case-by-case basis depending on surrounding existing vegetation, and the age, health, type, size and location of the specimen tree. If the tree dies, the developer or property owner shall be required to install a replacement tree as required in this section.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-448. - Champion and heritage trees.

(a) *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. The current list of champion trees in the city and the county which have been identified is on file in the department of planning and development.

(b) *Heritage trees.* The following species are heritage trees:

(1) Bald cypress (Taxodium distichum) twenty (20) inches in diameter or greater.

(2) Cedar (Juniperus silicicola) (Southern red cedar), J. virginiana (Eastern red cedar) twenty (20) inches in diameter or greater.

(3) Elm (Ulmus alata) (winged elm), Ulmus american floridana (Florida elm) thirty (30) inches in diameter or greater.

(4) Heritage oaks (Quercus alba (white oak), Q. austrina (bluff oak), Q. geminata (sand live oak), Q. prinus (swamp chestnut or basket oak), Q. virginiana (live oak) thirty (30) inches in diameter or greater.

(5) Hickory (Carya illinoensis) (pecan), C. tomentosa (mockernut), C. glabra (pignut hickory) thirty (30) inches in diameter or greater.

(6) Loblolly bay (Gordonia lasianthus) twenty (20) inches in diameter or greater.

(7) Magnolia (Magnolia grandiflora) (Southern magnolia), Magnolia virginiana (sweetbay magnolia) twenty (20) inches in diameter or greater.

(8) Maples (Acer rubrum) (red maple), A. barbatum (Florida maple) twenty (20) inches in diameter or greater.

(9) Tupelo (Nyssa sylvatica) thirty (30) inches in diameter or greater.

(10) White ash (Fraxinus americana) thirty (30) inches in diameter or greater.

(c) Champion and heritage trees shall be considered regulated trees in all areas of the city, and their removal shall be strongly discouraged.

(d) Prior to removal of any tree, the owner shall give the City first right of refusal to relocate any/all heritage or champion trees, otherwise designated for removal by the applicant.

(e) Any permission given for the removal of any heritage or champion tree that is healthy and that is not causing structural damage, whether this permission is through an approved development plan or through the issuance of Tree Permit, will require replacement on a two inch-for-one inch (2:1) basis, measured per specifications of section 27-445. Trees may be planted on-site or off-site or given to the city for planting on public property.

(f) The removal, relocation or replacement of any champion or heritage trees shall be by community development board approval. The city council will approve the removal, relocation or replacement of any heritage or champion tree when such removal, relocation or replacement is proposed as part of the subdivision approval process.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2006-02, § 3, 3-6-06; Ord. No. 2010-14, § 42, 9-7-10)

Sec. 27-449. - Tree preservation during development and construction.

(a) *Barriers required.* During construction, protective barriers shall be placed, as necessary, to prevent the destruction or damaging of trees. Trees destroyed or receiving major damage shall be replaced before issuance of a certificate of occupancy or use, if such certificate is required, unless approval for their removal has been granted under permit. The city manager or designee shall determine what trees, if any, require protection or replacement.

(b) *Barriers.* All regulated trees not designated for removal shall be required by the terms of the permit to be protected by barriers erected prior to construction of any structures, road, utility service or other improvements.

(c) *Encroachment prevention.* Such barriers shall be plainly visible and shall create a continuous boundary in order to prevent encroachment by machinery, vehicles or the storage of materials. Protective posts of nominal two (2) inches by four (4) inches or larger wooden posts, two (2) inches outer diameter or larger pipe, or other post material of equivalent size and strength shall be implanted deep enough in the ground to be stable with at least three (3) feet of the post visible above the ground.

(d) *Drip line.* Barriers shall be placed at the drip line, though never less than ten (10) feet from the trunk of a protected tree unless approved by an arborist and the city manager or designee, for all trees determined to remain and for relocated trees, both before and after relocation. Barriers for champion and heritage trees shall extend to one-and-a-half times (1.5x) the extents of the drip line.

(1) In cases where complying with the above placement of barriers is found to unduly restrict development of the property, the city manager or designee may approve alternative methods of protection.

(2) No grade changes shall be made within the protective barrier zones without prior approval of the city manager or designee. Where roots greater than one (1) inch in diameter are damaged or exposed, they shall be cut cleanly and recovered with soil.

(3) Protective barriers shall remain in place and intact until such time as landscape operations begin or construction needs dictate a temporary removal that will not harm the tree.

(4) Landscape preparation in the protected area shall be limited to shallow discing of the area. Discing shall be limited to a depth of two (2) inches unless specifically approved otherwise by the city manager or designee, the community development board the city council as applicable.

(5) No building materials, machinery or harmful chemicals shall be placed within protective barriers, except short-duration placements of fill soil that will not harm the tree. Such short-duration placements shall not exceed thirty (30) days.

(6) The standards established in the *American National Standard for Tree Care Operations* (ANSI A300), Part 5 – 'Management of Trees and Shrubs During Site Planning, Site Development, and Construction,' as published by the Tree Care Industry Association, the standards of the National Arborist Association, or other nationally recognized arboricultural standards approved by the city manager or designee shall be used as guidelines for tree protection, planting, pruning and care.

(7) Attachments to trees prohibited. No attachments or wires other than those of a protective and nondamaging nature shall be attached to any tree.

(8) Any/all measures shall be taken to avoid soil compaction impacting protected trees for the duration of construction. In cases where the temporary removal of a barrier may be necessary, a sufficient layer of mulch or similar materials shall be placed so as to prevent soil compaction.

(9) Inspections. The city manager or designee shall conduct periodic inspections of the site before work begins and/or during clearing, construction and/or post-construction phases of development in order to ensure compliance with these regulations and the intent of this section.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 43, 9-7-10)

Sec. 27-450. - Approved tree list.

(a) City tree list: Replacement trees, as required per section 27-447 be selected from the following list. This list was generated based on species hardiness, disease- and pest-resistance, availability and size variance. It is not the intent to unreasonably limit the selection of replacements. Therefore, replacement trees not included on the city's tree list but suggested by the applicant may be considered, and approved or denied, during the Tree Permit application process.

Table 27-449.1 - City Of Neptune Beach Approved Tree List

SHADE TREES	
Common Name	**Botanical Name**
Ash, Green	Fraxinus pennsylvanica
Ash, Water	Fraxinus caroliniana
Birch River	Betula nigra
Bay, Loblolly	Gordonia lasianthus
Cedar Red	Juniperus virginiana
Cypress, Bald	Taxodium distichum
Cypress, Leyland	Cypressocyparis leylandii
Dogwood Flowering	Cornus Florida
Eastern Redbud	Cercis canadensis
Elm, Florida	Ulmus americana
Fringetree	Chionanthus virginicus
Gumbo-Limbo	Bursera simaruba
Hickory, Pecan	Carya spp
Holly	Ilex opaca
Holly, Yaupon	Ilex vomitoria
Southern Magnolia	Magnolia grandiflora
Maple, Red	Acer rubrum
Maple, Florida	Acer saccharum subsp. floridanum
Oak, Laurel	Quercus laurifolia
Oak, Live	Quercus virginiana
Oak, Shumard Red	Quercus shumardii
Oak, Turkey	Quercus laevis
Pine, Loblolly	Pinus taeda
Pine, Long-leaf	Pinus palustris
Pine, Pond	Pinus serotina
Pine, Slash	Pinus elliottii
Pine, Sand	Pinus clausa
Southern Magnolia	Magnolia grandiflora

Sweetbay Magnolia	Magnolia virginiana
Sweetgum	Liquidambar styraciflua
Sparkleberry	Vaccinium arboreum
Sycamore	Platanus occidentalis

PALM TREES	
Common Name	**Botanical Name**
Palm, Cabbage	Sabal palmetto
Palm, Canary Island Date	Phoenix canariensis
Palm, European Fan	Chamerops humilis
Palm, Pindo	Butia capitata
Palm, Washington	Washingtonia robusta
Palm, Windmill	Trachycarpus fortunei
UNDERSTORY OR ORNAMENTAL TREES	
Common Name	**Botanical Name**
Cedar, Red	Juniperus virginiana
Crape Myrtle	Lagerstroemia indica
Elm, Winged	Ulmus alata
Flatwoods Plum	Prunus umbellata
Hickory, Pecan	Carya spp.
Holly, American	Ilex opaca
Holly, Dahoon	Ilex cassine
Holly, East Palatka	Ilex attenuata
Holly, Yaupon	Ilex vomitoria
Jerusalem Thorn	Parkinsonia aculeata
Loquat, Japanese Plum	Eriobotrya japonica
Oak, Myrtle	Quercus myrtifolia
Oak, Sand Live	Quercus geminata
Oleander	Nerium oleander

Olive	Olea europaea
Pawpaw	Asimina spp.
Podocarpus, Yew	Podocarpus macrophyllus
Privet, Glossy	Ligustrum lucidum
Privet, Japanese	Ligustrum japonicum
Redbud	Cercis canadensis
Wax Myrtle	Myrica cerifera

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-451. - Regulations pertaining to utility companies.

(a) In the event any electric, water, telephone, or other public utility firm or corporation plans to extend, maintain, or relocate service such that any tree on any unimproved lot or tract will be removed, said utility shall make application for Tree Permit as described in section 27-446. Any public utility wishing to prune trees on a right-of-way shall notify the city manager in writing one (1) week in advance of the time and place these pruning activities will take place. The city manager or designee shall supervise these activities as necessary and shall have the authority to regulate or halt such pruning when these actions are deemed detrimental to the trees or beyond that needed to insure continued utility service.

(b) A utility company shall not remove or alter any trees at a distance greater than five (5) feet from the utility pole, structure or conductor within the city without a permit having first been obtained.

(c) The city shall observe the requirements of this section.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-452. - Unauthorized removal of or damage to regulated trees.

(a) If a regulated tree, to include heritage or champion trees as defined in section 27-448, is removed without permit, or is altered or damaged such that the likelihood for disease or premature death is increased, the tree removal contractor and/or property owner shall pay a fine of twice the tree fund fee, as established in section 27-458 per diameter inch of the trunk, measured at four and one-half (4½) feet above the ground. In the event that a tree has been completely removed from the site, the measurement will be taken as the diameter of the remaining stump. In the event that no portion of a stump remains, documents such as a tree survey, building plans, etc. may be used to determine the size of the regulated tree removed. All violations of section 27-452 shall be referred to the code enforcement board for disposition.

(b) Clear-cutting of land is prohibited. If any parcel of land is clear cut without a tree removal permit, the tree removal contractor and/or property owner shall be subject to enforcement in accordance with article VII of chapter 2 of this code and fined a minimum of $5,000.

(c) All fines imposed through the code enforcement process in article VII of chapter for unauthorized removal or damage of regulated trees shall be paid to the City of Neptune Beach. All fines collected shall be deposited into the city's tree mitigation fund.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2006-02, § 4, 3-6-06)

Sec. 27-453. - Procedure for appeal.

(a) Any denial of Tree Permit by the city staff of this article may be appealed within thirty (30) days of said decision to the community development board for final disposition as specified in section 27-133. The community development board through competent testimony may, in their discretion, affirm, overturn, or modify any decision made in the administration of this article.

(b) Appeals of the enforcement of this article shall be made as provided for in section 27-445.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2006-02, § 5, 3-6-06; Ord. No. 2010-14, § 44, 9-7-10)

Sec. 27-454. - Violation; denial of permits, certificates.

No building permits shall be issued on lands where violations of this article are determined to exist, including payment of all fines levied for violations, or appropriate remedial action as agreed to by the city manager or designee and completed by the owner of the land. A certificate of occupancy shall not be issued for any construction until all applicable remedies have been accomplished.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-455. - Minimum landscape requirements.

(a) Requirements of these sections do not exempt property owners from compliance with any other section of this article.

(b) *Minimum percentage of developed area devoted to landscaping.* Property shall be designed, constructed and used so that the total of the areas devoted to landscape materials of any site is at least twenty (20) percent of the gross area of each parcel.

(c) For property within the central business district, all portions of a site that are not otherwise covered by structures or pavement shall be landscaped. Because the landscaped areas are minimal within the CBD, the use of more dense plant materials is required. Landscape materials for sites within the CBD shall include trees, shrubs, vines and groundcovers. Therefore, sod shall not be used as a landscape material in the CBD.

(d) Landscape and/or planting plans for all nonresidential developments shall be prepared by a landscape architect registered in the State of Florida.

(e) *Minimum requirements for landscaped areas.* All development except individual, single-family and two-family (duplex) residential lots shall meet the requirements of these sections. See section 27-457 for specific requirements for individual, single-family and duplex residential lots. However, all other development shall comply with the following:

(1) An automatic irrigation system shall be supplied for all newly landscaped areas. System shall include a pressure vacuum breaker-type backflow preventer, rain sensor, electric timer and valves, and sprinkler heads, and all pipe and materials necessary for a fully functioning system. The design of the irrigation system shall promote water conservation through methods such as efficient zoning of heads and/or micro-irrigation. The irrigation system shall be designed and located to minimize the watering of impervious surfaces. Irrigation shall not be required for existing natural vegetation areas.

(2) Plants shall be sized such that, within three (3) years of the time of planting, at least half of the required landscaped development shall be devoted to living plants. Remaining landscape areas shall be mulched with organic materials.

(3) When a landscaped area is adjacent to or within a vehicular use area, curbing shall be used to protect landscaped areas from encroachment. Parking spaces shall be designed to provide pervious surface for the vehicle overhang area.

(4) Shrubs and trees shall be placed away from the wheel stop, so that they will not be encroached upon by vehicles. In lieu of curbing, the alternative means of preventing encroachment shall be shown on the site plan.

(5) All required trees shall be selected from the shade tree section of the city tree list in section 27-450. In order to encourage plant diversity, no more than fifty (50) percent of the selected trees for one (1) plan shall be from the same genus.

(6) Any landscaped area adjacent to an intersection or driveway shall conform to the requirements for the vision triangle, as defined in article I.

(7) Where gravel is used as landscaping groundcover, a concrete, stone paver, or similar barrier must be used to contain the gravel and keep it from entering streets, drains, culverts, and any other transportation and stormwater system.

(f) *Ocean-front lots.* Oceanfront lots of any type shall be landscaped with salt-tolerant plant material only.

(g) Exemptions.

(1) All parking garages shall be exempt from this section, pertaining to landscaping requirements for vehicular use areas; however, vehicles shall be screened from adjacent properties and public rights-of-way through the use of opaque materials at ground level.

(2) Parking lots under lease. The area of any lot under lease which contains required parking spaces for any use shall comply with the provisions of this section as a precondition to the issuance of any development order issued in connection with such lot for such use.

(h) Minimum submittal criteria.

(1) All planting plans shall be drawn to scale and have a north arrow, and shall accurately depict all buildings, pavement, on-site facilities, utilities and lighting systems. The landscape drawing or accompanying development plan must give the permitted use of adjacent parcels and the total square footage of all pavement on-site.

(2) A plant schedule shall be provided showing the botanical name, size, spacing and number of all required plant materials. During construction, any tree or shrub may be substituted for the identified plant, provided that the shrub is adaptable to the amount of sun/shade, wet/dry and size conditions where it will be planted, and insofar as the provisions for diversity described in this article and all required tree replacement calculations are met. The use of additional plant material beyond the minimum required is strongly encouraged. However, plant materials shown that are additional to the required materials shall not be subject to inspection and should be identified on the planting plans as "supplementary."

(3) A tree table shall be provided showing the calculated requirements for trees to be planted, including all information as required for submittals per section 27-446.

(i) *Design principles and standards.* All landscaped areas required by this article shall conform to the following general guidelines:

(1) The preservation of native trees and shrubs is strongly encouraged to maintain healthy, varied and energy-efficient vegetation throughout the city, and to maintain habitat for native wildlife species.

(2) The planting plans should integrate the elements of the proposed development with existing topography, hydrology and soils in order to prevent adverse impacts such as sedimentation of surface waters, erosion and dust.

(3) The functional elements of the development plan, particularly the drainage systems and internal circulation systems for vehicles and pedestrians, should be integrated into the planting plan. The landscaped areas should be integrated, to promote the continuity of on-site and off-site open space and greenway systems, and to enhance environmental features.

(4) The selection and placement of landscaping materials should maximize the conservation of energy through shading of buildings, streets, pedestrian ways, bikeways and parking areas. The use of wind for ventilation and the effect on existing or future solar access shall be considered.

(5) Landscaping design should consider the aesthetic and functional aspects of vegetation, both when initially installed and when the vegetation has reached maturity. Newly installed plants should be placed at intervals appropriate to the size of the plant at maturity, and the design should use short-term and long-term elements to satisfy the general design principles of this section over time.

(6) The natural and visual environment should be enhanced through the use of materials which achieve a variety with respect to seasonal changes, species of living material selected, textures, colors and size at maturity.

(7) The placement of trees around buildings should permit access to the building by emergency vehicles.

(j) The installation of invasive nonnative category 1 and category 2 species as defined by the Florida Department of Agriculture and Consumer Services (FDACS) and Florida Exotic Pest Plan Council (FLEPPC) is prohibited.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2006-02, § 6, 3-6-06; Ord. No. 2011-19, § 1, 10-10-11)

Sec. 27-456. – Landscaping buffers.

(a) *Generally.* This section provides landscaping methods which are intended to set minimum requirements for the landscaping of vehicular use areas and certain perimeter areas abutting public rights-of-way within commercial zoning districts and between zoning classifications. Vehicular use areas and retention ponds may not be located within landscape buffers, though swales may be permitted within landscape buffers on a case-by-case basis. These requirements are illustrated in figures 27-4567-1 and 27-456-2 and are described herein as follows

(b) *Size.* Measurement of all landscape buffers shall be from the property line and shall extend along the entire length of the property line abutting the right-of-way.

1. Vehicular use areas shall be separated by a landscaped buffer area, a minimum of ten (10) feet in width, from any boundary of the property on which the vehicular use area is located.

2. Vehicular use areas abutting residential-zoned property shall be separated by a landscape buffer area of fifteen (15) feet in width.

(c) *Intrusions*. Landscape buffer areas may only be altered or intruded upon for the following purposes and any such alterations or intrusions shall be in compliance with an approved development site plan:

1. Ingress and egress to vehicular use areas, drive aisles, and loading areas, per lot standards and allowable curb cuts defined in section 27-235 and 27-243;

2. Pedestrian walkways or access to buildings and structures as necessary;
3. Bicycle and/or other transportation infrastructure;
4. Installation of stormwater, drainage, or utility improvements as necessary;
5. Grading or retention as necessary;
6. Selective clearing for visibility of freestanding signs;
7. The regular pruning of trees to provide clear trunk and visibility as required by the Florida Department of Transportation;
8. The installation of tree protection barriers as defined in this section;
9. The regular removal of dead materials and debris; or
10. The installation of additional landscape materials required by this Code.
11. A clear path of three feet through vegetative buffers shall be maintained to allow for a Fire Department Connection.

(d) *Exceptions.* A landscape buffer area is not required:

1. For property located within the city's central business district (CBD);
2. For front and side setbacks less than or equal to ten (10) feet. In these cases, only rear lot lines shall adhere to any requirements defined in this section;
3. For side lot lines wherein, a residential lot is adjoined to another residential lot;
4. When the paved ground surface area is completely screened from adjacent properties or public rights-of-way by intervening buildings or structures;
5. When an agreement to operate abutting properties as essentially one (1) contiguous parking facility is in force. The agreement shall be executed by the owners of the abutting properties, and shall bind their successors, heirs, and assigns. Prior to the issuance of any building permit for any site having such a contiguous parking facility, the agreement shall be recorded in the public records of the county; or
6. When the required landscape buffer area would conflict with utility installations, and such conflicts cannot be resolved, such areas may be planted with shrubs and such understory trees as may be acceptable to the utility.~~;~~

(e) *Modification of requirements.* The community development board or staff, when only staff review is required, may determine that:

1. Screening is better achieved by relocation of the landscape buffer area;
2. There is an unresolvable conflict between other element(s) of the development plan and the location, width or height of the landscape buffer area, and that the public interest is therefore best served by relocation of the landscape buffer area, lowering the height of required material or the substitution of a solid fence or wall in conjunction with a reduction in width; or
3. That the screening would only serve to emphasize a long driveway that would otherwise be unobtrusive.

(f) *Planting.* A landscape buffer area shall contain:

1. *Trees*. Landscape buffer areas shall include a calculated average of one (1) shade tree, as defined in the city's approved tree list, located in section 27-450, and sized as defined in section 27-447, for every fifteen (15) linear feet of frontage. The average spacing for proposed tree plantings shall be measured sequentially from tree-to-tree and the following conditions shall be considered while measuring:

   a. Clusters of no less than three (3) shade trees shall occur at all intrusions, as defined in this section, into the landscape buffer.

   b. Existing trees retained within the landscape buffer area, including champion and heritage trees shall be exempt from this calculation.

   c. Palms, understory, and ornamental trees of any species, as defined in the city's approved tree list, located in section 27-540 shall be exempt from this calculation except for when the use of shade trees is prohibited under overhead utilities.

   d. Trees proposed within landscape buffer areas may be counted towards the required tree replacement total as defined in section 27-447.

   e. Ornamental shrubs, native privacy plants, or other non-invasive landscape hedging shall be used between the required tree plantings, except that a 5-foot gap may be permitted for intrusions.

2. *Visibility*. In addition to trees, a landscape buffer area shall contain an opaque screen composed of either plant materials, or a combination of plant materials and masonry walls.
   a. For the screening of vehicular use areas, landscape buffers shall be comprised of landscape materials, including hedges, shrubs, and groundcover plantings and shall be arranged to provide a visual screen of seventy-five (75) percent opacity and achieve a height of at least three (3) feet within three (3) years.
   b. For the screening of vehicular use areas from residential zoned property, landscape buffers shall be comprised of landscape materials, including hedges, shrubs, and groundcover plantings and shall be a visual screen of seventy-five (75) percent opacity and achieve a height of at least six (6) feet within twenty-four (24) months of planting.
   c. A six (6) foot masonry wall may be used as a buffer. However, trees, ornamental shrubs, or other plantings shall be used to minimize the harsh aesthetic of the wall.
   d. The community development board, during development plan review, may determine that natural vegetation is sufficient to screen adjacent properties and rights-of-way. In such instance the existing vegetation, including understory plants and bushes, is protected from pruning and removal, except that diseased plant material and invasive nonnative species may be replaced in accordance with this section. Where encroachments are made for utility connections, replacement plants appropriate to the ecosystem shall be required.
3. *Interior requirements*. Interior areas required to be landscaped include terminal parking islands, interior islands, divider medians, and islands at T-intersections.

   a. The placement of landscaped areas throughout the interior of the paved area shall be one (1) interior landscaped island for each ten (10) parking spaces, with a terminal island at each end of five (5) or more contiguous parking spaces. At no time shall a row of parking have

landscape areas greater than one hundred thirty-five (135) feet apart or closer than thirty-five (35) feet. Standards for minimum landscape islands are included in article IV.

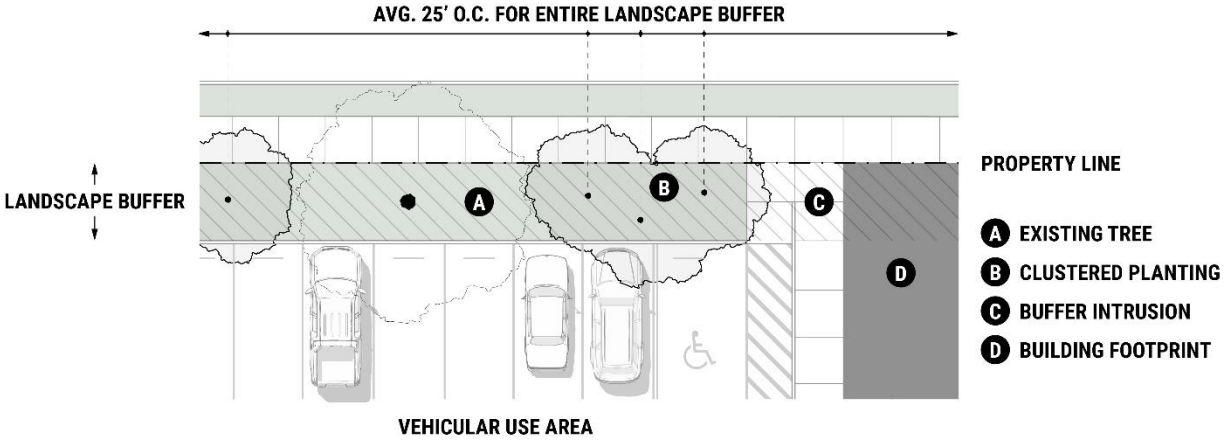
b. *Terminal islands:* One (1) shade tree per three hundred (300) square feet of interior landscape area, minimum one (1) shade tree per terminal island area. Shrubs or groundcovers shall be planted to cover thirty-five (35) percent of terminal islands, with a two-foot strip of mulch or sod adjacent to parking spaces, and a three-foot strip of mulch or sod adjacent to access drives.

c. *Interior islands:* One (1) shade tree per three hundred (300) square feet of interior landscape area, minimum one (1) shade tree per interior island area.

d. *Divider medians:* One (1) shade tree per thirty (30) linear feet of divider median, or fraction thereof. A continuous shrub hedge shall be planted in all divider medians that separate parking from access drives.

e. The community development board, or city council and city manager or designee, through development plan review, may allow the relocation of such landscape areas to preserve existing trees, or where it is determined, upon review and recommendation of the city manager's designee, that the relocation is necessary for the safe maneuvering of vehicles or pedestrians.

Figure 27-456-1 – Landscape buffer example diagrams



Sec. 27-457. - Residential landscape requirements.

(a) One (1) shade tree shall be planted or preserved for every three thousand (3,000) square feet of a residential lot or fraction thereof. No more than ten (10) new trees shall be required to be planted on any residential lot that is to be developed for one (1) single-family dwelling or one (1) two-family (duplex) residential structure as a result of this provision.

(b) One (1) street tree from the shade tree portion of the City's approved tree list, located in Section 27-450, shall be planted within five (5) feet of the public right-of-way for every forty-five (45) linear feet of street. In residential subdivisions, where property on one (1) side of the right-of-way is not owned by the subdivider, such street trees shall be planted alternately on either side of the street. Street trees planted or preserved per this requirement shall not count towards the overall shade tree requirement.

(c) All required trees shall be selected from the city tree list in section 27-450.

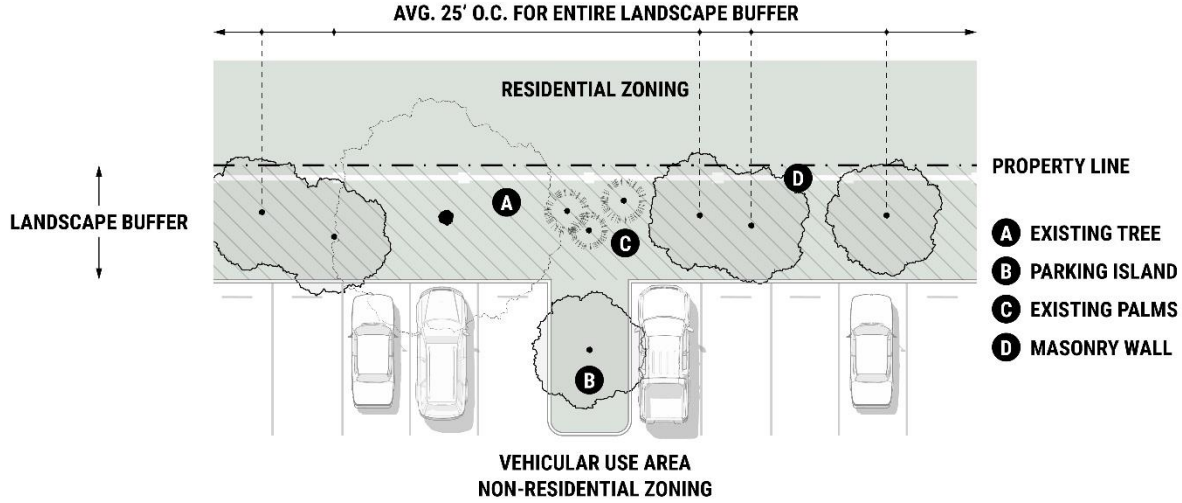
(d) Landscaping of the City of Neptune Beach street ends terminating at the Atlantic Ocean and at the intracoastal waterway that, by its location or characteristics of growth, creates the image of private property or has the effect of appropriating public property for private use shall be prohibited. Except at beach access points, voluntary care of the street ends rights-of-way to include a minimum level of landscaping and beautification for the public benefit may be approved by the city manager upon submission of a right-of-way permit application. Landscaping shall be limited to a maximum of three (3) feet.

(e) Where gravel is used as landscaping groundcover, a concrete, stone paver, or similar barrier must be used to contain the gravel and keep it from entering streets, drains, culverts, and any other transportation and stormwater system.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2005-06, § 1, 5-2-05)

Sec. 27-458. - Tree conservation and trust fund.

(a) *Establishment of trust fund.* The city council hereby recognizes the establishment of the tree conservation trust fund ("tree fund") for the purposes of accepting and disbursing monies paid to the



city as part of tree mitigation and any other funds deposited with the city for the purpose of tree and vegetation conservation and protection. This fund shall be used solely for the planting of trees, the protection and conservation of existing trees where appropriate, or the re-establishment of vegetative resources in the city and any other ancillary costs associated with such activities, provided that such ancillary costs shall not exceed twenty (20) percent of the cost of the particular project.

(b) *Terms of existence.* The tree fund shall be self-perpetuating from year to year unless specifically terminated by the city council.

(c) *Tree fund assets.* All funds received shall be placed in trust for and inure to the public use and environmental benefit of the city.

(d) Tree fund administration.

(1) Trust funds shall be used only for the purposes designated by the city in accordance with the intent of this chapter.

(2) All mitigation funds collected pursuant to this chapter shall be deposited in the tree fund, which shall be a separate account established and maintained apart from the general revenue fund of the city.

(3) The city manager will bring plans for the use of the tree fund expenditures to council for approval.

(e) Disbursal of tree conservation trust fund assets.

(1) Expenditures for projects funded by the tree conservation trust fund shall be made in accordance with the established purchasing procedures of the city.

(2) Priority shall be given to the use of funds for projects that plant or replace trees or vegetation along public rights-of-way or on properties and lands in public use that will provide needed shade, aesthetic enhancement or the re-establishment of tree canopy in neighborhoods and along public roadways.

(f) Triggers and controlling provisions of the Code.

(1) For purposes of triggering any fund payment pursuant to this section, subsections 27-447(b) and 27-448(d) shall be controlling.

(2) The applicant shall have the option of either:

a. Replacing the removed tree pursuant to subsections 27-447(b) and 27-448(d);

b. Paying the entire balance owed to the trust fund pursuant to subsection (3) below.

(3) The applicant shall pay a sum equal to one hundred eighty-five dollars ($185.00) per caliper inch of trees(s) removed to offset or mitigate the removal of a qualifying tree or when replacement trees are deemed unsuitable for the site per section 27-447(b). The one hundred eighty-five-dollar ($185.00) rate shall be reviewed annually by city staff to determine that it is a sufficient amount to fully account and mitigate for the removal of qualifying trees.

(4) The applicant shall pay a sum equal to one hundred eighty-five dollars ($185.00) per caliper inch of tree(s) when replacement trees are determined not to be suited for the location of the site per section 27-447(b)

(Ord. No. 2016-05 , § 1, 6-6-16)

Secs. 27-459—27-470. - Reserved.

ARTICLE X. - STREETS, SIDEWALKS AND RIGHTS-OF-WAY[15]

Footnotes: --- (15) --- Editor's note— Ord. No. 2004-10, § 1, adopted Oct. 4, 2004, amended art. X in its entirety to read as herein set out. Former art. X, §§ 27-471—27-480, pertained to similar provisions, and derived from Ord. No. 91-1-5, § 2, 5-6-91. Ord. No. 2002-02, § 8, 5-6-02; Ord. No. 2004-02, § 1, 5-10-04.

Sec. 27-471. - Generally.

This article establishes minimum requirements for the development of public and private streets, bikeways, pedestrian ways, and access control to and from public streets. These standards are intended to minimize the negative traffic impacts of development and to assure that all developments adequately provide for the safe and efficient movement of vehicles and people consistent with good engineering and development design practices.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-472. - Definitions.

Refer to article I for definitions.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-473. - Transportation analysis.

Any new development or substantial redevelopment project within the city that is estimated by the city manager or designee to generate five hundred (500) or more average daily trips, and/or fifty (50) or more peak hour trips, shall be required to undertake a traffic impact study. The purpose of the study shall be to identify and assess on-site, near site and off-site transportation improvement needs related to the project within one-half mile of the property. Trip estimates shall be based on trip generation rates from the most current edition of "Trip Generation" (published by the Institute of Transportation Engineers). Trip generation rates from other sources may be used if the developer demonstrates to the city's satisfaction that the alternative source better reflects local conditions. In addition, the city manager or designee may waive the study requirement or otherwise adjust the study area boundaries based upon a reasonable determination that the project will not unduly impact the existing public transportation system.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-474. - Developer improvements requirements.

Any developer of property within the city shall be responsible for those transportation improvements within and directly adjacent to the site necessary to accommodate the increased demand from the project. Such site related improvements may include, but not be limited to:

- Roadway, including any on-street parking, and pedestrian way construction;
- Driveway improvements and exclusive turn lanes at site access points, including signing, signalization and pavement markings; and

- Site-related intersection modifications at any off-site intersection within five hundred (500) feet of the nearest edge of the property or additional distance as determined by the traffic impact study.

All necessary roadway improvements shall be provided at the expense of the developer in conformance with this article. The developer may elect to request advertising for and receipt of contractor's proposals for construction of minimum improvements by the city, and the award and administration of construction contracts. The developer shall deposit with the city, through direct payment or the posting of a performance bond or other surety acceptable to the city, the entire cost of such improvements before the award of contracts. The developer shall have all engineering and design performed at his expense before advertising for bids.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-475. - Street classification.

To regulate street design standards such as access, road and right-of-way widths, circulation patterns, design speed, and construction standards, all existing and all proposed streets in the city shall be classified. The functional classifications for existing roadways, which include principal arterial, minor arterial, major collector, and local road, are described in the Transportation Element of the city's Comprehensive Plan and shown on Map B-1 of that. Proposed streets shall be classified based on anticipated road function per publications such as the Traffic Engineering Handbook (by the Institute of Transportation Engineers) and/or A Policy on Geometric Design of Highways and Streets (by the American Association of State Highway and Transportation Officials).

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-476. - Street design standards.

(a) *Specifications.* All construction shall conform to the current edition of "Standard Specifications for Road and Bridge Construction," published by Florida Department of Transportation.

(b) *Subgrade.* The roadway shall be built upon stabilized subgrade at a minimum Lime Rock Bearing Ration of 40 pounds per inch, LBR40. Where the subgrade does not exceed a state bearing test of forty (40) pounds per square inch, a subgrade shall exceed this strength.

(c) *Base construction.* Base construction shall utilize only solid limerock, soil-cement, crush-crete, graded aggregate base, black base (bituminous base), crushed shell, or sand bituminous road mix. Solid limerock is not preferred and should be avoided if possible.

(d) *Surfacing.* Surfacing shall consist of FDOT type S-I asphaltic concrete surface course with a finish surface course FDOT type S-III, crowned to a finish slope of one-fourth inch per foot.

(e) *Dimensions.* Minimum dimensions shall conform to the following table:

	Arterial	**Collector**	**Local**
Subgrade thickness (inches)	12	12	12
Pavement base thickness (inches)	10	10	8
Pavement thickness (inches) (S-I)	3	2	1.5
Surface course (inches) (S-III)	1	1	1

Pavement lane width (feet)	11*	11*	10*

**These represent minimum lane widths. Staff would like the ability to consider several traffic calming design solutions, including narrower lane widths, when constructing or improving streets.*

(f) *Cross slope.* To balance drainage requirements with vehicle operation, the recommended roadway cross slope is two (2) percent for roadways with four (4) or less lanes, and three (3) percent when three (3) lanes or more in each direction are present. Cross slopes for roadways shall not be greater than four (4) percent, nor less than one-and-a-half (1.5) percent.

(g) *Street intersection angle.* To the extent possible, streets should intersect at a perpendicular (ninety (90) degree) angle. Acute angles less than eighty-five (85) degrees or obtuse angles greater than ninety-five (95) degrees at street intersections shall be avoided. Where an acute or obtuse angle occurs between streets at their intersection, the alignment shall be curved so that tangents to the curves shall intersect as closely as feasible at right angles. Transition fillets at intersections shall be constructed, having a radius of at least fifty (50) feet. The right-of-way shall be curved to the same concentric radius.

(h) *Horizontal curvature.* Where a deflection angle of more than ten (10) degrees in alignment of a street occurs, a curve of reasonably long radius shall be introduced. On all streets except local streets, the centerline radius curvature shall not be less than three hundred (300) feet; on local streets, the radius curvature shall not be less than one hundred (100) feet.

(i) *Street names.* Street names shall be appropriate designations and not presently encountered in the county east of the Intracoastal. Street signposts readable from all approaches, eight (8) feet high, of corrosion-resistant materials, shall be constructed at each street intersection.

(j) *Cul-de-sacs*. No new cul-de-sacs shall be created in Neptune Beach as of the date of incorporation of this code. Existing cul-de-sacs shall conform to the following criteria:

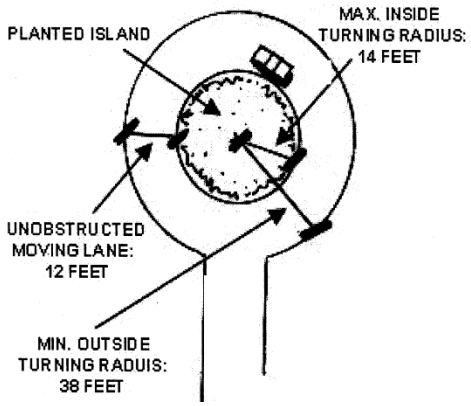
(1) Streets ending in cul~~s~~-de-sacs shall not exceed five-hundred (500) feet in length from the center of the turnaround to the nearest street intersection.

(2) No cul~~s~~-de-sacs shall be permitted to be platted unless there are platted lots on each side and around the outer perimeter thereof.

(3) Cul~~s~~-de-sacs shall be provided with a chord dimension at the building restriction line equal to or exceeding the minimum street frontage requirement.

(4) Cul~~s~~-de-sacs shall have an unobstructed twelve-foot-wide moving lane with a minimum outside turning radius of thirty-eight (38) feet. Upon a favorable determination by the city manager or designee, lands inscribed within a maximum inside turning radius of fourteen (14) feet may be retained as planted open space; in this case, the planted area shall be delineated with raised concrete curbing and shall provide for clear visibility between two (2) feet and eight (8) above the adjacent roadway centerline grade (see Figure 27-476-1).

Figure 27-476-1



(5) Culs-de-sacs greater than three hundred (300) feet in length shall include the posting of a "No Outlet" sign at the nearest street intersection.

(6) Cul-de-sacs shall not be permitted in the R-3, R-4, R-5, C-1, C-2, C-3, and CBD districts.

(k) *Collector streets.* At least one (1) end of all collector streets shall terminate on arterial streets.

(l) *Local streets.* At least one (1) end of a local street shall terminate on a collector or higher order street. Local streets are generally discouraged from direct connections with arterial streets.

(1) The City of Neptune Beach Street ends terminating at the Atlantic Ocean and at the intracoastal waterway are special public rights-of-way which shall be carefully preserved for present and future public use.

(2) Public walkways and ramps may be built in these rights-of-way. No other construction is permitted in these rights of way except as necessary to access adjacent properties when no other means of access to said properties is possible.

(3) In the event that access through a street end right-of-way is necessary, the design and construction of such access shall be approved or disapproved by the city council after appropriate development review. Criteria for approval shall include maximum preservation of greenspace within the street ends and the use of pervious paving materials.

(4) In no case may access ways to adjacent properties be designed or landscaped in order to create the image of private property.

(m) *Alleys.* No new alleys shall be dedicated to the City of Neptune Beach. Existing alleys shall conform to the following criteria:

(1) Alleys shall be provided whenever possible at the rear lot lines of all business and commercial subdivisions.

(2) Alleys shall be prohibited in residential subdivisions, unless the developer designs the subdivision with alleys as an integral element of the project. Where alleys are utilized as an integral design feature, they shall provide for connections to no fewer than five (5) and no more than fifteen (15) residences per side and shall terminate at both ends with a local street.

(n) *Environmentally sensitive areas.* Streets shall be laid out to minimize negative impacts to environmentally sensitive areas, such as wetlands. In the event that impacts cannot be avoided, the developer shall meet all applicable requirements of local, state or federal permitting agencies.

(o) *Minimum stormwater management requirements.* All roadway construction shall meet minimum stormwater management requirements of the appropriate local or state permitting agencies. Curbs and gutters shall be constructed along the edges of all street pavements for all new development and redevelopment, as set forth in section 27-519.

(p) *Inter-neighborhood traffic flow.* Streets in a new development shall be logically connected to rights-of-way in adjacent areas to allow for safe and efficient traffic flow between neighborhoods or subdivisions. If adjacent lands are unplatted, stub outs in the new development shall be provided for future connection to the adjacent unplatted land. Pedestrian and/or bikeway systems also shall be connected. To the extent that such pedestrian and bikeway connections may contribute to undesired increases in cut-through traffic then the community development board may recommend a withholding or modification to this requirement.

(q) *Through traffic.* Residential streets shall be arranged or otherwise designed to discourage high speeds or excessive volumes of cut through traffic.

(r) *Offset intersections.* Where an offset (jog) is necessary at an intersection, the distance between centerlines of the intersecting streets shall be no less than one hundred fifty (150) feet.

(s) *Street intersection spacing.* No two (2) local streets may intersect with any other local street on the same side at a distance of less than two hundred and fifty (250) feet measured from centerline to centerline of the intersecting street. When the intersected street is an arterial, the distance between intersecting streets shall be no less than six hundred sixty (660) feet. New intersections along one (1) side of an existing street shall, where possible, coincide with existing intersections on the other side.

(t) *Deceleration and left and right turning lanes.* Deceleration and left and right turning lanes shall be provided on collector or arterial streets according to the following guidelines, or as otherwise required by state department of transportation regulations. In addition, and based upon the submission of a traffic impact study acceptable to city, the city manager or designee may waive the requirements based upon a reasonable determination that the absence of such a lane will not adversely impact traffic conditions:

(1) A single right or left turn lane, with a minimum taper of fifty (50) feet, shall be designed to store the number of vehicles likely to accumulate during a critical period, as dictated by a traffic impact study. For low volume intersections where a traffic impact study is not justified, a minimum one hundred (100) foot queue length (4 cars) should be provided in urban areas, and a minimum fifty (50) foot length queue length (2 cars) should be provided in suburban or rural areas. This queue length excludes the taper length.

(2) For double left or right turn lanes, the taper shall be a minimum of one hundred (100) feet in length.

(u) *Intersection visibility.* In order to provide a clear view of intersecting streets to the motorist, nothing within the clear visibility triangle, as determined by the Florida Greenbook calculations, shall be erected, placed, parked, planted, or allowed to grow in such a manner as to materially impede vision between a height of two (2) feet and eight (8) feet above the grade, measured at the centerline of the intersection. The following shall be permitted within the clear visibility triangle:

(1) Shade and palm trees with a minimum pruning height of eight (8) feet above the sidewalks grade and twelve (12) feet above vehicular traffic lanes grade.

Accessway intersecting an Accessway	10 feet
Accessway intersecting a ROW	15 feet
ROW intersecting a ROW	35 feet

(v) *Signage, pavement markings and signalization.* The developer shall provide all necessary roadway signs, pavement markings and traffic signalization as may be required by the city, based upon the guidelines in the Manual of Uniform Traffic Control Devices, or alternative city standards as approved by the community development board. At least two (2) street name signs shall be placed at each four-way street intersection, and one (1) at each "T" intersection. Signs shall be installed under light standards and free of visual obstruction. The design of street name signs shall be consistent, of a style appropriate to the community, and of a uniform size and color. In new developments, stop bars shall be painted with thermoplastic paint and reflective materials.

(w) *Blocks*.

(1) Where a tract of land is bounded by streets forming a block, said block shall have sufficient width to provide for two (2) tiers of lots of appropriate depths.

(2) The lengths, widths and shapes of blocks shall be consistent with adjacent areas. In no case shall block lengths in residential areas exceed eight hundred (800) feet, nor be less than two hundred and fifty (250) feet in length.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2005-06, § 2, 5-2-05; Ord. No. 2010-14, § 46, 9-7-10; Ord. No. 2013-09, § 1, 10-7-13)

Sec. 27-477. - Dedication of streets.

(a) Public streets shall be dedicated to the city upon completion, inspection, and acceptance by the city.

(1) Public streets dedicated to the city must comply with all local standards, dedication language, city ordinances, and be free of any contingencies or variances.

(b) Private streets may be allowed within developments that will remain under common ownership, provided they are designed and constructed pursuant the standards as provided for in this Code. All private streets shall be maintained through a covenant that runs with the land in the form of, but not limited to, a homeowners' or condominium association or such other legal mechanism as will assure the city and owners of contiguous property that the street shall be continually and properly maintained. The city and contiguous owners shall be provided with a legal right to enforce the assurance that the road will be continually maintained. Legal documents acceptable in form and content to the city shall be reviewed by the city manager or designee prior to development approval.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-478. - Dedication of right-of-way.

(a) As a minimum requirement, the following right-of-way widths shall be dedicated:

(1) Arterial streets, fifty (50) feet each side of the centerline;

(2) Collector streets, thirty-three (33) feet each side of the centerline;

(3) Local streets, twenty-five (25) feet each side of the centerline;

(4) Cul~~s~~-de-sacs, radius of fifty (50) feet.

(b) *Future right-of-way.* Where roadway construction, improvement or reconstruction is not required to serve the needs of the proposed development project, future rights-of-way shall nevertheless be reserved for future use. No part of the reserved area shall be used to satisfy minimum requirements of this Code.

(c) *Protection and use of right-of-way.* The following provisions apply to the use of rights-of-way:

(1) No encroachment shall be permitted into existing right-of-ways, except for temporary and conditional use authorized by the city through a right-of-way permit, per the requirements in section 18-4, which allows for driveway aprons and landscaping, provided landscape planting and groundcover do not impede the use of any public on-street parking. The city is not responsible for any damage to private improvements within the public right-of-way and the private use of public right-of-way at beach access points shall not be permitted under any circumstances.

(2) Use of the right-of-way for public or private utilities, including, but not limited to, sanitary sewer, potable water, telephone wires, cable television wires, gas lines, or electricity transmission, shall be allowed subject to the applicable specifications.

(3) Sidewalks and bicycle ways shall be placed within the right-of-way.

(d) *Vacations of right-of-way.* Applications to vacate a right-of-way may be approved upon a finding that all of the following conditions are met:

(1) The request is consistent with the transportation circulation element of the comprehensive plan.

(2) The right-of-way does not provide the sole access to any property. Remaining access shall not be by easement.

(3) The vacation would not jeopardize the current or future location of any utility.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-479. - Sidewalks and bikeways.

(a) No person shall lay any sidewalk or foot paving on the public rights-of-way of the city without a permit. Sidewalks laid in public rights-of-way shall be a minimum of six (6) feet wide and shall be laid with a slope of one-fourth inch per foot toward the street. Sidewalks, when constructed in front of any high traffic area or driveway apron, shall be at least six (6) inches deep. The Florida Design Manual is the basis for the design and construction for new sidewalks. Sidewalks are required to be maintained in good condition as determined by the public works director, or designee. Any damage as a result of construction, age, neglect, or substandard design shall require payment to the city's sidewalk construction fund or must be repaired or replaced by the property owner.

(b) Sidewalks shall be provided on one (1) or both sides of residential streets as provided in subsections (e)—(g) below.

(c) Access for persons with disabilities. Sidewalks shall be ADA accessible and a minimum width of six (6) feet. Sidewalks and intersections shall be ADA accessible with early detection plates at all conflict points, including curb ramps, transit or ride-hailing boarding areas, cut-through pedestrian refuge islands, and where bicycle lanes cross sidewalks. Curb ramps shall have a minimum width of thirty-six (36) inches, with a minimum top landing of thirty-six (36) by thirty-six (36) inches and a maximum slope of 1:12. Perpendicular curb ramps are preferred to parallel ramps and diagonal curb ramp, located on the apex of the intersection curve, should be avoided whenever possible.

(d) Right-of-way/sidewalk lease restriction. Outside seating for restaurants, coffee shops and sidewalk cafes may be operated by the management of adjacent permitted food service establishments, subject to the following provisions:

(1) The city council shall determine and establish by resolution the charges, terms and termination procedures for right-of-way/sidewalk uses.

(2) Approval of the proposed right-of-way/sidewalk lease by the city council will be deemed the equivalent of the granting of a permit as subsequent sections state.

(3) The unenclosed portion of the restaurant or cafe shall be accessory to or under the same ownership or control as the restaurant or cafe which is operated within a totally and permanently enclosed building on the same lot.

(4) The area of unenclosed, outdoor customer service area of a restaurant or cafe shall not exceed fifteen (15) percent of the total enclosed area of the restaurant or cafe.

(5) Outside seating within public rights-of-way may be permitted under a renewable annual lease agreement approved by the city council. As a condition of the lease, the owner of such establishment shall agree in writing to maintain that portion of the right-of-way where the outside seating is located. The owner/lessee/lessor of the business establishment and the property owner shall agree in writing to hold the city harmless for any personal injury or property damage resulting from the existence or operation of, and the condition and maintenance of the right-of-way upon which any outside seating is located, and shall furnish evidence of general liability insurance in the amount of one million dollars ($1,000,000.00) per person and two million dollars ($2,000,000.00) per occurrence with the city as additional named insured.

(6) Outdoor dining is permitted only where the sidewalk is wide enough to adequately accommodate both the usual pedestrian traffic in the area and the operation of the proposed activity. The outdoor dining area shall leave not less than five (5) consecutive feet of sidewalk width at every point which is clear and unimpeded for pedestrian traffic.

(7) Outside seating areas shall be defined by an enclosure of at least three (3) feet in height measured from the ground or sidewalk level. Enclosures shall be designed in compliance with ADA accessibility guidelines and shall provide safe pedestrian access to the public right-of-way and designated parking spaces. Such enclosure may consist of screens, planters, fencing or other similar materials.

(8) Alcoholic beverages shall not be allowed outside the limits of the outdoor seating area, and measures shall be taken to educate customers of the prohibition of alcohol leaving the premises.

(9) Alcoholic beverages shall be served with meals only and all sales shall end at 1:30 a.m.

(10) The hours of operation shall be limited to the open of business to 2:00 a.m.

(11) No heating or cooking of food or open flames shall be allowed in outside seating areas.

(12) There shall be no use, operation or playing of any musical instrument, loudspeaker, sound amplifier, or other machine for the production or reproduction of sound in such a manner as to constitute a violation of the City of Neptune Beach's ordinances which regulate noise.

(13) Lighting to serve outside seating areas shall be white in color and shall not project onto adjacent property.

(14) The outside seating area shall be designated as a nonsmoking area. It shall be assumed that an outdoor dining area is a privilege and not a right. The city council or designee shall have the right to prohibit the operation of an outdoor dining area at any time because of anticipated or unanticipated problems or conflicts with the use of the sidewalk area. Such problems and conflicts may arise from, but are not limited to, scheduled festivals and similar events, parades, marches, or repairs to the street or sidewalk. To the extent that is possible, the permittee shall be given prior notice of any time period during which the operation of the outdoor dining area will be prohibited.

(15) As stated in subsection (d)(14) above, outdoor dining permits are to be considered a privilege and not a right. The outdoor dining permit may be revoked by the city council following notice of the permittee. Any lease for the use of the city's right-of-way shall include a provision authorizing the right of city to terminate such lease in accordance with this section. In the event the lease fails to include such a provision, the operation of outdoor dining in accordance with such an outdoor dining permit shall be deemed to grant consent of the applicant to the right of the city to terminate any lease in accordance with this section without the requirement for further amendment to such lease. The permit may be revoked if one (1) or more conditions outlined in this section have been violated, or if the outdoor dining area is being operated in a manner which constitutes a public nuisance not specifically outlined in the above article. Following the revocation of an outdoor dining permit, no application for the same site shall be filed within one (1) year from the date of revocation.

(16) The community development director, building official, code enforcement officer, or other person authorized by the city manager, shall be authorized to enforce provisions of this section and to take such action as may be necessary to ensure compliance with the regulations, general provisions or conditions imposed upon the outdoor dining permit.

(e) Sidewalks required. For significant new development and redevelopment involving more than two (2) acres of land, property owners shall be required to install sidewalks along their street-facing property lines. Except as provided otherwise herein, sidewalks shall be required on one (1) or both sides of all streets in accordance with the City of Neptune Beach Sidewalk Plan adopted from time to time by the city manager or their designee, subject to the following:

(1) Modification of sidewalk location. The public works director, or designee, shall be authorized to approve or require modifications in sidewalk locations to accommodate unique design characteristics or to protect existing trees or when there is a conflict between the required sidewalk and the provisions of this Code.

(f) Payment in lieu of construction.

(1) When not physically practical. Upon request of a building permit applicant, the public works director, or designee, shall be authorized to determine that construction of sidewalks is not physically practical. Examples of factors that may make sidewalk construction not physically practical include but are not limited to the following:

a. Existing physical impediments;

b. Substantial grade changes;

c. Trees;

d. Impending road/right-of-way construction;

e. Impacts on pedestrian network; and/or

f. A determination made by the public works director, or designee, that sidewalk construction is not physically practical.

(2) Sidewalk construction fund. If the public works director, or designee, determines that sidewalk construction is not physically practical, the permit applicant shall not be required to construct sidewalks. Instead, the permit applicant shall make a payment into the sidewalk construction fund to be established by the city prior to issuance of any permit for development of the site. Such payment shall be the equivalent of the per linear foot cost to the city for installing the sidewalk, based upon the usual cost to the city to install sidewalk at such time, using a six-inch minimum thickness of concrete for the driveway and a four-inch minimum thickness of concrete for the remainder of the parcel frontage. The city shall expend proceeds from the sidewalk construction fund for sidewalk construction only.

(g) Appeals.

(1) Any person desiring to appeal a determination issued by the public works director, or designee, is hereinafter referred to as "appellant." In order to secure administrative review under this subsection, appellant must file a written notice of appeal with the City of Neptune Beach City Manager within ten (10) calendar days of the decision sought to be appealed. A required processing fee, as established from time-to-time by the city manager, may be required with the notice of appeal in order to defray actual administrative costs associated with processing the appeal.

(2) All notices of appeal shall include a full explanation of the reasons for the appeal, specifying the grounds therefore, and containing any documentation which the applicant desires to be considered.

(3) Within thirty (30) days following the receipt of the notice of appeal, the city manager will review the submitted documents and any other relevant material. The thirty-day review period may be extended if additional information is needed from the appellant in order to render a decision. Upon completion of the administrative review, the city manager will provide a written response to the appellant.

(4) Appellant may appeal the determination of the city manager by filing a written notice of appeal to city council. Said filing shall be made with the city clerk for the city within fifteen (15) days following receipt of the city manager's determination. All notices of appeal to city council shall include a full explanation of the reasons for the appeal, specifying the grounds therefore, and containing any documentation which the applicant desires to be considered. The appeal shall contain the name and address of the person(s) filing the appeal and shall state their capacity to act as a representative or agent if they are not the owner of the property.

(5) The city clerk is responsible for scheduling the appeal before the city council and will provide at least ten (10) days' notice to the appellant of the date of the designated council meeting. Postponements of the city council appeal date may be granted by the city clerk if they are requested in writing at least ten (10) days in advance of the scheduled city council meeting date. When an appeal is scheduled before the city council, the appellant and the city staff shall each be given five (5) minutes for presentation at the meeting.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2005-20, § 1, 10-3-05; Ord. No. 2007-19, § 1, 12-3-07; Ord. No. 2009-11, § 1, 11-2-09; Ord. No. 2020-10 , § 1, 10-5-20)

Sec. 27-480. - Driveway aprons and pavement material.

(a) All motor vehicle access driveway aprons shall be surfaced with an approved type of concrete or asphalt pavement or similar structural course such as bricks or decorative pavers and shall extend to the curb when curbing is installed or to the curb line of the street where no such curbing exists.

(b) Gravel, crushed shell, and other nonasphaltic or nonconcrete driveways are permitted in residential and natural areas subject to approval by the city manager or designee. Wood chip driveways are expressly prohibited in zoning districts. Such aggregate materials shall follow the additional provisions to protect the adjoining roadway:

1. Have a minimum 8" wide mountable ribbon curbing or containment barrier along the entire joint between the aggregate and adjacent roadway or sidewalk to prevent intrusion of any loose material onto the adjacent roadway or sidewalk.
2. Be located a minimum of six (6) feet from any pond, stream, watercourse, lake, wetland, swale, retention system, detention system, stormwater inlet, curb inlet, or seawall to prevent the intrusion of any loose material or erosion into the waterway.
3. Have a maximum permissible width of 18 feet in the rights-of-way.

(Ord. No. 2004-10, § 1, 10-4-04)

Secs. 27-481—27-490. - Reserved.

ARTICLE XI. - UTILITIES

Sec. 27-491. - Reserved.

Sec. 27-492. - Generally.

This article establishes the standards and requirements for the provision of utilities including electricity, telephone, water, sewer, illumination, and fire hydrants.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-493. - Applicability.

Utilities are required for all developments as provided for herein.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-494. - Improvements constructed at expense of developer.

All necessary utilities shall be provided at the expense of the developer in conformance with this article. The developer may elect to request advertising for and receipt of contractor's proposals for construction of minimum improvements by the city, and the award and administration of construction contracts. The developer shall deposit with the city the entire cost of such improvements before the award of contracts. The developer shall have all engineering and design performed at his expense before advertising for bids.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-495. - Requirements for electricity.

Every principal use and every lot within a subdivision shall have available to it a source of electric power adequate to accommodate the reasonable needs of such use and every lot within such subdivision.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-496. - Requirements for telephone.

Every principal use and every lot within a subdivision shall have available to it a telephone service cable adequate to accommodate the reasonable needs of such use and every lot within such subdivision.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-497. - Requirements for potable water.

(a) *Central potable water required*. Every principal use and every lot within a subdivision shall have central potable water.

(b) *Water to be tested*. No subdivision lot shall be sold, nor buildings connected to the water system until the water system has been sterilized, tested, inspected, approved, accepted and connected to the municipal system. Bacteriological test results shall be acceptable to the state board of health. The system shall withstand a static test of twice the design pressure with a maximum leakage of four (4) gallons per inch of diameter per pound of test pressure per mile per day.

(c) *Design of system.* The system shall be designed to deliver an instantaneous demand at forty-five (45) pounds per square inch to the farthest connection, based on line losses in quantity and pressure delivered at the maximum hour of design from the connection to the city main. Population shall be calculated at the rate of two (2) persons per bedroom, but in no case less than ten (10) persons per acre, in residential developments.

(d) *Mains.* No water supply mains shall be constructed less than four (4) inches in diameter. Distribution mains through the subdivision shall be no smaller that the sizes stipulated in the city master water distribution plan. The city will reimburse the developer the difference in cost between six-inch mains and any larger diameter as required by the master plan, based on a pro rata share of the area developed to the area ultimately served by the main.

(e) *Fire protection.* The system shall be designed to supply the necessary fire demand in quantity and pressure with fire hydrant construction spaced as stipulated for the classification assigned to the city by the National Protection Association.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-498. - Requirements for sanitary sewer.

(a) *Central sanitary sewer required*. Every principal use and every lot within a subdivision shall have central sanitary sewer.

(b) *Approval, connection to municipal system*. No subdivision lot shall be sold, nor buildings connected to sanitary sewer until the sanitary sewer has been inspected, approved, accepted and connected to the municipal system. The system shall not exceed a rate of two thousand five hundred (2,500) gallons per mile per day of infiltration or exfiltration.

(c) *Size requirement.* Sanitary sewers shall be eight (8) inches minimum unless a larger size is stipulated by the city sewerage plan. Sewers, lift stations and force mains, including maximum and minimum grades, capacities and velocities, shall be designed to accommodate a peak flow of twice the average daily flow stipulated by the sewerage guide of the state board of health. In residential developments population shall be based on the rate of two (2) persons per bedroom, but no less than ten (10) persons per acre.

(d) *Pumping facilities*. Where the sewerage cannot be connected to the municipal system by gravity flow, a lift station with connecting force main must be constructed by the developer. If the city requires the developer to construct a lift station with a greater capacity than that required by the development, the city will reimburse the developer for a pro rata share of the cost of the lift station based on the ratio of area developed to the area ultimately served by the station. Where a lift station has been previously constructed, the developer shall reimburse the city, at the same ratio, for the cost of the same before connection.

(e) *Private treatment facilities*. Use of existing on-site wastewater treatment systems may remain in service until such time as central sewer is available within five hundred (500) feet of the property boundary, service is requested by the residents, or septic tank failures become known and identified. Such connection, when necessary, shall be made at the expense of the owner.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-499. - Requirements for illumination.

All roads, driveways, sidewalks, bikeways, parking lots and other common areas and facilities in developments shall provide sufficient illumination to ensure the security of property of persons using such roads, driveways, sidewalks, bikeways, parking lots and other common areas.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-500. - Placement of utilities underground.

(a) *Generally*. The following utilities shall be placed underground within easements or dedicated rights-of-ways and installed in accordance with this Code:

(1) All electric, telephone, cable television, and other communication lines (exclusive of transformers or enclosures containing electrical equipment including but not limited to, switches, meters, or capacitors which may be pad mounted);

(2) Gas distribution lines;

(3) Potable water distribution lines; and

(4) Sanitary sewer collection lines.

(b) *Abutting lots where overhead lines exist*. Lots abutting existing easements or public rights-of-way where overhead electric, telephone, or cable television distribution supply lines and service connections have previously been installed may be supplied with such services from the utilities' overhead facilities provided the service connection to the site or lot are placed underground.

(c) *Screening required*. Screening of any utility apparatus placed above ground shall be required as a condition of plan approval.

(d) *Minimum depth of underground utility placement*. Underground utilities shall be placed beneath the surface level of the ground at a depth of not less than eighteen (18) inches. In cases where, this minimum depth cannot, as a practical matter, be met, it shall be necessary for the building inspector to issue written authorization for such deviation. This authorization shall be freely given where conditions so warrant.

(e) *Provision of easements/rights-of-way*. Easements or rights-of-way of at least five (5) feet in width shall be provided, shown on the plat and dedicated.

(f) *Underground control*. All underground utilities, except telephone lines, shall utilize the Allen System of underground control or similar or equivalent system of marking, and shallow buried identifying tapes to prevent dig-in damage to the underground lines shall be placed at least six (6) inches under the surface of the ground and directly over a utility line installation so as to protect such lines and assure safety to workers and the public. The location of new buried telephone lines shall continue to be marked as appropriate, using concrete upright or flush-type markers or by the use of visible warning decals places on above ground enclosures; taking into account pedestrian and automobile traffic in the selection of the marker to be used.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-501. - Utility easements.

When a developer installs or causes the installation of water, sewer, electrical power, telephone, or cable television facilities and intends that such facilities shall be owned, operated, or maintained by a public utility or any entity other than the developer, the developer shall transfer to such utility or entity the necessary ownership or easement rights to enable the utility or entity to operate and maintain such facilities.

(Ord. No. 91-1-5, § 2, 5-6-91)

Secs. 27-502—27-510. - Reserved.

ARTICLE XII. - STORMWATER MANAGEMENT AND EROSION CONTROL

Sec. 27-511. - Reserved.

Sec. 27-512. - Generally.

This article establishes standards for stormwater management and erosion and sediment control and describes the administration and enforcement of these provisions.

(Ord. No. 91-1-5, § 2, 5-6-91; Ord. No. 2013-02, § 1, 6-10-13)

Sec. 27-513. - Applicability.

This article applies to all development within the city.

(Ord. No. 91-1-5, § 2, 5-6-91)

Sec. 27-514. - Findings of fact.

The city council finds that:

(1) Increased stormwater runoff may cause erosion, sedimentation, and pollution of ground and surface water with a variety of contaminants such as heavy metals and petroleum products.

(2) Stormwater runoff often contains nutrients, such as phosphorus and nitrogen, which adversely affect flora and fauna by accelerating eutrophication of receiving waters.

(3) Erosion silts up waterbodies, decreases their capacity to hold and transport water, interferes with navigation, and damages flora and fauna.

(4) Installation of impervious surfaces increases the volume and rate of stormwater runoff and decreases groundwater recharge.

(5) Improperly managed stormwater runoff increases the incidence and severity of flooding and endangers property and human life.

(6) Improperly managed stormwater runoff alters the salinity of estuarine areas and diminishes their biological productivity.

(7) Degradation of ground and surface waters imposes economic costs on the community.

(8) Improperly managed stormwater adversely affects the drainage of off-site property.

(Ord. No. 91-1-5, § 2, 5-6-91; Ord. No. 2013-02, § 2, 6-10-13)

Sec. 27-515. - Purpose and intent.

The provisions of this article shall be implemented to achieve the following intentions and purposes of the city council:

(1) To protect and maintain the chemical, physical and biological integrity of ground and surface waters.

(2) To prevent activities which adversely affect ground and surface waters.

(3) To encourage the construction of stormwater management systems that aesthetically and functionally approximate natural systems.

(4) To protect natural drainage systems.

(5) To minimize runoff pollution of ground and surface waters.

(6) To maintain and restore groundwater levels.

(7) To protect and maintain natural salinity levels in estuarine areas.

(8) To minimize erosion and sedimentation.

(9) To prevent damage to wetlands and property.

(10) To protect, maintain, and restore the habitat of fish and wildlife.

(11) To comply with the city's National Pollution Discharge Elimination System (NPDES) municipal separate storm sewer system (MS4) permit requirements.

(Ord. No. 91-1-5, § 2, 5-6-91; Ord. No. 2013-02, § 3, 6-10-13)

Sec. 27-516. - Definitions.

Definitions are found in Article I.

Sec. 27-517. - Exemptions.

The following development activities are exempt from these stormwater requirements, except the steps to control erosion and sedimentation and the flood zone requirements in subsection 27-519(q) which must be taken for all development:

(1) Maintenance activities that will not change, alter or affect the quality, rate, volume or location of stormwater flows on the site or of stormwater runoff.

(2) Action taken under emergency conditions to prevent imminent harm or danger to persons, or to protect property from imminent fire, violent storms, hurricanes or other hazards. A report of the emergency action shall be made to the city manager as soon as practicable.

(3) The subdivision of an existing property to two (2) or more parcels shall not qualify for an exemption and shall be considered part of a common plan of development or sale.

(4) One (1) accessory structure less than 250 square feet of gross floor area in any residentially zoned property on a single parcel of land. Additional accessory structures on the same parcel of land and accessory structures exceeding 250 square feet are required to provide stormwater mitigation.

(Ord. No. 91-1-5, § 2, 5-6-91; Ord. No. 2013-02, § 5, 6-10-13; Ord. No. 2014-12 , § 1, 7-7-14)

Sec. 27-518. - Permits needed before issuance of development order.

All nonexempt development shall receive all appropriate permits from federal and state agencies such as the United States Environmental Protection Agency (EPA), the U.S. Army Corps of Engineers (USACOE), the Florida Department of Environmental Protection (FDEP), and the St. Johns River Water Management District prior to commencement of land disturbing activities.

(Ord. No. 91-1-5, § 2, 5-6-91; Ord. No. 1998-31, § 1, 12-7-98; Ord. No. 2013-02, § 6, 6-10-13)

Sec. 27-519. - Stormwater requirements.

(a) *Compliance with state and other regulations.* All sites, facilities, and stormwater management systems shall comply with the applicable rules of the Florida Department of Environmental Protection (Ch. 62-330, F.A.C., Ch. 62-621.300, F.A.C., and Ch. 62-624 F.A.C and rules and handbooks of the St. Johns River Water Management District (Ch 40C-4 F.A.C., Ch. 40C-40 F.A.C., Ch. 40C-41 F.A.C., Ch. 40C-42 F.A.C., Ch. 40C-400 F.A.C.). These rules and handbooks are hereby incorporated by reference but shall not supersede the city's ordinances.

(b) *Conveyance system design*:

(1) The rational method utilizing the FDOT storm tabulation method shall be used unless otherwise approved by the city manager or designee.

(2) A minimum time of concentration of ten (10) minutes shall be used.

(3) For minor collection systems, driveway culverts, side drains and subdivision storm sewers the five-year frequency storm shall be used.

(4) For outfalls from stormwater management systems such as retention or detention systems and cross drains the twenty-five-year frequency storm shall be used.

(5) The minimum acceptable pipe velocity is 2.5 feet per second (fps) flowing full. If this is a physical impossibility, an absolute minimum hydraulic velocity of 2.0 fps for full flow should be obtained with the prior approval of the city manager or designee.

(6) The maximum velocity shall be kept below ten (10) fps.

(7) The maximum allowable velocity at the point of discharge is 2.5 fps unless energy dissipation is provided. If the outfall discharges into a still body of water, submergence of the outfall by at least two-thirds of the diameter may be considered as energy dissipation.

(8) When hydraulic calculations do not consider minor energy losses, the elevation of the hydraulic gradient for the design storm condition should be at least 1.0 feet below the gutter, grate elevation or ground elevation. Minor losses will be considered when the hydraulic gradient velocity exceeds six (6) feet per second or lower on critical systems. When minor losses are calculated, it will be acceptable for the hydraulic gradient to reach two-tenths of a foot (0.2') below the gutter elevation, grate elevation, or ground elevation.

(c) *Stormwater management facilities:* All stormwater management facilities such as detention and retention systems shall be designed and constructed to control the mean annual, five (5) year frequency twenty-four-hour duration and the twenty-five (25) year frequency twenty-four-hour duration storm events. All stormwater management facilities shall have a positive discharge and outfall except as approved by the city manager or designee. All stormwater management facilities intended for dedication to the city shall provide a minimum twelve (12) feet of clear access on all sides suitable for maintenance vehicles except as approved by the city manager or designee. Project sites less than five (5) acres may use either the rational method or a soils conservation service (SCS) method. Project sites five (5) acres and greater shall use a SCS method. SCS methods shall use the Type II Florida Modified Distributions with rainfall amounts from the St. Johns River Water Management District Technical Publication SJ88-3. All stormwater management facilities must recover to its design low water stage within seventy-two (72) hours. To provide the city with assurances, case permeability test must be performed for every 0.5 acres of retention area and at each retention location at the same elevation as the proposed bottom of the basin and a safety factor of two (2) shall be applied to the design. A groundwater mounding analysis shall be required to demonstrate recovery of all retention areas. All

stormwater management systems shall have a one-foot minimum freeboard required at all points for all required storm events and shall have an emergency overflow which will direct the water to a suitable drainage system. Banks shall be sloped no greater than one (1) unit vertical to five (5) units horizontal, unless privately owned and permanently fenced, in which case the slope may be increased to one (1) vertical per three (3) horizontal units. Steeper slopes shall be bulkheaded with nondeteriorating materials of sufficient strength to support the active and passive earth pressures retained. Pumps used for stormwater shall not be allowed for facilities intended for dedication except as approved by the city manager or designee. Stormwater pumps, force mains and appurtenances shall be maintained and owned by the property owner or homeowners' association and shall not be intended for dedication to the city. Underground stormwater management facilities such as vault or chamber-type systems shall have suitable provisions for inspection, maintenance, and cleaning. Underground stormwater management facilities shall be maintained and owned by the property owner or homeowners' association and shall not be intended for dedication to the city.

(d) *Streets and road drainage:* Curbs and gutters shall be constructed along the edges of all street pavements for all new development and redevelopment. The distance between curb inlets shall not exceed five hundred (500) feet. The capacity of standard curb inlets shall be no more than 3.5 cubic feet per second (cfs) per throat unless otherwise approved by the city manager or designee. The minimum gutter slope shall be at least 0.005 ft/ft. The city manager or designee may allow, with prior approval, the use of ribbon curb to accommodate roadside swales when used as part of a low impact developments (LID) project that incorporate reduction in flow and volume of stormwater, increase in natural hydrology, and adherence to the principles of the Florida Yards and Neighborhoods Program in new landscaping. The maximum side slope for these swales shall be 3:1, the maximum allowable velocity shall be two (2) fps unless soil conditions indicate a lower velocity or structural erosion control protection is provided, and a minimum shoulder width of six (6) linear feet is provided. Rights-of-way with streets and roads without curb and gutter shall be private and will not be dedicated to the city.

(e) *Attenuation:* All new developments and redevelopments shall be required to attenuation both peak discharge rate and volume to the historical pre-development flow rates and volume of discharge for the mean annual storm event, five-year frequency twenty-four-hour duration storm event and the twenty-five-year frequency twenty-four-hour duration storm event.

(f) *Stormwater treatment:* All new developments and redevelopments shall provide treatment that meets or exceeds the minimum level of stormwater treatment in Chapter 62-40.432(2), F.A.C. and the applicable design criteria for stormwater management systems established in the rules and handbooks of the SJRWMD. The level of treatment for all new developments and redevelopments located within a basin that discharges to a state listed impaired waterbody shall be equal to "net improvement" as required by Section373.414(1)(b)(3). This means that the post-development stormwater pollutant loading for the pollutant causing the impairment must be less than the existing stormwater pollutant loading from the site. Pervious and semi-impervious pavements are required to provide treatment. Additional treatment may be required to comply with other state or federal agencies. All new developments and redevelopments shall provide provisions to prevent the escape of floatable materials prior to discharge from the site.

(g) *Illicit discharges and illicit connections:* non-stormwater discharges, illicit discharges, and illicit connections such as the discharge of spills and the dumping or disposal of materials other than stormwater into stormwater systems and the city's municipal separate storm sewer systems (MS4) shall be prohibited.

(h) *Stormwater related inspections:* All properties and facilities contributing to or discharging into the city's MS4 shall grant city personnel access to the property, buildings, and the facilities to perform inspections, surveillance, and monitoring procedures necessary to determine compliance with the city's MS4 permit.

(i) *Adjacent impacts:* All new developments and redevelopments shall provide assurance that adjacent or nearby properties not owned or controlled by the applicant will not be adversely affected by drainage or flooding.

(j) *Private stormwater systems:* All new developments, major redevelopments, and residential properties abutting, adjoining, or adjacent to the marsh with private stormwater systems and facilities shall designate an operation and maintenance entity in accordance with the requirements of the SJRWMD that is capable of effectively operating and maintaining such systems and facilities.

(k) *Low maintenance zone:* Shall be a minimum of six (6) feet from any pond, stream, watercourse, lake, wetland, swale, retention system, detention system, stormwater inlet, curb inlet or seawall. Appropriate vegetation shall be selected, planted, and maintained to minimize fertilization, watering, erosion, and mowing. Floatable materials such as mulch shall be prohibited in the low maintenance zone. Initial planting shall achieve at least seventy-five (75) percent coverage and shall achieve a ninety-five (95) percent coverage within the first six (6) months after planting to prevent erosion. All exposed soil shall be stabilized to prevent erosion. Cut vegetative material or yard debris shall be not be deposited or left remaining in the low maintenance zone. Fertilizers shall only be minimally used when a soil test and leaf tissue test demonstrate that nutrients are needed for the vegetation to grow and survive. Herbicides, aquatic weed control, and pesticides shall not be used in the low maintenance zone.

(l) *Storm sewers and culverts:* For all storm sewers, driveway culverts, cross drains and side drains within rights-of-way and intended for dedication to the city shall use reinforced concrete pipe (RCP) class III, IV, or V, precast box culverts, or built-in-place concrete box culverts, terminating with headwalls, mitered end sections, or flared end sections or as approved by the city manager or designee, and shall have a minimum pipe size of fifteen (15) inches round or fifteen (15) inches elliptical equivalent. All storm pipes in paved areas shall have a minimum cover of eighteen (18) inches from the top of the bell to the bottom of the pavement base. All storm pipes in unpaved areas shall have a minimum cover of eighteen (18) inches from the top of the bell to the finished grade. The maximum length of pipe without an access structure shall be four hundred (400) feet. Joints and joint material for reinforced concrete pipe shall be "O-ring" for round pipe or "ram-nek" for elliptical pipe and shall include a twenty-four-inch band of filter fabric (one (1) foot on each side of joint) wrapped around each joint for all storm sewers intended for dedication to the city. Driveway culverts and cross drains shall extend a minimum of eight (8) feet on each side beyond the edge of pavement of the road. Driveway culverts and side drains not intended for dedication that will be privately maintained may use alternate pipe materials when approved by the city manager or designee. Upon completion of installation, the contractor shall test all flexible pipe for deflection. Pipe deflection shall not exceed five (5) percent. Testing equipment and test supervision will be provided by the contractor. Testing will be done using a mandrel having a diameter equal to ninety-five (95) percent of the inside diameter of the pipe. The test shall be performed without mechanical pulling devices or re-rounders. Any device for measuring deflection must be approved by the city manager or designee. Side drain applications, for lengths less than forty (40) feet, visual inspection methods, such as lamp testing, for deflection may be allowed.

(m) *Operation and maintenance assurances:* The legal maintenance entity shall ensure that the "operation and maintenance inspection certification" as required by the SJRWMD is completed in a timely manner, and a copy is maintained on-site and made available to city inspectors upon request.

(n) An owner of land that has historically received natural drainage discharges from adjacent higher lands shall be obliged to continue to receive and convey such flows, but the owner of the higher land shall not change the manner, peak flow rates, or location of such historical naturally occurring drainage flows without the express written approval of the owner of the lower land. No obstruction to existing drainage will be permitted unless approved by the city manager or designee. This includes flow in streams, ditches, overland flow, underground flow, flow in pipes, or flow in floodplains. When a development or redevelopment constructs a drainage system to accept the private off-site upstream drainage, unless dedicated and accepted by the city, the property owner, the homeowners' association, or other acceptable entities as approved by the city, shall maintain the system. Drainage systems downstream of a proposed development or redevelopment shall have the capacity or hydraulic gradient to accept the proposed developments discharge, or that the proposed development improves the downstream drainage system. The city shall not be liability for any damage, drowning or any other personal damages caused by flooding, drainage or discharges including, but not limited to, blockage, dam failure, conveyance failure, structural failures, maintenance issues, washouts, erosion or excess flow. When downstream conditions will not accept runoff from the appropriate storm-existing conditions or other special instances, the development will be required to provide a drainage system which will not increase flooding downstream. Accordingly, the city manager or designee may require the developer to analyze the downstream drainage system.

(1) If there are known flooding problems, approval of off-site stormwater discharge shall be based on:

a. Maintaining existing peak discharge(s) and stage-discharge relationship(s) at the site discharge location(s) as well as the timing, duration, and volume of existing off-site discharge(s);

b. A demonstration that peak discharge(s) and volume release(s) from the site will not increase flood stages or velocities off-site; or

c. Providing improvements along entire discharge path (in recorded easements, unless approved otherwise by the city manager or designee) to the receiving waters.

(2) Known flooding problems are those which pose an imminent threat to public safety and/or property including loss of human life, blockage of evacuation and/or emergency vehicle routes, and/or flooding of homes, buildings, or roadways as evaluated by the following criteria:

a. Home/building flooding for any storm;

b. Overtopping existing conveyance ditches and swales;

c. Insufficient or lack of positive outfall;

d. Closed basins or standing water in areas or conveyances for more than twenty-four (24) hours after an event.

e. Impaired, existing, off-site conveyance systems not designed to handle larger storms flows.

f. Roads being overtopped by flood stages based on the appropriate design event and over topping of the roadway of greater than one (1) foot based on the 100-year, twenty-four-hour event; or

g. Roads being overtopped by flood stages based on the appropriate design event and over topping of the roadway of greater than one-tenth of a foot based on the 25-year, twenty-four-hour event; or

h. Road being closed to traffic due to flooding; or

i. Greater than one-half of a foot per one hundred (100) feet of head loss across a stormwater conveyance structure for the appropriate design events.

(o) *Soil borings:* Shall be required for all stormwater management systems including all retention and detention systems and will include one (1) boring per 0.5 acres of system surface area. A minimum of one (1) boring will be required for each stormwater management facility location. The boring shall be taken to a depth at least fifteen (15) feet below the stormwater management facility bottom, and shall include information to show confining layers, encountered groundwater levels, and wet season high-water elevations.

(p) The minimum finish floor elevation shall be eighteen (18) inches for habitable living spaces, above the crown of the road in front of the building. However, the minimum building elevation may be higher in special flood hazard areas where base flood elevations have been established and on land affected by the coastal construction control line; see subsection (q) below and chapter 30. Unless special drainage or floodproofing measures have been put in place, subject to approval by the City Manager or designee, the minimum garage floor elevation shall be four (4) inches above the crown of the road in front of the building, with the driveway sloping down and away from the garage entry.

(q) *Flood zone and flood-prone areas:* (Also see chapter 30, and refer to definitions in article I of chapter 27.)

(1) Any site (including residential lots) adjacent to a stream or river must be evaluated to assure that no blockage occurs in the floodplain. In the event a 100-year flood zone, as shown on current FIRM MAPS, or delineated by the best available data, or ten-year flood zones indicated in current Flood Insurance Study data or by other best available data is to be filled.

a. Adequate storage area must be provided to hold the same quantity of water that the flood area did prior to filling;

b. Certain channel and improvements downstream must be made to compensate for any storage denial; or

c. A combination of No. 1 and 2 unless otherwise approved by the city manager or designee.

Flood-prone areas shall have adequate drainage provided to accommodate stormwater if flood-prone areas are filled. This could be in the form of alternate water storage areas, improvements, or combination of these or other basin changes. Approval from any local, State of Florida, or U.S. Government agency is required, and copies forwarded to the city within ten (10) days after commencement of construction on the affected area.

(2) In special flood hazard areas where base flood elevations have been established, such as Zones VE and AE, the lowest floor of residential and nonresidential structures shall be elevated to or above the base flood elevation plus two (2) feet. In V Zones, the elevation requirement is measured from the bottom of the lowest horizontal structural member.

(3) In special flood hazard areas where base flood elevations have not been established, such as Zone AO, the lowest floor shall be elevated to the depth number specified on the FIRM plus one (1) foot prior to the placement of fill. If no depth number is specified, the lowest floor including the basement, shall be elevated, at least three (3) feet above the highest adjacent natural grade prior to the placement of fill.

(4) Where the special flood hazard area is immediately adjacent to a "floodway" a more stringent base flood elevation is shown in the Flood Insurance Study. Where flood studies have produced floodways that provide a flood elevation based upon the floodway encroachment, these elevations are listed in the "With Floodway" column in the Floodway Data Table in the community's Flood

Insurance Study. These higher elevations shall be used as the BFE for that area, and then the freeboard requirement stated above shall be applied.

(r) *Drainage easements:* Easement width for drainage pipe shall be twenty-five-foot minimum for five (5) feet of cut or less and two (2) feet additional width for each additional foot of cut below five (5) feet. The pipe shall be located in the center part of any easement. The city shall require unobstructed easements or rights-of-way along rear or side lot lines where necessitated by maintenance requirements. This criterion does not apply for private easements. All stormwater management facilities are to be owned and maintained by the legal operation and maintenance entity as required by the SJRWMD. Rights-of-way or easements must continue through all stormwater management systems. Littoral zones and wetland mitigation areas shall not be located within city easements. Such rights-of-way or easements shall include a hold harmless agreement and a twenty-foot minimum access easement to control structures via land.

(s) *Hold harmless:* A "hold harmless" agreement must be executed and approved by the city which will relieve the city of any responsibility of any liability for any damage caused by flooding, including but not limited to, blockage, dam failure, and excess flow, drowning or any other personal damages, and for maintaining all privately owned and operated stormwater management systems. The agreement shall be shown on the final plat.

(t) *Groundwater:* In accordance with the test boring data obtained and considering anticipated groundwater changes due to drainage improvements, underdrain shall be installed in all cases where the groundwater table is closer than twenty-four (24) inches below the lowest finished bottom elevation of road base coarse for any roadway. The "iron-oxide" lens in the soil may be used as an indicator of the usual high pre-development groundwater elevation. Should underdrain quantities be adjusted in the field during construction the developer's engineer shall revise the construction plans accordingly and submit revised signed and sealed plans to the city. The size of the underdrain required shall be determined using accepted engineering practices. The minimum size acceptable is six (6) inches in diameter, and the minimum slope shall be 0.004 ft/ft.

(u) *As-built or record drawings:* "As-built" or record drawings signed and sealed by a Florida registered professional must be submitted and approved for all stormwater management and collection systems intended for dedication.

(v) Additional criteria may be added by the city as deemed appropriate on a site-by-site basis by the city manager, city engineer, city council or designee.

(Ord. No. 91-1-5, § 2, 5-6-91; Ord. No. 1998-31, § 1, 12-7-98; Ord. No. 2013-02, § 7, 6-10-13)

Sec. 27-520. - Erosion and sediment control.

(a) Where the natural cover or topography of the site has been altered or otherwise disturbed, all necessary erosion and sediment control measures shall be used to retain sediment on-site and to prevent violations of water quality standards as specified in Chapter 62-302, F.A.C. The developer must provide an erosion and sediment control plan that is based on the appropriate best management practices (BMPs) for erosion and sediment control as described in the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (June 2010) and the Florida Stormwater, Erosion, and Sediment Control Inspector's Manual (latest edition). These rules and manual are hereby incorporated by reference but shall not supersede the city's ordinances.

(b) *All land disturbing activities:* Erosion and sediment control and tree protection measures shall be installed prior to any other construction activity and maintained until permanent groundcover is

established. The escape of sediment from the site shall be prevented by the installation of erosion and sediment control BMPs prior to, or concurrent with land disturbing activities. Erosion control measures will be maintained at all times. If full implementation of the plan does not provide for effective erosion control, additional erosion and sediment control measures shall be implemented to control or treat the sediment source by the contractor as needed. Land disturbing activities shall minimize the extent of the area exposed at one time and the duration of exposure. Effective erosion control measures shall be implemented to prevent off-site damage at all times during land disturbing activities. Perimeter control practices shall protect the disturbed areas from off-site runoff and to prevent sedimentation damage to areas below the development site. Low runoff velocities shall be maintained. All disturbed areas shall be stabilized immediately after final grade has been obtained.

(c) *Land disturbing activities of one (1) acre or more:* All projects disturbing one (1) or more acres of land, or, in for projects within a common plan of development or sale such as a subdivision cumulatively disturbing one (1) or more acres, must obtain coverage under FDEP's Generic Permit for Stormwater Discharge from Large and Small Construction Activities, also known as a construction generic permit (CGP) pursuant to Ch. 62-621.300, F.A.C. The notice of intent (NOI), any correspondence, the acknowledgement letter granting coverage under the CGP, a copy of the CGP, erosion control plans, stormwater pollution prevention plan (SWPPP), and all completed inspection forms and other documentation required by the CGP shall be available at the site at all times and made available to the city manager, city inspectors, or designee until land disturbing activities have been completed. The contractor shall have at least one (1) person on-site at all times during work activities certified through the Florida Stormwater, Erosion and Sedimentation Control Inspector Training Program.

(d) Land disturbance activities that encounter work interruptions of fourteen (14) days or more shall stabilize all disturbed areas.

(e) No certificate of occupancy shall be granted until all disturbed areas have final stabilization activities completed.

(Ord. No. 91-1-5, § 2, 5-6-91; Ord. No. 2013-02, § 8, 6-10-13)

Secs. 27-521—27-530. - Reserved.

ARTICLE XIII. - PARKING AND LOADING[16]

Sec. 27-531. - Reserved.

Sec. 27-532. - Generally.

This article establishes minimum requirements and design standards to ensure safe storage for motor vehicles, bicycles, and other permitted mobility devices consistent with good engineering and development design practices. All new uses and structures as well as expanded structures and uses as provided in this article, shall meet all requirements contained in this section for off-street parking and loading. Where fractional spaces result from parking space requirement calculations, the parking space required shall be rounded to the nearest whole number.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-533. - Applicability.

Parking and loading facilities shall be provided for all new developments and when a structural alteration in an existing building produces an increase in intensity of use (e.g. more dwelling units, guest rooms, or seating capacity) or when there is a change from less intensive uses to more intensive uses (e.g. strip commercial to medical office or storage facility to restaurant/dining) within the city pursuant to the requirements of this Code. The facilities shall be maintained as long as the use exists that the facilities were designed to serve.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-534. - Findings of fact.

The city council finds that:

(1) Off-street parking and loading of vehicles promotes the public safety and welfare by reducing traffic congestion.

(2) Well-designed off-street parking and loading areas promote the safe and efficient storage, loading and circulation of vehicles.

(3) Deferring the construction of some parking areas pending determination of the actual need for parking spaces and taking into account public demand and the size of vehicles to be parked, conserves open space and developable land, and reduces the expense and hazard of controlling stormwater runoff.

(4) Allowing the use of porous paving materials and unpaved parking areas whenever possible conserves water and energy, moderates the microclimate, and reduces the expense and hazards of controlling stormwater runoff.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-535. - Purpose and intent.

The provisions of this article shall be to regulate and ensure the provision of adequate parking and access for bicycles and motor vehicles. The section also provides options for adjusting parking requirements and providing parking alternatives. These standards ensure that the parking needs of new land uses and development are met, while being designed and located in a manner consistent with community standards and good engineering and site design principles.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-536. - Definitions.

Refer to article I for definitions.

Sec. 27-537. - General provisions.

(a) *Continuation.* Off-street parking or off-street loading facilities shall be maintained and continued so long as the main use continues.

(b) *Multiple use of off-street parking or loading facilities.* No part of required off-street parking or loading facilities provided in connection with one (1) structure or use shall be used to meet the requirements for another structure or use, except where a specific provision to the contrary is made in this Code.

(c) *Existing uses.* The following provisions apply to existing buildings and uses:

(1) *Repair.* Conforming structures and uses that existed as of the effective date of this Code may be modernized, altered, or repaired without providing additional off-street parking or off-street loading facilities, provided there is no increase in area or capacity.

(2) *Enlargement.* Where conforming structures and uses that existed as of the effective date of this Code are increased in capacity by adding dwelling units, rental units, floor area, volume, capacity, or space occupied, off-street parking and off-street loading shall be provided so that the total spaces fulfill the current requirements specified in this article.

(3) *Change in use.* The change in use of a conforming or nonconforming structure or use existing as of the effective date of this Code, shall require additional off-street parking or off-street parking requirements which would have been required for the new use had the parking regulations been applicable thereto. However, if documentation can be provided verifying a valid business tax receipt for the most previous use has not expired for more than three (3) consecutive years, credit shall be given for the required parking related to that use. Any development that requires more than six (6) parking space credits shall be considered a special exception and subject to the criteria for parking requirements within four hundred (400) feet of the principal structure.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-538. - Reserved.

Sec. 27-539. - Submission of plans.

A plan shall be submitted with every application for a building permit for any building or use that is required to provide off-street parking or loading. The plan shall accurately designate the required parking or loading spaces, access aisles, and driveways, and the relationship of the off-street parking or loading facilities to the uses of structures such facilities are designed to serve. No permits shall be issued for any parking lot until the plans and specifications, including required landscaping, materials, and storm drainage, have been submitted to and approved by the city manager or designee as per the development plan review process in Article III. These plans and specifications shall include proper drainage and stormwater retention, surface materials, curbing and screening as required, clearly marked and dimensioned, with ADA-accessible and other special use spaces designated. All entrances, exits and aisles shall be dimensioned, with the traffic pattern indicated.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 48, 9-7-10)

Sec. 27-540. - Parking requirements.

(a) *Minimum number required.* The minimum number of off-street automobile parking spaces that must be provided shall conform to the requirements as provided for in Table 27-540-1. Where a combination of uses is developed, parking shall be provided for each of the uses as prescribed, unless a reduction is granted pursuant to section 27-546.

(b) Exemptions. The community development board may exempt, in whole or in part, any historically significant property from the provisions of this Article, provided that the exemption is needed to allow a viable use of the structure and does not contribute to a severe parking shortage or to severe traffic congestion. If appropriate, the community development board may require off-site parking within four hundred (400) feet of the premises. Any parking facilities provided shall meet the specific dimensional

and design requirements contained in this section. All exemptions approved by the community development board shall also be approved by the City Council.

(c) *Parking reductions.* The community development board may grant a reduction in the parking requirements set forth in this section in the following cases:

1. *Parking reduction in the Central Business District (CBD).* Given the minimum number of off-street parking spaces required in Table 27-540-1 the parking requirement calculated for any uses permitted or permitted by special exception in the CBD zoning district shall be reduced by fifty (50) percent. This parking reduction shall only apply to non-ADA parking space requirements. Property owners shall still have to provide the total number of ADA spaces required per Table 27-540-1.

2. *Bicycle parking reductions in the Central Business District (CBD) and Neighborhood Center (NC) Overlay.* The vehicular parking requirement calculated for any uses permitted or permitted by special exception in the CBD zoning district or NC overlay shall be reduced at a rate of one (1) percent for every two (2) bicycle parking spaces provided above the minimum requirements in Sec. 27-542, for a maximum parking reduction of five (5) percent (or ten additional bicycle parking spaces). This reduction can be applied on top of the CBD parking reduction described in above. Bicycle parking spaces must be wholly contained within the property boundaries in order to qualify for this reduction.

3. Reduction for mixed or joint use of parking spaces. The City Council, after review from the community development board, may authorize a reduction in the total number of required parking spaces for two (2) or more uses jointly providing off-street parking when their respective hours of need of maximum parking do not normally overlap, provided that:

    i. The developer submits sufficient data to demonstrate that hours of maximum demand for parking, calculated using the Institute of Transportation Engineers (ITE) manual for peak trip generation, at the respective uses do not normally overlap

    ii. The developer submits a joint parking agreement guaranteeing the joint use of the off-street parking spaces as long as the uses requiring parking are in existence or until the required parking is provided elsewhere in accordance with the provisions of this Code. (Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 52, 9-7-10)

        a. If, and when, a joint agreement ends, then both properties shall come into compliance with the required parking standards of this code.

        b. If either party decides to end, alter, amend, or pause the joint parking agreement, the city shall be notified in writing of such changes.

            1. Failure to notify the city of any amendments or termination of the joint parking agreement is subject to revocation of any business tax receipts, leases, alcohol licenses, or any other legal instrument in which the city has jurisdiction.

    iii. The development submits a scaled site plan for parking areas.

(d) Parking Calculations. The following criteria shall contribute to the calculation of the minimum number required in addition to provisions found in Table 27-540-1:

1. *Compact space allocation.* A maximum of ten (10) percent of the calculated required parking spaces may be for compact cars, golf carts, or low-speed vehicles. If any parking spaces required

are deferred the provision of compact spaces shall be prorated based on the entire parking requirement.

2. *Calculating number of employees*. For the purpose of calculating off-street parking requirements, the number of employees shall be the largest number of employees at any given period. (Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 49, 9-7-10)

3. *Number required for uses not listed*. The number of parking spaces required for uses not specifically listed in the matrix shall be determined by the Community Development Board. The Board shall consider requirements for similar uses and appropriate traffic engineering and planning data and shall establish a minimum number of parking spaces based upon the principles of this Code.

4. *Maximum number of spaces for shopping center*. The maximum number of parking spaces provided for a shopping center use may not exceed the minimum requirements by more than twenty-five (25) percent or thirty (30) spaces, whichever is less.

(e) *Off-site parking*. All required off-site parking spaces and the use they are intended to serve shall be located on the same parcel; provided, however, that the City Council as a special exception, with a recommendation by the Community Development Board, may allow the establishment of off-site or remote off-street parking facilities, provided that all of the following conditions are met:

1. Practical difficulties prevent the placement of the required parking spaces on the same lot as the premises they are intended to serve

2. The off-site parking spaces are located within four hundred (400) feet of the premises they are intended to serve.

3. The off-site parking spaces are located within the same zoning district classification as the premises which the parking spaces will serve, or a classification allowing business or commercial activities.

4. The off-site parking spaces are not located in any residential district

5. The location of the off-site parking spaces will adequately serve the use for which it is intended.

6. The location of the off-site parking spaces will not create unreasonable:

   i. Hazards to pedestrians

   ii. Hazards to vehicular traffic.

   iii. Traffic congestion

   iv. Interference with access to other parking spaces in the vicinity

   v. Detriment to any nearby use.

   vi. The developer supplies a written agreement, approved in form by the city attorney, assuring the continued availability of the off-site parking facilities for the use they are intended to serve.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 49, 9-7-10)

Sec. 27-541. - Payment in-lieu of providing off-street parking in the Central Business District.

In order to facilitate the improvement and redevelopment of properties in the Central Business District (CBD) in a manner that is consistent with the existing character of the neighborhood, the owner of a property may request a waiver for a portion or all of the required non-ADA off-street parking spaces through payment of a fee-in-lieu of providing required parking pursuant to section 27-540. Any required ADA spaces must still be provided on-site. Requests to use the payment-in-lieu of parking fee for alternative compliance with the off-street parking requirements shall be submitted to the community development department and may be reviewed by the Community Development Board and the Community Development Director, as applicable.

(a) ***Fee calculation.*** The amount of the payment to the payment-in-lieu of parking program shall be determined by the average cost to the city for the construction of a parking space in a parking structure or parking area on a program wide basis which shall be determined by the director of finance in coordination with the public services director and the community development director. The average cost shall include actual costs and fees for land acquisition, design and planning, legal, engineering, actual construction, and permit review and inspection. Additionally, the fee shall be calculated and paid for all required parking spaces for the use to receive a reduction in the number of parking spaces required.

(1) ***New construction and substantial improvements, payment in full required.*** For new construction and substantial improvements to existing construction as defined in section 27-15, the Payment-in-Lieu of Parking fee shall be satisfied by two (2) equal payments as determined by the Community Development Department fee adopted by separate City Council resolution and updated from time to time. The first payment shall be made to the Community Development Department prior to issuance of a building permit for a principal building or structure on the lot. The second payment shall be made prior to the issuance of the first certificate of occupancy. New construction and substantial improvements to existing construction shall not be qualified to participate in a payment in lieu of parking fee agreement.

(2) ***Existing structures.*** When expansion, alteration or rehabilitation, or change of use of an existing structure which does not meet the definition of a substantial improvement to existing construction as defined in section 27-15 results in an increased parking requirement as determined in accordance with the Code, the in-lieu fee shall be satisfied by one of the following methods:

a. Two (2) equal payments as set by the Community Development Department fee schedule as adopted from time to time by resolution (certificate of use shall be substituted for certificate of occupancy for change of building use triggering an increase in parking requirements). Applicants who are required to contribute in lieu of one (1) parking space must pay in full prior to the issuance of a certificate of use or a certificate of occupancy (whichever comes sooner).

b. For applicants qualified to participate in an in-lieu of parking fee agreement, the amount due may be spread out into monthly payments for up to two (2) years pursuant the agreement requirements and payment plan detailed in subsections (b) and (c) below.

(b) ***In-lieu of parking fee agreement***. Existing structure applicants who are required to contribute in lieu of two (2) or more required parking spaces but will not pay the entire in-lieu fee due prior to issuance of the certificate of occupancy or certificate of use, must enter into an in-lieu of parking fee agreement with the city. The executed agreement shall be recorded by the community development department prior to the issuance of the certificate of occupancy or certificate of use, as applicable. The obligations

imposed by the agreement shall constitute a restrictive covenant upon a property, and shall bind successors, heirs and assigns in favor of the city. The restrictive covenant shall be released by the city only upon full payment of the in-lieu parking fees due. In-lieu of parking fee agreements shall only be made between the city and the owner(s) of the subject property.

(c) ***Fee collection for monthly payment plan.*** The first fee payment for applicants entering into an in-lieu of parking fee agreement shall be paid to the Community Development Department prior to the issuance of a building permit for construction of a principal building or structure on the lot. If no building permit is needed, the first payment shall be due and paid to the Community Development Department at the time the certificate of use, or certificate of occupancy (if required) is issued. The remaining amounts shall be paid in no more than twenty-four (24) monthly payments due on the first day of the first month, including interest calculated in the amount of five (5) percent per annum, until the city has received payment in full of the remaining balance.

(d) ***Administration.*** The Community Development Department shall administer the collection of in-lieu funds. The finance department shall administer the collection of monthly fees for applicants entered in an in-lieu of parking fee agreement using information provided in writing by the Community Development Department. Additional payments and procedures for late payments and failure to pay penalties shall be established within the in-lieu of parking fee agreement.

(e) ***Deposit of payment-in-lieu program funds.*** Funds generated through the in-lieu fee program shall be deposited in the payment-in-lieu of parking fund, which may consist of one or more city accounts specifically established to provide parking and related transportation improvements within the payment-in-lieu districts and adjacent priority parking districts. The Mobility Management Director and the Community Development Board shall maintain a map which identifies priority parking districts, areas which are strategically located to provide future parking that is within walking distance of the Central Business District.

(f) ***Use of payment-in-lieu program funds***. The fee collected in the payment-in-lieu fund shall be used to fund the following activities which support the provision of parking structures and facilities in commercial districts and for institutional uses:

(1) Acquire, construct, or develop off-street and on-street parking and related facilities;

(2) Fund the capital costs associated with new, upgraded, or expanded off-street parking areas serving land uses within the priority parking districts.

(3) Acquisition of land for present and future mobility improvements or interim parking uses; or

(4) Reimburse capital costs or advances, or related financing costs, for spaces in existing facilities or to be constructed which are designated or set aside for the program.

Sec. 27-542. - Bicycle parking requirements.

The use of bicycles helps alleviate traffic problems such as congestion and helps alleviate automobile parking deficiencies typically encountered by urban downtowns. A pedestrian and bike-friendly community are signs of a healthy community and should be strongly encouraged.

(a) *Applicability*. Bicycle parking is required in all zoning districts except in the R-1, R-2, R-3, and R-4 districts and for all detached single-family residential developments.

(b) *Minimum required amount*. Developments shall provide either racks for five (5) percent of the number of required off-street vehicle parking spaces or two (2) bicycle parking spaces, whichever is greater.

Developments within the Central Business District shall provide one (1) bicycle space per three thousand (3,000) gross square feet of building or ten (10) percent of the total required vehicle spaces. Spaces shall be a minimum of two (2) feet by six (6) feet in dimension.

(c) *Placement & design guidelines.* The following are guidelines concerning the design and placement of bicycle parking spaces:

(1) Racks should be located so as not to interfere with pedestrian movement and within two hundred (200) feet of the destination they serve. They should be highly visible so cyclists can spot them immediately when they arrive from the street. A visible location also discourages theft and vandalism.

(2) Adequate lighting is essential for the security of the bicycles and the users.

(3) Bicycle racks and lockers should use tamper resistant mounting hardware and must be well anchored to the ground to avoid vandalism and theft. The racks should also be designed to allow both the frame and wheels of the parked bicycle to be secured against theft.

(4) A portion of bicycle parking should be protected from the weather (some short-term bicycle parking can be unprotected since bicycle use tends to increase significantly during fair weather). The weather protected bicycle parking spaces could be implemented by using existing overhangs or covered walkways, a special covering, weatherproof outdoor bicycle lockers, or an indoor storage area.

(5) Adequate clearance is required around racks to give cyclists room to maneuver, and to prevent conflicts with pedestrians or parked cars. A minimum of thirty-six (36) inches of clearance between each rack and other sidewalk utilities and furniture (lamp posts, benches, trash cans, etc.), though forty-eight (48) inches of clearance is preferred. Racks should not block access to building entrances or fire hydrants.

(6) Racks should provide two points of contact with the frame and should be designed to allow each bicycle to be supported by its frame. The rack's high point should be at least 32" high.

(7) Racks should be designed to avoid damage to bicycles.

(8) Rack should be solidly constructed to resist damage by rust and corrosion. Steel and stainless steel are the most common, as well as powder coated aluminum and appropriate materials for general-use racks.

(9) The best rack styles, which accommodate two points of contact for a range of bicycle types and sizes, are the inverted U rack (also called staple or loop rack) and the post and ring rack.

(10) Bicycle racks should be consistent in color and design with the surroundings, so as to be cohesive with other street furniture and infrastructure elements.

(11) Additional guidelines for the design and placement of bicycle parking can be found in the Association of Pedestrian and Bicycle Professionals (APBP) *Essentials of Bike Parking* guide.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-543. - Accessible parking.

All parking facilities that require accessible parking spaces shall ensure that a portion of the total number of required parking spaces shall be specifically designated, located, and reserved for use by persons

with physical disabilities, in accordance with the standards in the federal American with Disabilities Act (ADA).

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-544. - Motorcycle parking requirements.

(a) A portion of the parking spaces required by section 27-540 of this Code may be designated exclusively for motorcycle parking, if the following conditions are met:

(1) The city manager or designee recommends that the spaces be so designated, based upon projected demand for them and lessened demand for automobile spaces.

(2) The community development board approves the recommendation, and the designated spaces are shown on the final development plan.

(3) The designated spaces are suitably marked and striped.

(4) The designated motorcycle parking spaces meet the standard minimum dimensions of four and one-quarter (4.25) feet wide and nine and one-quarter (9.25) feet long in depth.

(5) The designation does not reduce the overall area devoted to parking so that if the motorcycle spaces are converted to automobile spaces the minimum requirements for automobile spaces will be met.

(b) The approval is conditional and may later be withdrawn, and the spaces returned to car spaces, if the city manager or designee determines that the purposes of this Code would be better served thereby, based upon actual demand for motorcycle and automobile parking.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 50, 9-7-10)

Sec. 27-545. - Deferral of parking requirements.

(a) To avoid requiring more parking spaces than actually needed to serve a development, the community development board may defer a portion of the off-street parking spaces required by this Code, if the developer demonstrates that the number of deferred parking spaces will not be needed for the condition or conditions established.

(b) Deferrals shall be based on a deferred parking plan, which shall:

(1) Include a written agreement between the developer and the city that requires the developer to convert the deferred parking spaces to conform to this Code at the developer's expense one (1) year from the date of issuance of certificate of occupancy, if the community development board determines that the additional parking spaces are needed.

(2) Include a landscaping plan for the deferred parking area. A deferral of parking area may be offset by an increase of landscaping provided by the development on a ratio of 2:1. For example, if ten (10) parking spaces are deferred that would have corresponded with two thousand (2,000) square feet; one thousand (1,000) square feet of additional landscaping shall be provided beyond which was already required.

(3) Be designed to contain sufficient space to meet the full parking requirements of this Code, shall illustrate the layout for the full number of parking spaces, and shall designate which are to be deferred.

(4) Not assign deferred spaces to areas required for landscaping buffer zones, setbacks, or other areas that would otherwise be unsuitable for parking spaces because of the physical characteristics of the land or other requirements of this Code.

(c) The developer may at any time request that the community development board approve a revised development plan to allow converting the deferred spaces to operable parking spaces.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 51, 9-7-10)

Sec. 27-546. – Reserved.

Sec. 27-547. - Spaces required for off-street loading.

(a) In addition to the off-street parking requirements required in this Code, off-street loading spaces shall be provided and maintained per Table 27-547-1 [located at end of article]:

(1) *Businesses.* Each retail store, storage, warehouse, wholesale establishment, restaurant, mortuary, laundry, dry cleaning establishment, or similar uses shall maintain the number of spaces as provided in Table 27-547-1 [located at end of article].

(2) *Public buildings.* Auditoriums, convention halls, exhibition halls, museums, motels, hotel or office building, sports arena, stadiums, hospitals, sanitarium, welfare institution, or similar use shall maintain the number of spaces per Table 27-547-1 [located at end of article].

(3) *Uses not listed.* Those uses that are listed above in subsections (1) and (2) above, shall be interpreted to include other uses that have similar impacts to the listed uses.

(b) *Adjustments to requirements.* When the characteristics of the proposed use require a greater or lesser number of loading spaces than that required or proposed, the community development board may require that a study be done to determine the actual number of loading spaces needed for a proposed use.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2010-14, § 53, 9-7-10)

Sec. 27-548. - Parking and loading area design.

(a) ***General Design Standards.***

(1) ***Modification.*** The Community Development Board may modify these requirements where necessary to promote a substantial public interest relating to environmental protection, heritage conservation, aesthetics, tree protection, or drainage. Under no circumstances shall the modification create a serious hazard or inconvenience. The modification shall be based on a written statement of the public interest served by allowing the modification.

(2) ***No storage.*** Parking areas shall be kept free of material storage, including portable containers, and outdoor display/sales, except on a temporary basis as part of an approved Temporary Use Application or Special Event Permit.

(3) ***Maintenance.*** Parking areas shall be maintained to provide motor vehicle access and shall be kept free of litter, debris, and potholes.

(4) ***Identification.*** Off-street parking areas with four (4) or more spaces, and off-street loading areas, shall include painted lines, wheel stops, or other methods of identifying individual parking stalls and loading areas and distinguishing such spaces from aisles and other circulation features.

(5) ***Arrangement.***

a. Parking stalls shall be located in areas that will not require backing into access driveways or streets, except where allowed for residences, or when no other practical alternative exists, as determined by the Community Development Board**.**

b. Each off-street parking stall shall be directly accessible from a drive aisle or alley without crossing or entering any other required off-street parking or loading space, except as provided for tandem parking.

c. No parking space shall be located so as to block access by emergency vehicles

(6) ***Loading spaces.***

a. The standard off-street loading space shall be ten (10) feet wide, twenty-five (25) feet in depth, and provide vertical clearance of fifteen (15) feet, and provide adequate area for maneuvering, ingress and egress.

b. The length of one (1) or more of the loading spaces may be increased up to fifty-five (55) feet in depth if full length tractor-trailers must be accommodated. Developers may install spaces that are larger than the standard, but the number of spaces shall not be reduced on that account.

c. Each off-street loading space shall be directly accessible from a street or alley without crossing or entering any other required off-street parking of loading space as well as accessible from the interior of the building it serves.

(7) ***Alternative vehicle and mobility device parking.***

a. *Golf cart parking*. A standard golf cart parking space shall be five (5) feet wide and 10 (ten) feet in depth.

b. *Motorized kick scooter parking*. Motorized kick scooters must be upright while parked and may not be parked in a manner that would impose a threat to public safety or security.

i. Motorized kick scooters must be parked on a sidewalk or other hard surface, or at a city-owned location. Motorized kick scooters may only be parked on private property with the permission of the property owner.

ii. Motorized kick scooters may not be parked at bicycle parking.

iii. Motorized kick scooters may not be parked in a manner that could impede vehicular access, emergency access, normal and reasonable pedestrian access on a sidewalk, or in

any manner that would reduce the minimum clear width of a sidewalk to less than three feet.

iv. The city may identify designated motorized kick scooter parking zones in order to guide riders to preferred parking zones and assist with the orderly parking of motorized vehicles throughout the city.

c. *Moped and scooter parking.* Mopeds and scooters shall park in designated vehicular parking spaces or motorcycle spaces (subject to the motorcycle parking requirements in section 27-544). Mopeds and scooters shall not be permitted to park on the sidewalks.

(8) ***Tandem parking spaces.*** Tandem parking spaces may be used for single-family residences, and two-family residences. (Ord. No. 2004-10, § 1, 10-4-04)

(9) ***Drainage.*** All off-street parking and loading areas shall be drained so as not to cause any nuisance of adjacent property, and to prevent damage to the public right-of-way and the adjacent environment.

(10) ***Lighting.*** Adequate lighting shall be provided if off-street parking or loading is to be used at night. Such lighting shall be provided to ensure user safety and security. The lighting shall be designed and installed so as to prevent glare or excessive light on adjacent property and streets. No source of illumination shall be directed into the windows of any residential building. Lighting near critical wildlife habitats, including along the beachfront, shall comply with all requirements in section 8-245.

(11) ***Location.***

a. Parking areas and drive aisles shall be located in the side or rear yard only and are not permitted in the front yard setback except for properties within the R-1, R-2, R-3, R-4, and R-5 zoning districts.

b. Lots served by alleys shall access garages and/or off-street parking areas from the alley and shall not have driveways in front or corner side yard areas.

c. Front yard parking. In the residential zoning districts driveways may be used for front yard parking areas, but the width of such front yard parking areas shall be limited to the driveway width. No parking spaces, other than driveways, may be located in the front yard setback.

(12) ***Pedestrian Circulation.*** Parking lots with 10 spaces or greater shall be designed to separate pedestrian travel from vehicles. They shall include designated pedestrian walkways to provide safe access to building entrances for pedestrians and discourage incursions into landscaped areas except at designated crossings.

a. Perimeter sidewalks—typically located on public rights-of-way—and/or interior parking lot pedestrian corridors may be utilized to provide the required pedestrian access.

b. Pedestrian pathways (if provided) shall be a minimum 5 feet in width.

c. Where parking is located between a public entrance and the fronting sidewalk, a pedestrian pathway shall be provided, following the shortest practical route across the parking lot between at least 1 such entrance on each side of the building facing a public street.

d. Pedestrian pathways shall be clearly delineated. This may be accomplished with the use of paving materials that differ from that of vehicular areas, striping, or other similar methods.

(13) ***Connectivity.***

a. Wherever feasible, adjoining parking lots (except those serving residential buildings of less than 4 units) shall be interconnected or designed to interconnect in the future.

b. Where a parking lot connection is provided, an easement for ingress and egress to adjacent lots shall be recorded by the property owner in the Office of the Clerk of the Circuit Court of Duval County, Florida.

c. Aisles and driveways shall not be used for parking vehicles, except that the driveway of a single-family or two-family residence shall be counted as a parking space for the dwelling unit, or as a number of parking spaces as determined by the city manager or designee based on the size and accessibility of the driveway.

d. Entrances and exits. The location and design of entrances and exits shall be in accordance with proper access management techniques. The number of curb cuts shall be the minimum required to allow free and safe use of the facility without impairing traffic flow along the street. The use of shared or common curb cuts is encouraged where practical as depicted in Figure 27-548-2. [See Figures at the end of article XIII.] Trees and appropriate landscaping may be used to define entrances and exits.

(b) ***Design standards.***

(1) ***Off-street parking design standards.***

Table 27-548-1		**30° / 45° / 60° / 75°**		**90°**	
Detail as shown in Fig. 27-548-1		Standard	Compact	Standard	Compact
Parking Stall Width	A	9’-0”	8’-0”	9’-0”	8’-0”
Parking Stall Depth	B	20’-0”	16’-0”	20’-0”	16’-0”
Drive Aisle Width	C	Min. 12’-0”, Max. 14’-0”			
Bumper Overhang	D	2’-0”			
Landscape Buffer (Vehicular Use Area)	E	Min. 10’-0”			
Interior Drive Setback	F	Min. 15’-0”			
Interior Drive Lane Width	G	Min. 10’-0”, Max. 14’-0”			

Back-up Width	H	N/A		7’-0”	
Planter Island Width	I	10’-0”			
Maximum Consecutive Stalls	J	5	6	10	12
Planter Island Tree Spacing	K	Min. 35’ o.c., Max. 135’ o.c.			
Landscape Buffer Tree Spacing	L	Avg. 25’ o.c.			
Planter Island Curb Radii	M	Min. R2’-0”, Max. R5’-0”			
Parking Stall Curb Radii	N	Min. R5’-0”, Max. R8’-0”			
Drive Aisle Curb Radii	O	Min. R10’-0”, Max. R15’-0”			

(2) ***On-street parking design standards.***

Table 27-548-2		**0° (Parallel)**		**30° / 45° / 60° / 75°**		**90°**	
Detail as shown in Fig. 27-548-2		Standard	Compact	Standard	Compact	Standard	Compact
Parking Stall Width	A	9’-0”	N/A	9’-0”	8’-0”	9’-0”	8’-0”
Parking Stall Depth	B	22’-0”	N/A	20’-0”	16’-0”	20’-0”	16’-0”
Drive Aisle Width	C	Min. 12’-0”, Max. 14’-0”					
Curbside Step-out Zone	D	2’-0”					
Landscape & Transition Zone	E	Min. 10’-0”					
Pedestrian Clear Zone	F	Min. 6’-0”					
Seating/Activity Zone	G	Min. 10’-0”					
Entry Threshold Clear Zone	H	Min. 2’-0”, Max. 4’-0”					
Parking Bump-out	I						

(3) ***Materials.***

a. Surface requirements for four (4) or more commercial parking spaces. Where a use requires space for four (4) or more motor vehicles, pavement for paved off-street parking or paved off-street loading facilities shall, as a minimum requirement, consist of the minimum state department of transportation requirements, as amended. A substitute surface of an equal or greater strength may be used upon written approval of the city manager or designee. This is also intended to encourage creative combinations of pervious and impervious surface materials when designing a parking facility.

b. Surface requirements for three (3) or less parking spaces. Where a commercial use requires space for three (3) or less motor vehicles, or any residential use, the off-street parking and

loading areas shall be maintained in an even and usable condition. Pavement that minimizes impervious surface area, such as dry-laid pavers and/or gravel is encouraged. Loose surfaces, such as gravel shall be contained at all edges with curbing or other border.

(4) ***Parking lot screening and landscaping*.** Landscaping requirements for parking facilities shall be as required by Article IX.

Sec. 27-549. – Reserved

Sec. 27-550. – Special parking districts.

The city council may designate special parking districts where parking or transit facilities may be provided by the city, thus lessening the demand for on-site parking. For development proposed in these districts, the city may allow the developer to pay a fee in lieu of providing some or all of the spaces required by this Code. The fee shall be a one-time, nonrefundable fee per parking space avoided, paid to the city prior to the issuance of a certificate of occupancy. The amount of the fee shall be determined by the city council and shall be equal to the land acquisition, construction and maintenance costs of parking spaces that are deferred by this provision. These fees shall be used by the city solely for the purchase, construction, operation and maintenance of parking or transit facilities serving the area of the development. The city council may, at the time of accepting the fee, enter into an agreement with the developer to construct or provide parking or transit facilities.

(Ord. No. 2004-10, § 1, 10-4-04)

Secs. 27-551—27-560. – Reserved.

Table 27-540-1. Off-Street Parking Requirements

Type of Use or Development Activity	Required Number of Parking Spaces
Single-family residence	2
Two-family residence	2 per dwelling unit
Multifamily residence	2 per dwelling unit; plus 2 for the owner/operator and 1 per two employees
Special care facilities:	
Adult day care	2 per employee; plus, adequate drop-off area
Child day care	2 per employee; plus, adequate drop-off area
Nursing home	1 per 4 beds; plus 1 per employee
Adult congregate living facility:	
Hospital	1 per 2 beds of the rated bed capacity
Overnight accommodations:	
Hotel/motel	1 per rental sleeping unit; plus 1 for owner or manager; plus 1 per 2 employees on duty; plus, 75 percent of spaces required for accessory uses like restaurants and meeting rooms, etc.

Bed and Breakfast	1 per guest room plus 2 for the owner/operator
Restaurant:	
Drive-in restaurant	None
Carry-out and deliver restaurant	1 per 500 sq. ft. of GFA; plus 1 per employee; plus 1 per delivery vehicle owned and maintained by the establishment
Fast-food restaurant	1 per 4 seats in public rooms; plus 1 per 2 employees
Interior service restaurant	1 per 4 seats in public rooms; plus 1 per 2 employees
Service establishments:	
Office	1 per 400 sq. ft. of GFA
Medical/dental clinic	1 per 2 employees; plus 1.5 per consultation or examining room, not to exceed 7 spaces per doctor
Veterinary clinic	1 per 2 employees; plus 1.5 per consultation or examining room, not to exceed 7 spaces per veterinary doctor
Funeral establishment	1 per 2 seats in chapel
Day Spa	1 per 300 sq. ft. of GFA
Wholesale sales	1 per 1,500 sq. ft.; GFA plus as required for office
Retail sales	1 per 300 sq. ft. GFA; plus 1 per 1,000 sq. ft. of lot or ground area outside buildings used for any type of sales or display
Shopping center	1 per 300 sq. ft. GFA
Bus or other transportation terminal	1 per 500 sq. ft. of GFA plus 1 per 2 employees
Storage and parking:	
Parking lot	None
Moving and storage facility	1 per employee
Emergency services:	
Fire station	1 per 2 employees
Police station	1 per 2 employees
Ambulance service	1 per 2 employees
Educational:	
Elementary and junior high schools	2 per classroom, office room and kitchen
Senior high school	5 per classroom, office room, and kitchen
Trade, business, or vocational school	1 per 300 sq. ft. of GFA
Colleges, universities, and community colleges	1 per 300 sq. ft. of GFA
Dance, art, dramatic and music studios	1 per 300 sq. ft. of GFA
Gymnastics studio	1 per 500 sq. ft. of GFA

Cultural, religious, philanthropic, social, and fraternal uses:	
Worship facilities	1 per 3 seats of the total seating capacity, where 1 seat is equivalent to 24 lineal feet of benches or other similar seating arrangement
Social, fraternal clubs and lodges, and union halls	1 per 4 seats, or 1 per 200 sq. ft. GFA, whichever is greater
Libraries, art galleries, and museums	1 per 600 sq. ft. of GFA
Community center	1 per 250 sq. ft. of GFA or 1 per 3 seats, whichever is greater
Recreation, amusement, and entertainment:	
Public parks/recreation area	To be determined by community development board
Bowling alley	2 per alley
Skating rink	1 per 100 sq. ft. of GFA
Billiard and pool hall	2 per 3 tables
Miniature golf	3 per hole; plus, any other uses on the premises
Arcade	1 per 200 sq. ft. of GFA
Indoor athletic and exercise facility	1 per 150 sq. ft. of GFA. Swimming pool area shall be counted as floor area
Tennis, handball, or racquetball facility	2 per court
Theater	10 for first 100 seats plus 1 space for each additional 5 seats
Night club	1 per 4 seats in public rooms plus 1 per 2 employees
Private club	1 per 4 seats, or 1 per 200 sq. ft. of GFA, whichever is greater
Bar/tavern	1 per 4 seats in public rooms plus 1 per 2 employees
Utilities	None required

(Ord. No. 2010-10, § 3, 7-12-10; Ord. No. 2010-14, § 54, 9-7-10)

Table 27-547-1
Off Street Loading Spaces

Floor Area	Spaces
5,000—24,999 square feet	1
25,000—59,999 square feet	2
60,000—119,999 square feet	3
120,000—199,999 square feet	4
200,000—289,999 square feet	5

*1 additional space for each additional ninety thousand (90,000) square feet or fraction thereof above two hundred ninety thousand (290,000) square feet.

ARTICLE XIV. - SOLID WASTE COLLECTION[17]

Footnotes:
*--- **(17)** ---*
***State Law reference—** Resource recovery and management, F.S. § 403.702 et seq.*

Sec. 27-561. - Reserved.

Sec. 27-562. - Generally.

This article establishes minimum standards for the provision of sites for dumpsters and/or compactors and adequate screening.

(Ord. No. 91-1-5, § 2, 5-6-91; Ord. No. 2014-13 , § 1, 7-7-14)

Sec. 27-563. - Provision of sites for dumpsters and/or compactor.

(a) Every development that, under the city's solid waste collection policies, is or will be required to provide one (1) or more dumpsters and/or compactor for solid waste collection, shall provide a site that is located to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, public rights-of-way, stormwater runoff, environmental impact or public health.

(b) Dumpster and/or compactors shall not be located in or in such a way that would impede public rights-of-way.

(c) Dumpster and/or compactor areas shall be graded to prevent stormwater run-on and runoff and shall not drain into natural waters, ponds, stormwater collection systems or stormwater conveyances.

(d) Dumpster and/or compactor drainage shall comply with the provisions set forth in the municipal separate storm sewer systems (MS4) permit, as amended from time to time.

(Ord. No. 91-1-5, § 2, 5-6-91; Ord. No. 2014-13 , § 2, 7-7-14)

Sec. 27-564. - Provision of screening for dumpsters.

(a) All dumpsters and/or compactors shall be screened if and to the extent that, in the absence of screening, they would be clearly visible to:

(1) Persons located within any dwelling unit on residential property other than where the dumpster and/or compactor is located.

(2) Persons located within any building on nonresidential property other than that where the dumpster and/or compactor is located.

(3) Persons travelling on any public street, sidewalk or other public way.

(b) When dumpster and/or compactor screening is required by this section, such screening shall be constructed, installed, located, and maintained to prevent or remedy the conditions requiring the screening.

(Ord. No. 91-1-5, § 2, 5-6-91; Ord. No. 2014-13 , § 3, 7-7-14)

Secs. 27-565—27-570. - Reserved.

Footnotes:
--- (18) ---
***Editor's note**— Ord. No. 2005-12, § 1, adopted June 6, 2005, amended Art. XV in its entirety to read as herein set out. Former Art. XV, §§ 27-571—27-595, pertained to similar subject matter, and derived from Ord. No. 91-1-5, § 2, adopted May 6, 1991; Ord. No. 1996-28, § 10, adopted Oct. 7, 1996; Ord. No. 2002-11, § 1, adopted Nov. 4, 2002; Ord. No. 2004-01, § 1, adopted Apr. 5, 2004; and Ord. No. 2005-11, § 1, adopted May 2, 2005.*

ARTICLE XV. - ADVERTISING[18]

Sec. 27-571. - Reserved.

Sec. 27-572. - Generally.

This article exempts certain signs from these regulations, prohibits certain signs, establishes regulations to govern the placement and size of temporary and permanent signs within the city, and establishes application procedures and procedures for appeals.

(Ord. No. 2005-12, § 1, 6-6-05)

Sec. 27-573. - Applicability.

This article applies to all signs, and other advertising devices, that are constructed, erected, operated, used, maintained, enlarged, illuminated or substantially altered within the city. Mere repainting or routine maintenance of a sign shall not, in and of itself, be construed as a substantial alteration.

(Ord. No. 2005-12, § 1, 6-6-05)

Sec. 27-574. - Findings of fact.

The city council finds that:

(1) The manner of the erection, location and maintenance of signs affects the public health, safety, morals and welfare of the people of this community.

(2) The safety of motorists, cyclists, pedestrians, other users of the public streets is affected by the number, size, location, lighting and movement of signs that divert the attention of drivers.

(3) The size and location of signs may, if uncontrolled, constitute an obstacle to effective fire-fighting techniques.

(4) The construction, erection and maintenance of large signs suspended from or placed on the tops of buildings, walls or other structures may constitute a direct danger to pedestrian and vehicular traffic below, especially during periods of strong winds.

(5) Uncontrolled and unlimited signs may degrade the aesthetic attractiveness of the natural and manmade attributes of the community and thereby undermine the economic value of tourism, visitation and permanent economic growth.

(Ord. No. 2005-12, § 1, 6-6-05)

Sec. 27-575. - Purpose and intent.

The city council recognizes that there are various persons and entities that have an interest in communicating with the public through the use of signs that serve to identify businesses and services, residences and neighborhoods, and also to provide for expression of opinions. The council is also responsible for furthering the city's obligation to its residents and visitors to maintain a safe and aesthetically pleasing environment where signs do not create excessive visual clutter and distraction or hazards for pedestrians and vehicles; where signs do not adversely impact the predominantly residential character of the city and where signs do not conflict with the natural and scenic qualities of the city. It is the intent of the council that the regulations contained in this article shall provide uniform sign criteria, which regulate the size, height, number and placement of signs in a manner that is compatible to the residential scale and character of the city, and which shall place the fewest possible restrictions on personal liberties, property rights, free commerce, and the free exercise of Constitutional rights, while achieving the city's goal of creating a safe, healthy, attractive and aesthetically pleasing environment that does not contain excessive clutter or visual distraction from rights-of-way and adjacent properties; the surrounding natural coastal environment and residential neighborhoods.

(Ord. No. 2005-12, § 1, 6-6-05)

Sec. 27-576. - Reserved.

Editor's note— Ord. No. 2017-16 , § 1, adopted June 5, 2017, relocated the provisions of § 27-576, Definitions, to § 27-15 herein. Former § 27-576 derived from: Ord. No. 2005-12, § 1, adopted June 6, 2005; Ord. No. 2007-16, § 1,

adopted Nov. 5, 2007; Ord. No. 2010-20, § 1, adopted Dec. 7, 2010; and Ord. No. 2015-17 , § 1, adopted Nov. 2, 2015.

Sec. 27-577. - Maintenance of signs.

(a) All signs allowed by this article, including their supports, braces, guys and anchors, electrical parts and lighting fixtures, and all painted and display areas, shall be maintained in accordance with the building and electrical codes that may be adopted by the city.

(b) The vegetation around, in front of, behind, and underneath the base of freestanding signs for a distance of ten (10) feet shall be neatly trimmed and free of unsightly weeds, and no rubbish or debris that would constitute a fire or health hazard shall be permitted under or near the sign.

(c) Signs and sign structures shall present a neat and clean appearance.

(Ord. No. 2005-12, § 1, 6-6-05)

Sec. 27-578. - Right of entry for inspection.

Appropriate city employees in the performance of their functions and duties and under the provisions of this article may enter into and upon any land upon which advertising signs or advertisements are displayed and make such examinations and surveys as may be relevant subject to constitutional limitations and state law.

(Ord. No. 2005-12, § 1, 6-6-05)

Sec. 27-579. - Permit required.

(a) Except as otherwise provided in this article, no sign within the city shall be constructed, erected, operated, used, maintained, enlarged, illuminated, or substantially altered without first obtaining a permit as provided in this section.

(b) A separate application for a permit shall be made for each separate advertising sign or advertising structure, on a form furnished by the city manager.

(c) The application for a permit shall describe the size, shape, and nature of the proposed advertisement, advertising sign or advertising structure, and its actual or proposed locations with sufficient accuracy to ensure its proper identification.

(d) The application for a permit shall be signed by the applicant or his authorized agent and by the property owner, if different than the property owner, or his authorized agent.

(e) For multiple occupancy complexes, individual occupants may apply for a sign permit, but they shall be issued in the name of the lot owner or agent, rather than in the name of the individual occupants. The lot owner, and not the city, shall be responsible for allocating allowable sign area to individual occupants.

(Ord. No. 2005-12, § 1, 6-6-05)

Sec. 27-580. - Exempt signs.

(a) Within all nonresidential zoning districts, the following signs shall be considered as permitted signs and shall be exempt from the requirement to obtain a sign permit as set forth within article VI of this chapter if they are not in conflict with section 27-581:

(1) Decals, limited to those as required by law, which are affixed to or painted upon store windows, store equipment, fuel pumps or other types of vending equipment used for dispensing retail products.

(2) Lettering only, for the purpose of providing ownership, licensing and emergency contact information, when placed upon doors and windows of lawfully licensed businesses, with letters not exceeding three (3) inches in height and limited to a maximum area of two (2) square feet.

(3) Signs within a building that are not visible from the exterior of the building. This shall not include window signs affixed to the interior of windows, which are visible from the exterior.

(4) Building signs, historical markers, memorial signs, tablets or plaques, or the name of a building and the date of erection, when the same are cut into any masonry surface or when constructed of bronze or other similar noncombustible material.

(5) Professional nameplates for physicians, surgeons, dentists, lawyers, architects, teachers and other like professional persons placed on the premises occupied by the person(s), not exceeding one (1) square foot in sign face area, provided such professional has a valid occupational license as may be required for the particular profession to operate on those premises.

(6) Signs denoting only the name and profession of an occupant of a building, placed flat against the exterior surface of the building and not exceeding three (3) square feet in sign face area, and provided such occupant has a valid occupational license as may be required to operate on those premises.

(b) Within all zoning districts, the following signs shall be considered as permitted signs and shall be exempt from the requirement to obtain a sign permit as set forth within article VI of this chapter if they are not in conflict with section 27-581:

(1) Not more than one (1) real estate sign advertising the sale, rental or lease of only the premises on which the sign is located. Such signs shall not exceed six (6) square feet in area, and five (5) feet in height. Signs advertising the sale, rental or lease of property exceeding this size and height shall not be considered as exempt signs.

(2) Signs noting the architect, engineer or contractor for a development project when placed upon work under construction, provided the sign shall be removed within fifteen (15) days of completion of construction. Such signs shall not exceed six (6) square feet in size or eight (8) feet in height.

(3) Signs as required by law to display building permits or other similar required public notices.

(4) Traffic signs, street name signs, legal notices of public meetings, danger signs and temporary emergency, when erected by city, county, state or federal authorities.

(5) No trespassing and private property signs not exceeding two (2) square feet in area. Such signs shall not be displayed from or attached to trees, utility poles or any type of utility structure or equipment, including lift stations, fire hydrants and the like.

(6) Vacancy or no vacancy signs not exceeding two (2) square feet in area.

(7) Temporary political campaign signs announcing the candidacy of a candidate for public office not exceeding four (4) square feet in area in residential zoning districts and thirty-two (32) square feet in all other zoning districts may be placed wholly within the boundaries of any property, at the discretion or consent of the legal owner and/or occupant of the property, provided such signs conform with all traffic, electrical, maintenance, fire and safety regulations of the city.

a. The placing of political campaign signs on city property, other public property or on public rights-of-way shall be prohibited. Political campaign signs displayed within motor vehicles conducting routine business activities on city or other public property shall not be prohibited, provided that no such vehicle shall be parked on city property, other public property or on public rights-of-way for the sole purpose of displaying political campaign signs.

b. Illegally placed political campaign signs shall be removed by the code enforcement officer without notice to the candidate or abutting property owner or occupant. Political campaign signs shall be removed within seventy-two (72) hours after the last election. If such signs are not removed within this period of time, the city may remove such signs and may charge the candidate the actual cost for such removal. Collected funds shall be deposited into the city's general revenue. Failure to remove signs is a violation of this Code and is enforceable pursuant to F.S. Ch. 162, Code Enforcement.

(8) Personal expression signs limited to one (1) per lot or parcel, or in the case of multifamily uses, one (1) per dwelling unit, expressing personal views or opinions not exceeding four (4) square feet in area, providing such signs are otherwise in compliance with applicable local, state and federal laws. A personal expression sign can include a pole flag no larger than twenty (20) square feet on a pole no taller than twenty-five (25) feet.

(9) Religious symbols.

(10) Garage sale signs or open house signs within residential zoning districts, not exceeding four (4) square feet in size, limited to two (2) per site and located only at the location of such event. Such signs may be displayed one (1) day before the garage sale or

open house and shall be removed immediately after conclusion of the event. No garage sale sign or open house sign may be erected upon any public right-of-way.

(11) Signs placed within interior courtyards, the inside fence line of recreational fields and on golf courses, provided such signs are visible only to those persons visiting such place and are otherwise in compliance with this chapter.

(12) Address and street number signs not exceeding two (2) square feet.

(13) Holiday and seasonal decorations shall not be construed as signs, providing that these contain no commercial advertising message.

(Ord. No. 2005-12, § 1, 6-6-05)

Sec. 27-581. - Prohibited signs.

The following signs are expressly prohibited unless otherwise exempted or expressly authorized:

(1) Signs that violate the building code or electrical code.

(2) Any sign that presents safety, traffic or pedestrian hazard including signs, which obstruct visibility.

(3) Blank temporary signs.

(4) Signs with visible moving, revolving, or rotating parts or visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic, or mechanical means, except for governmental traffic devices and signs.

(5) Signs with the optical illusion of movement by means of a design that presents a pattern capable of giving the illusion of motion or changing of copy.

(6) Signs with lights or illuminations that flash, move, rotate, scintillate, blink, flicker, or vary in intensity or color, to include animated signs and automatic changeable message devices except for signs of this type that provide time and temperature only.

(7) Strings of light bulbs used on commercially developed parcels for commercial purposes, other than traditional holiday decorations.

(8) Wind signs, as defined by this Code.

(9) Signs that incorporate projected images, emit any sound that is intended to attract attention, or involve the use of live animals.

(10) Signs that emit audible sound, odor, or visible matter such as smoke or steam.

(11) Signs or sign structures that interfere with free use of any fire escape, emergency exit, or standpipe, or that obstruct any window to such an extent that light or ventilation is reduced to a point below that required by any provision of this Code or other ordinance of the City of Neptune Beach.

(12) Nongovernmental signs that resemble any official sign or marker erected by any governmental agency, or that by reason of position, shape or color, would conflict with the proper functioning of any traffic sign or signal, or be of a size, location, movement, content, color, or illumination that may be reasonably confused with or construed as, or conceal, a traffic-control device.

(13) Nongovernmental signs that use the words "stop," "look," "danger," or any similar word, phrase, or symbol, or which is a copy or imitation of an official sign that may be reasonably confused with or construed as or conceal a traffic device.

(14) Signs that obstruct the vision of pedestrians, cyclists, or motorists traveling on or entering public streets thereby creating a safety hazard for the public.

(15) Signs, within ten (10) feet of public right-of-way or one hundred (100) feet of traffic-control lights, that contain red or green lights that might be confused with traffic control lights, thereby creating a safety hazard for the public.

(16) Signs that are of such intensity or brilliance as to cause glare or impair the vision of any motorist, cyclist, or pedestrian using or entering a public way, or that are a hazard or a nuisance to occupants of any property because of glare or other characteristics.

(17) Signs that contain any lighting or control mechanism that causes unreasonable interference with radio, television or other communication signals.

(18) Searchlights used to advertise or promote a business or to attract customers to a property.

(19) Signs that are painted, pasted, or printed on any curbstone, flagstone, pavement, or any portion of any sidewalk or street, and traffic control signs.

(20) Signs placed upon benches, bus shelters or waste receptacles, except as may be authorized in writing pursuant to F.S. § 337.407.

(21) Signs erected on public property, without the permission of the appropriate public authority (such as private utility poles, rights-of-way, parks, streets and other public properties) located on public property, other than signs erected by public authority for public purposes and signs authorized in writing pursuant to F.S. § 337.407.

(22) Signs erected over or across any public street except as may otherwise be expressly authorized by this Code.

(23) Vehicle signs with a total sign area on any vehicle in excess of ten (10) square feet, when the vehicle:

a. Is parked for more than sixty (60) consecutive minutes within one hundred (100) feet of any street right-of-way;

b. Is visible from the street right-of-way that the vehicle is within one hundred (100) feet of; and

c. Is not regularly used in the conduct of the business advertised on the vehicle. A vehicle used primarily for advertising, or for the purpose of providing transportation for owners or employees of the occupancy advertised on the vehicle, shall not be considered a vehicle used in the conduct of the business.

(24) Portable signs as defined by this Code.

(25) Roof signs as defined by this Code.

(26) Signs placed, posted, or erected upon land or upon trees upon land adjacent to adjoining all public streets and highways of the city, without the written consent of the owner of such land, or the written consent of the attorney or agent of such owner.

(27) Signs placed upon any tree, telephone pole, electric pole, lamppost, hydrant or fence or on any public building, or within any public park or public property.

(28) Billboards, as defined by this Code.

(29) Signs with obscene language, or obscene graphic representation of the human body.

(30) Snipe signs, as defined by this Code.

(Ord. No. 2005-12, § 1, 6-6-05; Ord. No. 2010-03, § 1, 3-1-10)

Sec. 27-582. - Sign area computation.

(a) For freestanding signs, the sign area shall be the area within the smallest geometric shape that touches the outer points or edges of the sign face.

(b) For building signs, the sign area shall be the area within the smallest geometric shape that touches the outer points of raised portions of the sign or of all borders or trims, or in the absence of such border or trim, the outer points of the letters or pictures (see Figure 27-582-1).

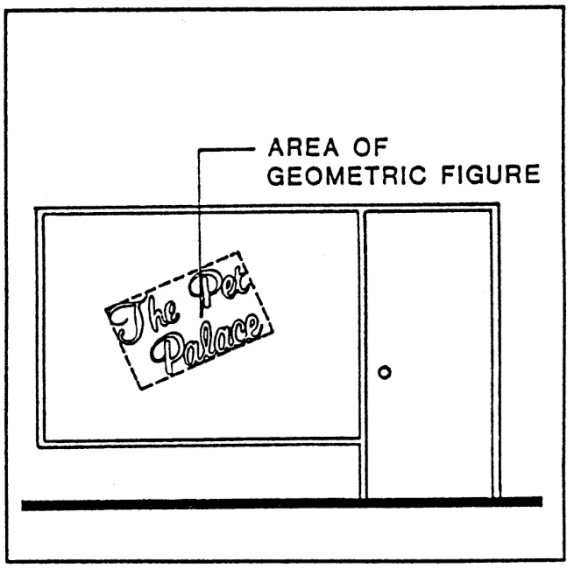


Figure 27-582-1

(c) For freestanding signs, where two (2) sign faces are placed back-to-back on a single sign structure, and the faces are at no point more than four (4) feet apart, the sign area shall be the area of one (1) of the faces.

(d) For freestanding signs, where four (4) sign faces are arranged in a square, rectangle, or diamond, the sign area shall be the area of the two (2) largest faces (see Figure 27-582-2).

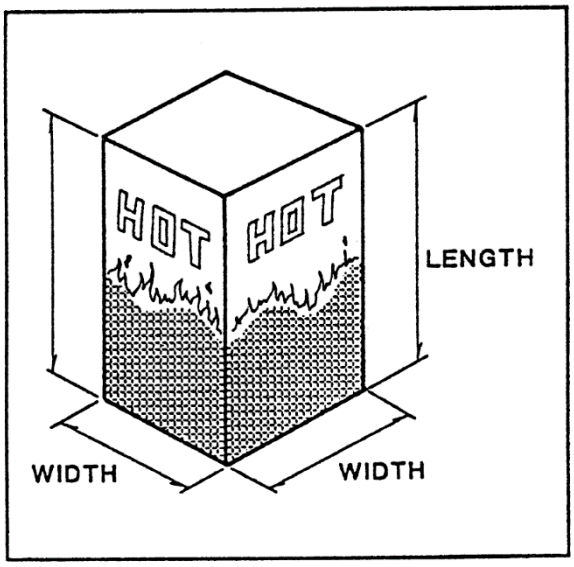


Figure 27-582-2

(e) Where a freestanding or building sign is in the form of a three-dimensional object, the sign area shall be the area within the smallest geometric shape that touches the outer points or edges of the largest possible two-dimensional outline of the three-dimensional object and multiplying that area by two (2) (see Figure 27-582-3).

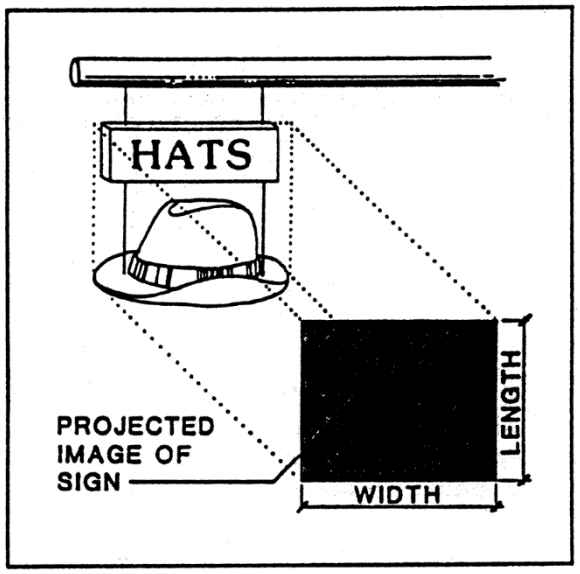


Figure 27-582-3

(Ord. No. 2005-12, § 1, 6-6-05)

Sec. 27-583. - Permitted temporary signs.

(a) Any temporary sign not complying with the requirements of this section is illegal and subject to immediate removal.

(b) The following temporary signs are permitted without a sign permit, provided that the sign conforms to the requirements set forth below:

(1) Signs to indicate that an owner, either personally or through an agent, is actively attempting to sell, rent, or lease the property on which the sign is located, provided that the sign:

a. Does not include price, terms, or other similar details;

b. Is not illuminated in any manner so as to create a traffic hazard or constitute a nuisance to any adjacent or surrounding property;

c. Does not exceed six (6) square feet in area in residential districts;

d. Does not exceed thirty-two (32) square feet in area in all other districts; and

e. Is removed immediately after sale, lease or rental.

(2) Signs to indicate the grand opening of a business or other activity, provided that the sign is not displayed for a period exceeding thirty (30) days within the first three (3) months that the occupancy is open for business, and that the sign is not placed on the public right-of-way.

(3) Construction site identification signs provided that the sign:

a. Does not exceed six (6) square feet in area;

b. Is not displayed more than sixty (60) days prior to the beginning of actual construction of the project;

c. Is removed within fifteen (15) days after the issuance of the final occupancy permit;

d. Is removed if construction is not initiated within sixty (60) days after the message is displayed, or if construction is discontinued for a period of more than sixty (60) days, pending initiation or continuation of construction activities.

e. Is not located in the public right-of-way.

(4) Signs to indicate the existence of a new business, or a business in a new location, if such business has no permanent signs, provided that the sign is not displayed in the public right-of-way and for a period of more than sixty (60) days or until installation of permanent signs, whichever shall occur first.

(5) Signs to announce or advertise such temporary uses as fairs, carnivals, circuses, revivals, sporting events, festivals, business or any public, charitable, educational or religious event or function, provided that the sign:

a. Is located on the lot where the event will occur;

b. Is not displayed more than two (2) weeks prior to the event; and

c. Is removed within five (5) days after the event.

(c) Permitted temporary signs shall not be counted as part of allowable area for freestanding or buildings signs.

(Ord. No. 2005-12, § 1, 6-6-05; Ord. No. 2011-26, § 1, 2-6-12)

Sec. 27-584. - Freestanding signs.

Freestanding monument signs are permitted within all commercial districts per the following:

(1) *Size permitted:* One (1) square foot of sign per linear foot of frontage of the lot of record on which the sign(s) are placed, provided no such sign shall exceed ninety-six (96) square feet, or eight (8) feet in height and twelve (12) feet in width.

(2) *Number of freestanding signs permitted:*

a. Lots of record with street frontage shall be permitted one (1) freestanding sign per one hundred (100) linear feet of street frontage, up to a maximum of three (3) freestanding signs or up to a maximum of four (4) freestanding signs on a corner lot, provided any existing nonconforming signs on the corner lot are brought into conformity with the Code no later than April 30, 2016.

b. Lots of record with a total street frontage of less than one hundred (100) linear feet of street frontage shall be permitted one (1) freestanding [sign] not to exceed ninety six (96) square feet.

c. Lots of record containing only one (1) licensed commercial business are limited to one (1) freestanding sign.

d. Corner lots of record containing only one (1) licensed commercial business shall be limited to one (1) freestanding sign per street frontage.

e. No additional freestanding signs shall be permitted if the lot of record has existing nonconforming signage.

(3) *Placement standards:*

a. No portion of any freestanding sign shall be located within five (5) feet of the property line. Additional distance(s) from property line(s) may be required to maintain clear vehicular and pedestrian sight lines. Freestanding signs shall not be located so as to interfere with clear vehicular or pedestrian sight lines. Further, signs determined by the city to interfere with safe sight lines for pedestrians or vehicles shall be ordered removed or immediately removed by the city.

b. No sign or sign structure shall be located in the public right-of-way or encroach into or project over a public right-of-way.

c. No sign or sign structure shall be erected that impedes use of any fire escape, emergency exit, or public utility.

d. The minimum required distance between freestanding signs shall be twenty-five (25) feet.

(Ord. No. 2005-12, § 1, 6-6-05; Ord. No. 2015-17 , § 2, 11-2-15)

Sec. 27-584.A. - Sandwich board signs.

(a) Sandwich boards are permitted within all commercial districts provided that:

(1) Sandwich board signs require a yearly sign permit prior to the placement of the sign.

(2) The total sandwich board signs shall be no larger than twenty-four (24) inches in width and forty-four (44) inches in height and no materials such as papers, balloons, windsocks, etc., may be added or other items prohibited by the Code. The height of such signs may not be artificially increased above the allowed maximum by placing material underneath the base of such sign.

(3) No more than one (1) sandwich board sign per business.

(4) A sandwich board sign may be placed no closer than ten (10) feet from another such sign and cannot block parking spaces, doors or any required ADA routes.

(5) Sandwich board signs shall not be placed in the public right-of-way, in any parking space or drive isle.

(6) Sandwich board signs can only be used during the hours when the business is open to the public and must be brought in at the close of business or in the event of high wind conditions.

(7) Sandwich board sign shall not be placed so as to obstruct vehicular traffic sight.

(8) No sandwich board sign shall contain foil, mirrors, bare metal or other reflective materials which could create hazardous conditions to motorist, bicyclist or pedestrians.

(9) No sandwich board sign shall swing, rotate, twirl or contain any moving parts.

(10) Sandwich board signs shall not contain lights of any kind.

(b) Sandwich board signs placed in violation of this section will result in immediate removal of the sign and sandwich board sign privileges shall be revoked for the remainder of that year.

(Ord. No. 2010-20, § 2, 12-7-10)

Sec. 27-585.A. - Building signs.

(a) Building signs for buildings with a single business or occupant.

(1) *Size permitted:* One (1) square foot of sign face area for each linear foot of the building width that faces the street frontage, provided that the total signage shall not exceed two hundred (200) square feet of sign face area, including buildings on corner lots. (For example, if the width of the building facing the front of the lot is fifty (50) feet wide, the maximum total sign face area for all building signs is fifty (50) square feet. If the building is on a corner lot, then the widths of the building facing multiple street frontages can be added together to determine the total signage area but in no case shall the total building signage exceed two hundred (200) square feet, nor shall any individual sign exceed the square footage corresponding to the linear width of the building side on which that sign is posted.)

(2) *Number of building signs permitted:* Not more than three (3) building signs shall be allowed on any one (1) side of a building. Where building signs are placed upon more than one (1) side of the building, the combined sign face area, shall not exceed the amount permitted by subsection (a)(1) above.

(b) Building signs for buildings with multiple businesses or occupants.

(1) *Size permitted:* One (1) square foot of sign face area for each linear foot of the unit(s) occupied by one (1) business or occupant, provided that the total signage shall not exceed two hundred (200) square feet for any one (1) business. If the business or occupant is on the corner then the widths of the business or occupant facing multiple street frontages can be added together to determine the total signage area but in no case shall the total business or occupant signage exceed two hundred (200) square feet, nor shall any individual sign exceed the square footage corresponding to the linear width of the building side on which that sign is posted. (For example, if the width of a unit or several units, occupied by one (1) business is twenty-four (24) feet, then one (1) sign, a maximum of twenty-four (24) square feet of sign face area is permitted.)

(2) *Required spacing between signs on buildings with multiple occupants:* Building signs for different occupants shall be separated by a minimum distance of thirty-six (36) inches.

(c) In lieu of the above-described fascia signs, a business or authorized use may install a single bracket sign or a single marquee sign in accordance with the following provisions:

(1) Size permitted: The maximum size of a bracket sign or a marquee sign shall be determined in the same manner as a fascia sign, provided that no such sign shall have more than sixty (60) square feet of projected sign face area.

(2) There shall be not more than twelve (12) inches of clear space adjacent to the building wall, and such signs shall not extend or project from the face of the building more than ten (10) feet.

(3) No portion of such sign shall extend above the height of the roof.

(4) No portion of such sign shall be closer than eight (8) feet to any sidewalk or pedestrian walkway, and no closer than five (5) feet from any street side property line. All such signs shall be securely anchored to a wall and shall in no manner be connected to or suspended from the roof of any building.

(Ord. No. 2005-12, § 1, 6-6-05; Ord. No. 2007-12, § 1, 9-4-07)

Sec. 27-585.B. - Unified sign plan.

(a) *Requirement for a unified sign plan.* After the initial effective date of these regulations, all new nonresidential development, which shall contain space or units for more than one (1) business or occupant, shall provide a unified sign plan with the application for building permits. All subsequent applications for sign permits shall comply with the approved unified sign plan. The unified sign plan shall comply with the provisions of this chapter and shall also demonstrate a consistent theme and design with respect to each of the following:

(1) Manner and type of construction, including materials to be used, installation method and mounting details;

(2) Means of illumination, if any, and hours of illumination;

(3) Size, color, lettering and graphic style.

(b) *Predevelopment signs.* Signs for the purposes of announcing a coming development project may be placed within commercial zoning districts subject to the following provisions:

(1) Issuance of a sign permit shall be required, and no such sign shall remain on any development parcel for a period of time exceeding one (1) year from the issuance date of the sign permit.

(2) Complete and proper applications for building permits for the related development project must be submitted within sixty (60) days of the placement of any such sign, or the sign shall be removed.

(3) Such sign shall be removed within thirty (30) days of the issuance of any certificate of occupancy, or at any time when construction ceases for a period of time longer than thirty (30) consecutive days.

(4) Only one (1) such sign shall be placed upon the development parcel and shall not exceed the height or size as permitted by preceding sections of this Code.

(c) *Within nonresidential zoning districts.* Within nonresidential zoning districts, one (1) sign per lot or development parcel advertising the sale or lease or the property limited to eight (8) feet in height and a

maximum of twenty-four (24) square feet of sign face area. A sign permit shall be required for such signs, and these signs shall be removed within ten (10) days of sale or lease of the property.

(d) *Requirement to display street number.* All businesses shall display the street number in a manner that is prominent and clearly readable to vehicular and pedestrian traffic, as appropriate. Street numbers shall be displayed on all freestanding signs and over front doors or primary entryways.

(Ord. No. 2005-12, § 1, 6-6-05)

Sec. 27-585.C - Signs within conservation (CON) zoning districts.

As set forth by section 27-226 of this Code, all uses in the conservation districts shall require approval as a use-by-exception. The size, height, width and number of signs permitted within conservation districts shall be established during the use-by-exception process. Signs within conservation districts shall not adversely impact the environmentally sensitive qualities of these areas, shall be nonilluminated, shall contain no electrical components and shall be constructed of wood, brick, masonry, high-density urethane or similar material, which is consistent with the natural surroundings of these districts.

(Ord. No. 2005-12, § 1, 6-6-05)

Sec. 27-586. - Entrance signs for subdivisions and multifamily developments.

Except for exempt signs as provided for in section 27-580, signs within residential zoning districts shall be limited to those as set forth below:

(1) For single-family and two-family residential subdivisions and developments containing ten (10) or more residential lots, where individual lots are accessed from a common internal roadway, one (1) sign identifying the name of the subdivision shall be allowed at each entrance from a collector or arterial street, not to exceed two (2) signs.

a. *Size permitted:* Thirty-two (32) total square feet of sign face area.

b. *Maximum height of sign:* Eight (8) feet.

c. *Type allowed:* Freestanding or monument style. Where more than one (1) sign is allowed, each such sign erected shall be constructed and designed in the same manner.

d. *Illumination:* These signs shall be externally illuminated with ground-mounted lighting only. Any lighting shall project from the ground onto the sign only, and shall not be directed towards any street or residential lot.

(2) For multifamily residential uses, one (1) sign identifying the name of the multifamily development shall be allowed at each entrance not to exceed two (2) signs. Internal directional signs and signs identifying buildings shall also be allowed limited to three (3) feet in height and eight (8) square feet in sign face area.

a. *Size permitted:* Sixty (60) square feet of sign face area.

b. *Maximum height of sign:* Eight (8) feet.

c. *Type allowed:* Freestanding or monument style. Where more than one (1) sign is allowed, each such sign erected shall be constructed and designed in the same manner.

d. *Illumination:* These signs shall be externally illuminated with ground-mounted lighting only. Any lighting shall project from the ground onto the sign only, and shall not be directed towards any street, vehicular drive or residential unit.

(Ord. No. 2005-12, § 1, 6-6-05)

Sec. 27-587. - Compliance with building and electrical codes.

All permanent signs, and the illumination thereof, shall be designed, constructed, and maintained in conformity with applicable provisions of the building and electrical codes.

(Ord. No. 2005-12, § 1, 6-6-05)

Sec. 27-588. - Illumination standards.

(a) Sign lighting may not be designed or located to cause confusion with traffic lights.

(b) Illumination of the sign is permissible, provided that none of the light emitted shines directly onto an adjoining property or into the eyes of motorists or pedestrians using or entering public streets.

(c) Illuminated signs shall not have lighting mechanisms that project more than eighteen (18) inches perpendicularly from any surface of the sign over public space.

(Ord. No. 2005-12, § 1, 6-6-05)

Sec. 27-589. - Placement standards.

(a) *In right-of-way.* Supports for signs or sign structures shall not be placed in or upon a public right-of-way or public easement, except under the terms of a lease between the owner of the easement or right-of-way and the owner of the sign or with the written approval of the City of Neptune Beach.

(b) *Over right-of-way.* No freestanding sign shall project over a public right-of-way.

(c) *Blocking exits, fire escapes, etc.* No sign or sign structure shall be erected that impedes use of any fire escape, emergency exit, or standpipe.

(d) *Near certain properties.* No sign or sign structure shall be within fifteen (15) feet of the outside boundary of any public highway or within two hundred (200) feet of any church, school, cemetery, public park, public reservation, public playground or residence district. The distance to the sign shall be measured along the public highway on which the advertisement is located; provided, however, that signs

may be erected on any business lot within one hundred twenty (120) feet of any residence district or may be affixed or painted upon any business building located within any business district. [This subsection does not apply to the C-1 district.]

(Ord. No. 2005-12, § 1, 6-6-05)

Sec. 27-590. - Clearance standards.

(a) *Over pedestrian ways.* All signs over pedestrian ways shall provide a minimum of seven (7) feet six (6) inches of clearance.

(b) *Over vehicular ways.* All signs over vehicular ways shall provide a minimum of thirteen (13) feet six (6) inches of clearance.

(Ord. No. 2005-12, § 1, 6-6-05)

Sec. 27-591. - Design standards.

(a) All freestanding signs shall be designed to resist a wind pressure of twenty (20) pounds per square foot in any direction.

(b) No building sign may project more than one (1) foot from the building wall.

(Ord. No. 2005-12, § 1, 6-6-05)

Sec. 27-592. - Nonconforming signs.

All signs, which were lawfully in existence and constructed or installed with properly issued sign permits as of the effective date of these amended regulations, and which are made nonconforming by the provisions herein shall be allowed to remain in accordance with the following conditions:

(1) Freestanding signs, permitted pursuant to section 27-584, made nonconforming upon the initial effective date of these amended regulations, which are not in compliance only with respect to the minimum required distance of five (5) feet from any property lines shall be allowed to remain in the existing location provided that no portion of the sign is located within any publicly owned right-of-way or utility easement and that no interference with clear sight distance exists, and further provided that such signs are otherwise in compliance with the terms of this article.

(2) Freestanding signs, permitted pursuant to section 27-584, made nonconforming upon the initial effective date of these amended regulations, which are not in compliance with respect only to maximum width, height or size shall be allowed to remain, provided that such signs are otherwise in compliance with the terms of this article.

(3) Nonconforming signs, including those as described in preceding subsections (1) and (2) shall be made conforming with all provisions of this article when any of the following changes are made:

a. Any change to the structural supports or structural materials, including temporary relocation associated with routine maintenance of a property.

b. Any increase in illuminated area.

c. Any change which increases the height and/or area of a sign.

d. Any rebranding as defined herein.

e. Any replacement required as the result of damage, a weather event, and/or an Act of God.

f. Any replacement of an abandoned sign.

g. Any change necessary for compliance with Florida Building Code requirements.

h. The subdivision or partial conveyance of a lot or parcel which reduces the street frontage of the lot for purposes of calculating the size and/or number of sign(s) on said lot or parcel.

i. Any repair done without obtaining a required building permit.

(4) The provisions of this section shall not be construed to apply to signs that are deteriorated, dilapidated, or in a general state of disrepair, or which are determined to create a hazard to public safety, which signs shall be removed by the property owner within sixty (60) days of written notice from the city manager or designee of such condition. Abandoned signs shall be removed only in accordance with section 27-707 herein.

(5) For violation of this section, the city manager or his designee shall assess a civil penalty to be paid in the following amounts:

First offense $500.00

Second offense $1,000.00

Third and each subsequent offense $1,500.00

All appeals of civil penalty assessments must be in writing and received by the city clerk within thirty (30) days of assessment and shall be heard by the special magistrate.

(Ord. No. 2005-12, § 1, 6-6-05; Ord. No. 2015-02 , § 1, 3-2-15; Ord. No. 2015-17 , § 4, 11-2-15)

Sec. 27-593. - Violation constitutes nuisance; abatement.

Any advertisement, advertising sign or advertising structure which is constructed, erected, operated, used, maintained, posted or displayed in violation of this Code is hereby declared to be a public and private nuisance and shall be forthwith removed, obliterated or abated. Any portable sign such as snipe signs or real estate signs may be removed without notification of the property owner, if such sign is placed in public rights-of-way.

(Ord. No. 2005-12, § 1, 6-6-05)

Sec. 27-594. - Permit application and approval procedures.

(a) The developer shall submit to the building official a completed sign application.

(b) Within ten (10) days after receipt of an application, the building official shall determine that the information is complete or incomplete and inform the developer of the deficiencies, if any. If the application is deemed:

(1) Incomplete, the developer may submit the required information within ten (10) days without payment of an additional application fee, but, if more than ten (10) days elapse, the developer must thereafter initiate a new application and pay a new application fee; or

(2) Complete the building official shall determine if the sign meets all provisions of this Code and shall issue the permit which states whether the application is approved, denied, or approved with conditions within twenty-five (25) days of receiving the permit application.

(Ord. No. 2005-12, § 1, 6-6-05)

Sec. 27-595. - Procedure for appeal.

Any administrative decision that is made by any city official in the administration or enforcement of this article may be appealed within thirty (30) days to the circuit court.

(Ord. No. 2005-12, § 1, 6-6-05; Ord. No. 2006-01, § 1, 3-6-06)

Sec. 27-596. - Art project.

(a) Proposed art projects must apply for a Public Art Permit with the building department on the forms provided by the city and pay any associated permit fees before being placed on the community development board agenda. Any proposed art project in the commercial districts that in the opinion of a majority of the community development board is found to be public art that enhances the commercial district may be recommended to the city council for its approval. If approved by the city council, such an art project will be permitted as long as it is maintained in good condition. The city council may place conditions for approval on the proposed project. Any such art project which deteriorates over time shall be removed by the applicant at the sole discretion of the city council. The city manager or designee will determine if the application is complete before setting a date for the community development board to consider the application.

(b) In making their decisions, both the community development board and city council shall determine:

(1) That the proposed art project will enhance the aesthetic beauty of the area of its proposed location;

(2) That the artist is capable of completing the work in accordance with the plan submitted as part of the application;

(3) That the information in the application regarding the durability and expected maintenance of the proposed art project is correct; and

(4) That the materials to be used and the manner of application will not require excessive maintenance by its owner.

(c) In making their determinations, the community development board and city council may consider evidence of property values, the opinions of the owners and occupants of surrounding properties and the public.

(d) If final approval is given for the project by the city council, the city manager or designee will issue a permit. The project will be inspected by the city manager or designee to ensure that the project is being completed as approved by the council.

(e) The City shall maintain the right to remove any artwork and revoke any Public Art Permit should the project fall into disrepair or should the project fail to be installed within twelve (12) months of the issuance of the permit.

(f) Upon completion of the artwork, any alterations, except for minor touch-ups to scratches, scuffs, or peeling paint, shall be approved by the community development board.

(Ord. No. 2007-16, § 2, 11-5-07; Ord. No. 2010-14, § 55, 9-7-10)

Secs. 27-597—27-600. - Reserved.

ARTICLE XVI. - RESERVED[19]

Footnotes:
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***Editor's note**— Ord. No. 2017-11 , § 1, adopted June 5, 2017, deleted Art. XVI §§ 27-601—27-610 entitled "Architectural Review," which derived from: Ord. No. 91-1-5, § 2, adopted May 6, 1991; and Ord. No. 2010-14, § 56, adopted Sept. 7, 2010.*

Secs. 27-601—27-620. - Reserved.

ARTICLE XVII. - RESERVED[20]

Footnotes:
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***Editor's note**— Ord. No. 2017-12 , § 1, adopted June 5, 2017, deleted Art. XVII §§ 27-621—27-642 entitled "Historic Preservation," which derived from: Ord. No. 91-1-5, § 2, adopted May 6, 1991; Ord. No. 1996-28, §§ 11, 12, adopted Oct. 7, 1996; and Ord. No. 2010-14, §§ 57—65, adopted Sept. 7, 2010.*

Secs. 27-621—27-700. - Reserved.

ARTICLE XVIII. - NONCONFORMING LOTS, STRUCTURES, USES AND SIGNS[21]

Sec. 27-701. - Reserved.

Sec. 27-702. - Generally.

Within the districts established by this Code, there exist lots, structures, uses, and signs which existed before the adoption of this Code or previous amendments, but which would be prohibited, or restricted under the provisions of this Code or future amendments. This article prescribes how these nonconformities may be continued, terminated, or made to comply with this Code.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-703. - Purpose and intent.

(a) The provisions of this article have been written to achieve the following purposes and intentions of the city council:

(1) An existing lot that qualifies as a nonconforming lot of record may be used for the purposes allowed in its zoning district (see section 27-705.

(2) An existing structure that is nonconforming due to the size of the structure or its placement on the lot, or due to noncompliance with other regulations in this chapter such as lot coverage or allowable signage, may be expanded only in compliance with this code (see section 27-706).

(3) An existing use that is not permitted in its zoning district may not be expanded (see section 27-708).

(4) Abandoned signs must be removed (see section 27-709).

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2017-24 , § 1, 11-6-17)

Sec. 27-704. - Definitions.

Refer to article I for definitions.

(Ord. No. 2004-10, § 1, 10-4-04)

Sec. 27-705. - Nonconforming lots of record.

(a) 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.

(b) 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.

(c) Special requirements for lots in the R-3 zoning district are provided in section 27-242.

(d) Special requirements for lots in the R-4 zoning district are provided in section 27-243.

(e) Except in the R-3 and R-4 zoning districts, nonconforming lots of record may be developed and used for any use permitted in the district, provided:

(1) That residential uses must comply with density restrictions imposed by the adopted future land use map (see section 27-242).

(2) That such lots shall have a minimum width throughout their length of at least forty (40) feet; and

(3) That any new development shall conform to the required setbacks, lot coverage limitations, and building height limitations for the district in which it is located.

(f) Wherever there exists a structure which by itself or with accessory structures exists on a parcel containing more than one (1) nonconforming lot of record, said building site shall not henceforth be reduced or diminished in dimension or area below the minimum requirements set forth in this chapter for the district in which it is located (regardless of whether the structure or accessory structures have been demolished, or removed therefrom, in whole or in part).

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2017-24 , § 1, 11-6-17)

Sec. 27-706. - Nonconforming structures.

(a) 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.

(b) A nonconforming structure may remain indefinitely, subject to the following limitations:

(1) The nonconforming structure may not be physically expanded in any manner that would increase the nonconformity.

(2) The nonconforming structure may not be physically expanded in any manner that would violate any additional physical standards in this code.

(3) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building, if a building permit was issued prior to the adoption or amendment of this Code causing the nonconformity; provided, that construction commences within six (6) months of issuance and continues in good faith,

(4) If characteristics of use are made nonconforming by this chapter as adopted or amended, no change shall thereafter be made in such characteristics of use which increases nonconformity with the regulations set out in this chapter; however, changes may be made that do not increase or that decrease such nonconformities.

(c) A nonconforming structure will have its nonconforming status terminated, and shall not thereafter be used, repaired, or rebuilt except in conformity with the regulations of the district in which it is located, under the following conditions:

(1) If the principal structure has been destroyed or is substantially damaged, as that term is defined in section 27-15.

(2) Whenever the use of a nonconforming structure has been discontinued, as evidenced by the lack of use or a vacancy for a period of at least twelve (12) months, or whenever a conforming use is substituted, such nonconforming use shall not thereafter be re-established; and the future use shall be in conformity with the provisions of the district in which it is located.

(3) If a nonconforming structure or portion thereof becomes physically unsafe or unlawful due to lack of repairs or maintenance and is declared by any duly authorized official of the city to be an unsafe building, it shall not thereafter be repaired or rebuilt except in conformity with the regulations of the district in which it is located.

(4) All repairs and rebuilding must also comply with:

a. the Florida Building Code (see chapter 8, article II); and

b. the International Property Maintenance Code (see chapter 8, article III), which includes provisions for unsafe conditions and unsafe structures.

Sec. 27-707. - Reconstruction of residential buildings when destroyed or substantially damaged.

(a) Notwithstanding any other provisions of this code, a residential building that is nonconforming as to its structure or use may be reconstructed if it is destroyed or substantially damaged, as defined in section 27-15, provided that:

(1) The reconstruction does not result in an increase in nonconformity of a lot area, yards, or setbacks;

(2) The number of dwelling units in such reconstructed structure does not exceed the number of units in existence prior to the destruction or substantial damage; and

(3) The repair or reconstruction is substantially completed within twenty-four (24) months of the date of such destruction or substantial damage. A twelve (12) month extension may be granted by the city manager or designee due to extenuating circumstances.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2009-04, § 1, 6-1-09; Ord. No. 2017-24 , § 1, 11-6-17)

Sec. 27-708. - Nonconforming uses.

(a) 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.

(b) A nonconforming use may not be extended or enlarged:

(1) By having any buildings or structures replaced or expanded in physical size; or

(2) By having an additional structure erected for the nonconforming use; or

(3) By increasing the residential density; or

(4) By increasing the land or water area for the nonconforming use.

(c) Where open land, i.e., improved, or unimproved vacant land, is being used for a nonconforming use, such use shall not be extended or enlarged either on the same or adjoining property.

Sec. 27-709. - Abandoned signs and removal.

(a) Abandoned signs shall be removed by the owner or property lessee within thirty (30) days of the cessation of business or activity conducted on the property where the sign is located.

(b) A business shall be considered to have ceased or be inactive where the property: (1) is vacated; (2) no longer has a valid certificate of occupation or business tax receipt; (3) no longer provides the service or product advertised on the sign; (4) has no active utility service account(s); or (5) displays a blank sign.

(c) Any sign which pertains to a business or occupation which is no longer using the property on which the sign is situated, or which relates to a time or event that no longer applies, constitutes abandonment, as well as false advertising or false identification.

(d) A sign or sign structure shall also be considered abandoned or discontinued when its owner fails to operate or maintain a sign for a period of sixty (60) days or longer after receipt of notice from the city manager or designee of apparent abandoned status.

(e) Failure to remove an abandoned sign shall result in a civil fine of one hundred ($100.00) dollars per day of non-removal after notice from the city manager or designee and shall constitute a lien upon the property upon which the sign is affixed, subject to enforcement and collection, as provided in this Code and the Florida Statutes.

(Ord. No. 2007-15, § 1, 10-1-07; Ord. No. 2015-02 , § 2, 3-2-15)

Secs. 27-710. - Reserved.