

**ORDINANCE NO. 22-09-01**

**AN ORDINANCE OF THE CITY OF NICEVILLE, FLORIDA; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR AMENDMENTS TO PART II, THE CODE OF ORDINANCES OF NICEVILLE, FLORIDA, APPENDIX D, ARTICLES 3, AND 7, LAND DEVELOPMENT CODE PURSUANT TO CHAPTER 166, FLORIDA STATUTES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE**

**SECTION 1. AUTHORITY.** The authority for enactment of this Ordinance is Section 166.021, Florida Statutes.

**SECTION 1. AUTHORITY.** The authority for enactment of this Ordinance is Section 166.021, Florida Statutes.

**SECTION 2. FINDINGS OF FACT.**

**WHEREAS**, the Niceville City Planning Commission, on August 1, 2022, held an advertised public hearing for this proposed Ordinance, which provided for comments and public participation in the process in accordance with the requirements of state law and the procedures adopted for public participation in the planning process, and recommended that the City Council hold a public hearing to adopt the Ordinance; and

**WHEREAS**, The City Council, on August 9, 2022 held an advertised public hearing for the first reading of the proposed Ordinance, which provided for comments and public participation in the process in accordance with the requirements of state law and the procedures adopted for public participation in the planning process; and

**WHEREAS**, The City Council has considered the amended City of Niceville Land Development Code Amendment and received public comment at an advertised public hearing for the second reading of the proposed Ordinance on August 9, 2022 and for the second reading of the proposed Ordinance on September 13, 2022, and determined that each document has addressed all of the public comments, and the Council is now ready to adopt the Land Development Code amendments.

**SECTION 3. AMENDMENT OF PART II – CITY OF NICEVILLE CODE OF ORDINANCES, APPENDIX D - LAND DEVELOPMENT CODE, ARTICLE 3, DEFINITIONS.**

**SECTION 4. AMENDMENT OF PART II – CITY OF NICEVILLE CODE OF ORDINANCES, APPENDIX D - LAND DEVELOPMENT CODE, ARTICLE 7, LAND USE, ZONING DIMENSIONAL STANDARDS, OVERLAYS.**

**SECTION 5. Effective Date.** The effective date of this Ordinance shall be upon adoption at the second reading of the ordinance.

**PUBLIC HEARING and FIRST READING** this 9<sup>th</sup> day of August, 2022.


**PUBLIC HEARING and SECOND READING** this 13<sup>th</sup> day of September, 2022.

**PASSED and ADOPTED** by the City Council of the City of Niceville, Okaloosa County, Florida, on this 13<sup>th</sup> day of September, 2022.

**CITY OF NICEVILLE, FLORIDA**

Attest:

  
Dan Doucet, City Clerk

  
Daniel Henkel, Mayor

## ARTICLE 7. - LAND USE, ZONING DIMENSIONAL STANDARDS, OVERLAYS

### DIVISION I. ZONING DISTRICTS AND GENERAL REGULATIONS

#### 7.00.00 General.

This article implements the goals, objectives and policies set forth in the comprehensive plan relating to land use in the City of Niceville. Provisions set forth as to type of land use, density and intensity permitted are correlated with the districts shown on the Future Land Use Map.

#### 7.01.00 Protection and preservation of archaeological and historic resources.

The Florida Department of State, Division of Historic Resources has identified ten (10) sites within Niceville of historic significance. Such sites have been identified and documented as being significant in American history, architecture, archaeology, engineering or culture. They reflect the prehistoric occupation and historical development of the nation, state and local community. Their protection and preservation, therefore, is essential. Any time a proposed development may impact an historic or archeological site within the city, the following regulations shall apply.

- A. Historic structures shall be exempted from the provisions of the Florida Building Code, if any modification, repair or restoration activity would jeopardize their historical integrity, except in the case of a safety hazard.
- B. Land alteration or development of land where such would contribute to the destruction of historic resources shall be prohibited.
- C. A project classified as a development of regional impact (DRI) shall contain a description of historical or archaeological sites within the proposed development and suggested mitigation measures for such resources if present. DRIs shall be submitted to the Compliance and Review section in the Florida Department of State's Bureau of Historic Preservation.
- D. Where a proposed development is located on a protected historical or archaeological site, a survey shall be conducted by a State of Florida qualified archaeologist or similar expert. The survey shall contain recommendations on methods of preservation, protection, or mitigation of resources on the site. Where previously unidentified historical or archaeological resources are unearthed during site preparation, excavation, construction, or development activity on a site, development shall be suspended and the City shall be notified. The City shall determine if a survey is required.

#### 7.02.00 Restoration of Boggy Bayou.

**7.02.01 Purpose.** Land use also has impact on surface waters and therefore requires the implementation of regulatory controls. Boggy Bayou in Niceville represents the economic heritage of the City of Niceville and as such requires protection to guard against future degradation. Docks, marinas and boating activity in the bayou tend to increase proportionately with Niceville's growing population. Measures to ameliorate the impact of high intensity use of the bayou are essential to protect this valuable resource.

**7.02.02 Regulations and policies.** This section sets forth regulations and policies pertinent to land use and the permitting process that are designed to protect Boggy Bayou and to comply with state law:

- A. The direct discharge of sewage from boats in the bayou is prohibited by federal, state and local law.
- B. All commercial marinas shall show proof of the required federal and state permits prior to annual issue or reissue of business/local business tax.
- C. Commercial marinas are subject to annual fire inspection.
- D. Proof of any required permits for alteration or reconstruction will also be submitted at business/local business tax renewal.
- E. The licensee shall be responsible for the condition and repair of all docks and facilities.

#### **7.03.00 Establishment of districts and official maps.**

##### *7.03.01 Intent and purpose.*

- A. For the purposes of this code the city is divided into future land use and zoning districts in the manner provided for elsewhere in this code. Each future land use district shall contain a set of zoning districts that may be permitted within its boundaries and are consistent with its allowable uses.
- B. The rezoning of land to any of the zoning districts established in this code shall be consistent with the comprehensive plan directives, shall discourage non-residential strip development along transportation corridors, shall not adversely impact the facilities and services of the city, and shall not set a precedent for the introduction of inappropriate uses into an area.
- C. All development and redevelopment activities shall be consistent with the comprehensive plan regarding permitted uses and densities and intensities of uses, as well as applicable performance criteria, best management practices and standards set forth in the comprehensive plan and this code.

##### *7.03.02 Official maps.*

The boundaries of the zoning districts are hereby established and shall be delineated on an official map for the city entitled "The Official Zoning Map of the City of Niceville" which, with all explanatory matter set forth thereon are incorporated in and hereby made a part of this code. The official zoning map shall be identified by the signature of the mayor, attested by the city clerk, and bearing the seal of the city under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 7.03.02 of the City of Niceville Land Development Code," together with the date of the adoption of this code.

##### *7.03.03 Changes to district boundaries.*

If changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be made on the official map promptly after the amendments have been approved by the city council. An ordinance number shall be given to each change and a file of such changes kept by the city clerk.

##### *7.03.04 Interpretation of district boundaries.*

Where uncertainty exists as to the boundaries of districts as shown on the zoning map, the following rules shall apply.

- A. Where district boundaries appear to follow centerlines of streets, alleys, easements, railroads and the like, they shall be construed as following centerlines.
- B. Where district boundaries appear to follow lot, property or similar lines, they shall be construed as following such lines.

- C. In subdivided property or where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by use of the scale appearing on the map.
- D. Where a district boundary line divides a lot or parcel of land the uses permitted in the zoning district on either portion of the lot may be extended a distance not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.
- E. Where any street or alley is hereafter 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.
- F. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.

**7.03.05 Relationship of future land use categories and zoning districts.**

In the establishment, by this article, of the respective zoning districts, the city council has given due and careful consideration to the peculiar suitability of each zoning district for the particular regulations applied thereto, and the necessary, proper and comprehensive groupings and arrangements of the various uses and densities of population in accordance with the comprehensive plan for the development of the city. In order to regulate and limit the height and size of buildings, to regulate and limit the intensity of the use of lot areas, to regulate and determine the areas of open spaces surrounding buildings, to classify, and to regulate the location of buildings designed for specified industrial, business, residential, and other uses, the city is hereby divided into the following future land use categories and zoning districts:

<b>Conservation Future Land Use Category</b>	
CON	Conservation Zoning District
<b>Parks &amp; Recreation Future Land Use Category</b>	
S-1	Outdoor Recreational Zoning District
<b>Public/Institutional Future Land Use Category</b>	
PCI	Public, Civic & Institutional Zoning District
<b>Low Density Residential Future Land Use Category</b>	
R-1A	Single-family Residential Zoning District (max. 4 du/acre)
R-1	Single-family Residential Zoning District (max. 5 du/acre)
<b>Medium-Density Residential Future Land Use Category</b>	
R-1	Single-family Residential Zoning District (max. 5 du/acre)
R-1B	Single-family Residential Zoning District (max. 8 du/acre)
R-2	Single- or Multi-family Residential Zoning District (max. 12 du/acre)
R-3	Multi-family Residential Zoning District (max.15 du/acre)
<b>Mixed Use Future Land Use Category</b>	
R-1B	Single-family Residential Zoning District (max. 8 du/acre)
R-2	Single- or Multi-family Residential Zoning District (max. 12 du/acre)
R-3	Multi-family Residential Zoning District (max.15 du/acre)
R-NC	Residential - Neighborhood Commercial Zoning District (max.15 du/acre)
R-C	Residential - Commercial Zoning District (max. 25 du/acre)
C-1	Limited Commercial Zoning District (max.15 du/acre)
C-2	General Commercial Zoning District (max. 25 du/acre)
<b>Commercial Future Land Use Category</b>	
C-1	Limited Commercial Zoning District (max.15 du/acre)

C-2	General Commercial Zoning District (max.25 du/acre)
<b>Industrial Future Land Use Category</b>	
C-1	Limited Commercial Zoning District (max. 15 du/acre)
C-2	General Commercial Zoning District (max. 25 du/acre)
M-1	Industrial Zoning District
<b>Community Planned Unit Development Future Land Use Category</b>	
CPUD	Community Planned Unit Development Zoning District (density and intensity based on approved Development Agreement)
<b>Planned Unit Development Future Land Use Category</b>	
PUD	Planned Unit Development Zoning District (density and intensity based on approved Development Agreement)

#### 7.04.00 Zoning districts established.

##### 7.04.01 *Intent and general requirements.*

The following zoning districts are established for the purpose of regulating the location and development of residential and non-residential uses. The rezoning of land to any of the zoning districts established in this code shall be consistent with the comprehensive plan directives, shall discourage non-residential strip development along transportation corridors, shall not adversely impact the facilities and services of the city, and shall not set a precedent for the introduction of inappropriate uses into an area. All development and redevelopment activities shall be consistent with the comprehensive plan regarding permitted uses and densities and intensities of uses, as well as applicable performance criteria, best management practices and standards set forth in the comprehensive plan and this code.

##### 7.04.02 *CON: Conservation zoning district.*

The conservation zoning district is intended to preserve and protect distinct areas of open space, vegetative habitat, natural drainage systems, aquifer recharge areas, soils, and wildlife habitats located on public property or on privately-held lands as desired by the property owner. Conservation lands are intended primarily for the purpose of preserving natural resources and while allowing minimal opportunities for passive activities such as hiking, fishing, non-motorized boating, and similar uses.

##### 7.04.03 *S-1: Outdoor recreational zoning district.*

The outdoor recreational zoning district is established to provide sufficient space for public parks for active and passive recreational uses, and forestry activities. This zoning district is intended to accommodate existing public parks and recreation areas as well as committed public and semi-public open spaces.

##### 7.04.04 *PCI: Public, civic and institutional zoning district.*

The public, civic and institutional zoning district is established to accommodate public and semi-public services including government administration buildings; public schools and not-for-profit educational institutions; public hospital facilities and health care units; arts, cultural or civic facilities; essential public services and facilities; cemeteries; fire and emergency operation facilities; utilities; and other similar uses.

##### 7.04.05 *R-1A, R-1: Low-density residential zoning districts.*

The purpose of the residential zoning districts is to provide for predominantly suburban residential uses ranging from low to medium densities, to accommodate and support non-residential uses, and to protect these areas from the encroachment of incompatible uses. The

R-1A and R-1 single-family residential districts are established for the purpose of providing and preserving areas of single-family, low intensity development at a maximum density of five (5) dwelling units per acre in areas deemed suitable because of compatibility with existing development and/or the environmental character of the areas.

*7.04.06 R-1B, R-2, R-3: Medium-density residential zoning districts.*

The R-1B, R-2, and R-3 single-family and multi-family residential districts are established for the purpose of providing a mixture of single-family, duplex, and low-intensity multi-family dwellings with a maximum density of fifteen (15) dwelling units per acre. The zoning regulations and performance standards are intended to promote design which is in character with the density, intensity and scale of the existing surrounding or adjacent neighborhoods.

*7.04.07 R-NC, R-C: Mixed-use zoning districts.*

The mixed-use districts are established for the purpose of providing for a mixture of residential housing types and densities and a range of commercial uses. Residential and nonresidential uses shall be allowed on the same parcel and within the same structure. When the mixed-use district is located in older, developed areas of the city, the zoning regulations are intended to provide for infill development at a density, character and scale compatible with the surrounding area. In some cases, the mixed-use districts are intended as a transition area between residential uses and higher intensity commercial uses.

*A. R-NC: Residential/neighborhood commercial zoning district.*

The residential/neighborhood commercial zoning district is intended to provide for a mixture of offices, low-intensity businesses, and residential uses at a maximum density of fifteen (15) units per acre. Design standards and guidelines ensure development is designed in a way to be compatible with and enhance the existing character of the neighborhood in which it is located or adjacent to.

*B. R-C: Residential/commercial zoning district.*

The residential/commercial zoning district is intended to provide for a mixture of predominantly offices, businesses, and residential uses at a maximum density of twenty-five (25) units per acre. Design standards and guidelines ensure development is designed in a way to be compatible with and enhance the existing character of the neighborhood in which it is located or adjacent to.

*7.04.08 C-1, C-2: Commercial zoning districts.*

The commercial zoning districts are established for the purpose of providing areas of primarily business and commercial development ranging from stand-alone retail businesses to compact shopping areas to high intensity commercial centers. The commercial zoning districts are not intended for low density residential development, nor are they intended for mixed residential and commercial uses on the same parcel. Any existing low-density residential development will be permitted to remain and shall not be considered a non-conforming use; however, only medium-to high-density new residential uses are permitted.

*A. C-1: Limited commercial zoning district.*

The C-1 zoning district is intended to provide for a mixture of predominantly offices and low-intensity retail commercial uses, along with limited medium-density residential use at a maximum fifteen (15) units per acre. Design standards and guidelines shall ensure development is designed in a way to ensure transportation connectivity with adjacent development along arterial and major collector roadways, pedestrian accessibility to the surrounding neighborhoods, and parking lot design compatible with the lower intensity character of the district and the surrounding

neighborhoods.

*B. C-2: General commercial zoning district.*

The C-2 zoning district is intended to provide for a mixture of predominantly offices and high-intensity retail commercial uses, along with limited medium- to high-density residential use at a maximum twenty-five (25) units per acre. Because this zoning district is generally assigned to land along arterial and major collector roadways, design standards and guidelines shall ensure development is designed in a way to ensure transportation and pedestrian connectivity with adjacent development.

*7.04.09 M-1: Industrial zoning district.*

The industrial zoning district is established for the purpose of facilitating the manufacturing, warehousing, distribution, wholesaling and other industrial functions of the city and the region. Residential uses are prohibited in the industrial zoning district, except for a caretaker/security manager's residence. The industrial district regulations are designed to:

- A. Encourage the formation and continuance of a compatible environment for industries, especially those which require large tracts of land and/or employ large numbers of workers;
- B. Protect and reserve undeveloped areas which are suitable for industries; and
- C. Discourage development of new residential or other uses capable of adversely affecting or being affected by the industrial character of this district.

*7.04.10 PUD: Planned unit developments zoning district.*

- A. Planned unit developments (PUDs). Townhouses, patio homes, atriums, cluster developments, multifamily dwellings, rental apartments, motels, hotels, and condominiums are considered to be PUDs. Also considered as PUDs are clustered developments as defined in Article 3, Definitions, of this code.
- B. Procedures.
  - a. Advertising for public hearing by the planning commission/city council is required. Submit documents to the city manager or his designee for processing.
  - b. Drawings and other documents shall be complete to the extent necessary to indicate all requirements of this code have been met prior to advertising for a public hearing. Complete construction drawings for buildings are not required prior to public hearings; however, complete construction drawings are required prior to issuing of building permits.
  - c. Submit five (5) copies of plot plans showing property and street lines, common open space, buildings and other structures, parking, setback dimensions, drives and stormwater management for zoning and the city engineer's approval. In the case of proposed city dedicated public streets construction drawings are required.
  - d. Platting procedure shall be in accordance with City of Niceville Code of Ordinances.
  - e. Refer to the subdivision chapter for requirements for dedicated public streets. Private streets are allowed in PUDs.
  - f. Approval by the governing body is required prior to obtaining building permits. Approvals the city engineer and DEP are required. Approvals by other concerned agencies may be required.
  - g. The owner or his authorized representative must be present at all hearings regarding his project.



- h. Building permits shall not be issued for PUD projects where the applicant has failed to obtain a building permit for all or a portion of the proposed dwelling units within a period of one (1) year from the date of approval of the governing body. In such cases, in order to obtain a building permit the applicant is required to resubmit the project as stated herein for approval and comply with all ordinances, rules and regulations in force and effect at the time of reconsideration.
  - C. *Condominiums.* The procedures for processing condominium projects shall be as stated hereinabove except the platting procedure shall be in accordance with Florida Statutes.
  - D. *Conversions.* The converting of existing rental apartments, motels, etc., constructed or structurally altered to increase the number of dwelling units subsequent to October 1, 1990, shall be in accordance with Florida State Statutes and in accordance with this code.
- 7.04.11 *C-PUD: Community planned unit development zoning district.*
- A. *Purpose and intent of district.* The community planned unit development (C-PUD) zoning district is intended to provide a method by which proposals for a unique zoning district which are not provided for or allowed in the zoning districts otherwise established by this chapter may be evaluated. The C-PUD district may be located in any future land use category established by the comprehensive plan. The district is intended for projects that require multiple phases and will develop over time. Detailed buildings and site layout may not be available at the time the zoning district is established. The standards and procedures of this district are intended to promote flexibility of design and permit planned diversification and integration of uses and structures, while at the same time retaining in the city council the absolute authority to establish such limitations and regulations as it deems necessary to protect the public health, safety, and general welfare.
  - B. *Eligibility.* The C-PUD development district is designed to allow an applicant to submit a proposal for consideration, for any uses or any mixture of uses that are consistent with the comprehensive plan, and to allow the city council to approve any proposal which it determines to be in the best interest of the public health, safety, and welfare, along with any conditions or requirements or limitations thereon which the city council deems advisable. The approval of C- PUD rezoning requests rests with the city council. However, no rezoning to this zoning district shall be eligible for approval unless the following minimum conditions are met:
    - 1. *Minimum area for a C-PUD zoning district.* The minimum area required for an application to a C-PUD development district is five (5) acres unless a special exception is approved by the city council.
    - 2. *Unified control/ownership.* All land included for the purpose of development within a C- PUD development district shall be owned by or be under the complete control of the applicant for such zoning designation at the time the C-PUD zoning district is established, whether the applicant be an individual, partnership, corporation, other entity, group, or agency. No application shall be considered until the requirements of this section have been fully complied with. Amendments to the C-PUD zoning district must demonstrate unified/control ownership for the portion of the zoning district that is being amended. At the time a concept plan is filed, the applicant shall provide the city all of the necessary documents and information that may be required by the city attorney to assure the city that the development project may be lawfully completed according to the plans sought to be approved.

- C. *Review process.* An application for a C-PUD zoning district shall consist of a map delineating the boundary of the proposed zoning district. Any development within the zoning district must be consistent with the city's comprehensive plan and no new development may occur until a concept plan and a final development plan have been approved; however interim land use activities such as agricultural, silvicultural and recreational activities may occur as well as expansion of existing uses may occur as long as those uses are consistent with the comprehensive plan.
1. *C-PUD concept plan.* A concept plan is a generalized plan which shows the proposed use and maximum density or intensity of all lands within the zoning district in accordance with the information set forth in subsection (d) of this section
- a. *Pre-application conference.* All C-PUD projects are considered "major" projects as defined in this Code, Section 2.05.00. A pre-application meeting with the technical review committee is required prior to filing a concept plan application.
  - b. *Concept plan application.* A concept plan application shall be submitted in accordance with the submittal requirements set forth in subsection (d) of this section.
  - c. *Public notification.* Public notice of the public hearings shall be consistent with the notice procedures in Article 4, Section 4.02.00.
  - d. *Technical review committee review.* The technical review committee shall review a concept plan application to determine if the application complies with the comprehensive plan and other applicable land development codes adopted by the city. The technical review committee shall prepare an itemized list of written findings of fact which supports a recommendation of approval, approval with conditions, or denial of a concept plan. The written findings of the technical review committee shall be forwarded to the planning commission. Meetings of the technical review committee shall be conducted in accordance with established policies and procedures.
  - e. *Planning commission review.* The planning commission shall review the concept plan and the written findings of fact of the technical review committee, and conduct a public hearing in order to formulate a recommendation to the city council on approving, approving with conditions, or denying a concept plan. The recommendation of the planning commission shall be supported by written findings of fact. Meetings of the planning commission shall be conducted in accordance with established policies and procedures.
  - f. *City council review.* The city council shall review the concept plan, the recommendation and written findings of the technical review committee and the planning commission, and conduct a public hearing. The city council will then approve, approve with conditions, or deny the concept plan. The decisions of the city council shall be final and shall be supported by written findings. Meetings of the city council shall be conducted in accordance with established policies and procedures.
  - g. *Revisions to the concept plan.* The applicant shall have ninety (90) days from the date of the city council meeting when final action is taken to submit a revised concept plan to include any conditions of approval for the concept plan imposed by the city council. Any such changes shall be reviewed for acceptance by the technical review committee members or their designees

within ten (10) days of receipt and shall bear the signature of the technical review committee members or their designees before the concept plan can be accepted as the approved concept plan. Upon written request from the applicant, one ninety-day extension may be granted to the applicant by the city manager for submittal of the revised concept plan. Failure by the applicant to submit a revised concept plan within the time frames specified in this section shall deem the plan null and void.

*h. Amendments to concept plan.* The building official may approve amendments to the concept plan during the review of a final development plan if the building official determines that such amendments do not affect the overall character of the concept plan. If the amendments affect the overall character of the concept plan, then the amendments to the concept plan shall be reviewed as a new concept plan.

2. *Final development plan.* A final development plan is a detailed development plan which is prepared to scale showing accurately and with complete dimensioning the boundaries of a site and the location of all buildings, structures, land uses, and principal site development features proposed. The submittal requirements, review process, and minimum standards that apply to a final development plan are set forth in the site plan review procedures of Article 2 of this Code. At the option of the applicant, a concept plan may be reviewed simultaneously with a planned unit development final development plan. The submittal requirements of such a review may be determined at a pre-application conference.

3. *Consolidated planned unit development concept/final development plan.* A unified planned unit development concept/final development plan consists of an application which includes all submittal requirements for a C-PUD concept plan and final development plan outlined in subsection (d) of this section and Section 2.12.00, of this Code, submitted for review as a single entity. The unified C-PUD concept/final development plan is subject to the review process outlined in this subsection (d).

*D. Submittal requirements.*

1. *Concept plan.* A concept plan shall consist of the graphic or textual information itemized in subsections (D)(1)a. through c. of this section. Adjustments to this information may be made at the pre-application conference. Individual submittal requirements may be waived by the building official based upon the project's size, character, location and composition.

a. A general plan for the use of all lands indicating the general location of residential areas (including density and unit types), open space, parks, passive or scenic areas, and nonresidential areas (including building square footage and height) and connection points to utility systems.

b. A plan of vehicular and pedestrian circulation showing the general locations and right-of-way widths of roads, sidewalks, transit facilities (if any), the capacity of the system and access points to the external and internal thoroughfare network.

c. Quantitative summary of land uses (maximum acres, maximum nonresidential building square feet, and maximum number of residential dwelling units). A report shall be submitted to the city that includes a statement indicating how the proposed development complies with the comprehensive plan and a general description of the proposed development

including:

- i. The total acreage of the project.
- ii. The number of acres proposed to be developed in the various categories of land shown on the concept plan; the percentage of total acreage represented by each category of use and each component of development; and an itemized list of uses proposed for each of the components which shall be the range of uses permitted for that section of the planned unit development.
- iii. The number and type of dwelling units proposed for the overall site and for its components, including dwelling unit per acre calculations or for nonresidential projects, gross square footage devoted for each land use.
- iv. The establishment of minimum development standards which shall govern the site and development such as lot shape and size, internal streets and pedestrian ways, open space provisions, off-street parking, buffers and landscape areas.
- v. A binding commitment to develop the property in accordance with the approved concept plan and conditions of approval. The commitment shall bind all subsequent owners.
- vi. A site conditions map which includes:
  - o Legal description and boundary survey signed and sealed by a registered state land surveyor.
  - o Name of the planned unit development; owner; subdivider/lessee/optionee (if applicable), and address and phone number of each; surveyor and engineer of record; and date of drawing.
  - o Scale, date, north arrow, and general location map showing relationship of the site to external uses, structures, and features.
  - o Boundaries of the subject property, all existing streets, buildings, water courses, easements, section lines, and other important physical features.
  - o Existing topography (latest United States Department of the Interior Geological Survey).
  - o The location and size of all existing drainage facilities and utility lines.
  - o Information about the existing vegetative cover and general soil types, and their appropriateness for the proposed project.
  - o The location and function of all other existing public facilities which would serve the residents of the site including but not limited to schools, parks, and fire stations. The requirements to provide this information may be waived for small projects. If required, notation of this information on a scaled map is acceptable.
- vii. An environmental analysis accepted by the building official, in accordance with the applicable provisions of this Code.
- viii. A completed school impact analysis form for projects proposing residential land use or projects located adjacent to residential development.

- ix. A letter from the Florida Division of Historical Resources indicating if any significant historical or archaeological resources reported on the master site file are located on the site.
- 2. *Final development plan.* For information on the submittal requirements for planned unit development final development plans, refer to Section 2.12.02 of this Code.
- E. *Review criteria.* In evaluating a proposed C-PUD district and concept plan, the city shall consider the criteria established in this subsection. The consideration of each criteria by the city shall be documented by written findings.
  - 1. *Consistency with the comprehensive plan.* The proposed C-PUD district and any concept plan(s) shall be consistent with the comprehensive plan.
  - 2. *Consistency with other ordinances.* The proposed C-PUD district and any concept plan(s) shall be consistent with all other ordinances adopted by the city, including but not limited to the applicable environmental and concurrency management ordinances.
  - 3. *Consistency with purpose and intent of C-PUD district.* Any concept plan(s) for the planned unit development district shall indicate how the concept plan meets the purpose and intent of the planned unit development district, as set forth in subsection (E)(1) of this section. The narrative shall address the statements itemized in subsection (A) of this section.

#### **7.05.00 General provisions and exceptions.**

##### *7.05.01 Land use certificate.*

Before a building shall be added to, erected, reconstructed, structurally altered, moved, removed or demolished, a land use certificate (zoning permit) shall be obtained from the building inspector. The certificate shall be on a form provided by the building inspector, and no fee shall be charged. Said certificate shall be obtained prior to issuance of any building permit.

##### *7.05.02 Effect of established setback lines for street planning.*

Where setback lines have been established on streets, roads or highways, the front yard and side yard of corner lots shall be measured from said setback lines.

##### *7.05.03 Substandard lots of record.*

- A. When a lot or parcel of land has an area or frontage which does not conform with the requirements of the district in which it is located, the use of the lot for a single-family dwelling may be granted by means of a variance as defined in Article 3 of this code.
- B. When a subdivision of land or portion thereof contains lots or parcels of land that do not conform to the lot area of lot provisions specified under the various zoning classifications, it shall be incumbent upon the owner of the said tract to replat same to conform to the minimum area and frontage provisions of the applicable zoning district.

##### *7.05.04 Temporary buildings.*

No temporary buildings will be permitted in any district, except temporary buildings used in conjunction with construction work only may be permitted in any district.

#### **7.06.00 Schedule of uses by zoning district.**

#### 7.06.01 *Applicability.*

Except as specifically provided in this Code, regulations governing the use of land and structures within the various zoning districts in the corporate limits of the City of Niceville shall be as shown in Table 7-1, Schedule of Permitted Uses by Zoning District, and no development shall be undertaken without approval and issuance of a development order pursuant to the provisions of this Code.

#### 7.06.02 *Interpretation of Uses.*

Whenever a particular use of land or structure is not expressly listed in the schedule of permitted uses, or whenever there is any uncertainty as to the classification of a use, the city manager or designee shall determine the classification, if any, within which the use falls, based on its characteristics and similarity to other uses in the district. If a use has characteristics similar to more than one classification, the use shall be construed as the classification having the most similar characteristics. In the event that a particular use is determined not to be within an allowed defined use, then the particular use shall be prohibited.

#### 7.06.03 *Home occupations.*

*A home occupation shall be allowed in a bona fide dwelling unit, subject to the following requirements:*

- A. No person other than members of the family residing on the premises shall be engaged in such occupation.*
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character of the structure.*
- C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, other than one (1) sign not exceeding one (1) square foot in area, non-illuminated, mounted flat against the wall of the principal building at a position not more than two (2) feet from the main entrance of the residence.*
- D. No home occupation shall occupy more than twenty-five (25) percent of the first-floor area of the residence. No accessory building, freestanding or attached, shall be used for a home occupation.*
- E. No traffic shall be generated by such occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a front yard required pursuant to this code.*
- F. No equipment, tools or process shall be used in such a home occupation which creates interference to neighboring properties due to noise, vibration, glare, fumes, odors or electrical interference. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio, telephone or television receivers off the premises or causes fluctuations in line voltage off the premises.*
- G. Fabrication of articles commonly classified under the terms arts and handicrafts may be deemed a home occupation, subject to the other terms and conditions of this definition, and providing no retail sales are made at the home.*
- H. Outdoor storage of materials shall not be permitted.*
- I. Only the following home occupations, or others deemed similar shall be approved without the need for a special exception application: Accountant, agent, architect,*

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artist, attorney, beautician, bookkeeper, broker, chiropractor, contractor (office only), consultant, musician, seamstress, tailor, teacher, writer-editor.

J. The following home occupations may be authorized by special exception after written approval is obtained by the appellant from neighbors within a two-hundred-(200) foot radius:

1. Family day care homes provided that no more than five (5) children, including the caregiver's own children, are kept at any given time on the premises.
2. Repair, or other occupations performed by handicapped persons which do not constitute a public nuisance as defined by section 7.08.11 F.

7.06.04. ~~Child care centers, nursery schools and kindergartens.~~

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- A. ~~Child care centers, nursery schools and kindergartens in which more than five (5) children are present at any given time shall have a minimum floor space (apart from administrative or residential use) of thirty-five (35) square feet per child.~~
- B. ~~Each child must also have a minimum of one hundred (100) square feet of outside play area enclosed by a minimum six-foot (6) high chain link fence.~~
- C. ~~All licensed child care facilities must provide a separate kitchen and separate bathrooms apart from the normal living quarters in accordance with Chapter 10M-12, "Child Care Standards," Department of Health and Rehabilitative Services.~~
- D. ~~Requirements of Chapter 4A-36 of the Fire Marshal's Code, shall also apply in determining construction and safety standards.~~

7.06.05. Automobile service stations.

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- A. ~~All pumps shall be set back at least fifteen (15) feet from the right-of-way lines, or where a future widening setback line has been established, this setback shall be measured from such line.~~
- B. ~~The number of curb breaks for an establishment shall not exceed two (2) for each one hundred (100) feet of street frontage each having a width of not more than thirty (30) feet or less than twenty-five (25) feet and located not closer than fifteen (15) feet to a street intersection. Two (2) or more curb breaks on the same street shall be separated by an area of not less than ten (10) feet.~~
- C. ~~When the station abuts a residential district, it shall be separated therefrom by a solid wall or equivalent planting screen at least six (6) feet high.~~

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#### 7.06.06 Guest Homes-

~~Residential properties that are to be used for guest homes, short-term rentals, vacation homes, tourist homes, etc. will only be allowed in zoning district R-3 Multiple Family Residential. This type of use requires the acquisition of a City Business Tax Receipt, registration with the State with appropriate licensing, inclusion in the Okaloosa Tourism Tax and collection of State sales tax at a minium.~~

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7.06.06—07 Special exception uses.

A particular land or use of structure listed as a special exception use within a zoning district requires additional special review by the planning commission and approval by the city council before obtaining a development order. The review shall consider the character of the neighborhood in which the proposed use is to be located, with reference to the effect of the proposed development on surrounding properties and the public benefit and need for such use in the neighborhood; and further, a consideration of site area, open spaces, buffer strips, and

off-street parking facilities as defined in the minimum requirements of this article.



Table 7-1: Schedule of Permitted and Special Exception Uses by Zoning Districts

Specific Use	Zoning Districts												
	CON	S-1	PCI	R-1A	R-1	R-1B	R-2	R-3	R-NC	R-C	C-1	C-2	M-1
<b>Agricultural Uses</b>													
Agricultural Research Facilities													P
Kennels												SE	P
<b>Residential Uses</b>													
Apartments								P	P	P	P	P	
Assisted Living Facility								P	P	P	P	P	
Bed and Breakfast Homes								P	P	P			
Boarding and Lodging Houses, Guest Homes, Short Term Rentals,								P	P	P	P	P	
Community Residential Homes, Seven (7) to fourteen (14) residents <sup>1</sup>							P	P	P	P			
Community Residential Homes, Six (6) or fewer residents <sup>2</sup>				P	P	P	P	P	P	P			
Condominiums								P	P	P	P	P	
Duplexes							P	P	P	P			
Home Occupations					P	P	P	P	P	P			
Manufactured Homes				P	P	P	P	P	P	P			
Mobile Home Parks								P					
Single-Family Detached Homes				P	P	P	P	P	P	P	P <sup>3</sup>	P <sup>3</sup>	
Townhomes							P	P	P	P			
<b>Public/Institutional Uses</b>													
Cemeteries, Human and Pet			P										
Churches & Other Worship Places			P	P	P	P	P	P	P	P	P	P	P
Community and Recreation Buildings, Libraries		SE	P	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Communications Facilities	SE	SE	P	SE	SE	SE	SE	P	P	P	P	P	P
Civic Clubs and Lodges			P	SE	SE	SE	SE	P	P	P	P	P	P
Cultural Facilities		SE	P	SE	SE	SE	SE	SE	SE	SE	P	P	
Day Care Centers (Public)			P	SE	SE	SE	SE	SE	SE	SE	P	P	
Emergency Shelters			P								SE	P	P

<sup>1</sup> Please reference Chapter 419, Florida Statutes, for the definition of such homes, the regulation of Community Residential Homes and the requirements for notification to the local government regarding siting and where such homes may be located.

<sup>2</sup> Please reference Chapter 419, Florida Statutes, for the definition of such homes, the regulation of Community Residential Homes and the requirements for notification to the local government regarding siting and where such homes may be located.

<sup>3</sup> Existing single-family detached homes are permitted and are considered a conforming use; new single-family detached homes are not permitted.

Table 7-1: Schedule of Permitted and Special Exception Uses by Zoning Districts

Specific Use	Zoning Districts												
	CON	S-1	PCI	R-1A	R-1	R-1B	R-2	R-3	R-NC	R-C	C-1	C-2	M-1
Environmental Preserve	P	P	P										
Golf Course, Open to the Public		P	P	SE	SE	SE	SE	SE	SE	SE	P	P	
Playgrounds and Park, Public		P	P	P	P	P	P	P	SE	P	P	P	
Recreation Uses (passive)	P	P	P	P	P	P	P	SE	P	P	P	P	
Schools, Public			P	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Stadiums in Conjunction with School			P	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Swimming Pools, Open to the Public		P	P	SE	SE	SE	SE	SE	P	P	P	P	SE
Tennis Courts, Open to the Public		P	P	SE	SE	SE	SE	SE	P	P	P	P	SE
Utility Structures and Substations			P	SE	SE	SE	SE	SE	SE	SE	P	P	P
<b>Business and Commercial Uses</b>													
Amusement Centers, Indoor											SE	P	P
Bars, Lounges									P	P	P	P	P
Building Materials Sales									P	P	P	P	P
Car Wash									SE	P	P	P	P
Clothing Stores and Dry Goods									P	P	P	P	P
Communications Facilities	SE	SE	P	SE	SE	SE	SE	SE	SE	SE	P	P	P
Consignment Stores, Thrift Stores									P	P	P	P	P
Construction Services											P	P	P
Country Clubs				SE	SE	SE	SE	SE	SE	SE			
Day Care Centers, Private				SE	SE	SE	SE	P	P	P	P	P	
Dry Cleaners									P	P	P	P	P
Financial Institutions									P	P	P	P	P
Food and Drugstores, Excluding Package Stores									P	P	P	P	P
Funeral Home									P	P	P	P	P
Gas Station/Convenience Store, No outdoor storage/repair									P	P	P	P	P
Golf Course, Open to the Public		P	P	SE	SE	SE	SE	SE	SE	SE	P	P	
Hardware Store, Under 10,000 square feet									P	P	P	P	P
Home Furnishings										P	P	P	P
Home Improvement Store										P	P	P	P
Hospital			P								P	P	
Hotel/Motel									SE	P	P	P	P
Industrial Services													P
Lumberyard											P	P	P

Table 7-1: Schedule of Permitted and Special Exception Uses by Zoning Districts

Specific Use	Zoning Districts												
	CON	S-1	PCI	R-1A	R-1	R-1B	R-2	R-3	R-NC	R-C	C-1	C-2	M-1
Manufactured Home and RV Sales, Rental, Leasing													P
Marina, Commercial											P	P	P
Mobile Home Parks								P					
Mini-Warehouses													P
Mortuary									P	P	P	P	P
Motor Vehicle Repair, no outside work or storage allowed									P	P	P	P	P
Motor Vehicle Repair, Outside work and storage allowed												P	P
Motor Vehicle Sales, Rental, Leasing											P	P	P
Nursing Home								P	P	P	P	P	P
Offices or Office Buildings									P	P	P	P	P
Outdoor Storage												P	P
Outpatient Treatment Facility/Clinic											P	P	
Parking, Commercial									SE	SE	P	P	P
Personal Services Shops									P	P	P	P	P
Pharmacy									P	P	P	P	P
Printing Services									P	P	P	P	P
Radio and Television Stations with Towers			SE									P	P
Rental Services, no outside storage allowed										SE	P	P	P
Rental Services, Outside storage allowed											P	P	P
Repair Services, no outside work or storage allowed									P	P	P	P	P
Repair Services, Outside work and storage allowed												P	P
Restaurants									P	P	P	P	P
Schools, K-12, Private			P	P	P	P	P	P	P	P	P	P	
Schools, Trade or Vocational			P	SE	SE	SE	SE	SE			SE	P	P
Second-hand Stores, Consignment Shops, Pawn Shops Excluded									SE	P	P	P	P
Stadiums in Conjunction with School			P	SE	SE	SE	SE		SE	SE	SE	SE	
Studios, Including Artist Instruction								P	P	P	P	P	P
Swimming Pools, Open to the Public			P	SE	SE	SE	SE	SE	SE	SE	P	P	
Taxi-Cab, Limousine Service											SE	P	P
Tennis Courts, Open to the Public			P	SE	SE	SE	SE	SE	SE	SE	P	P	
Thrift Stores, Consignment Stores									P	P	P	P	P
Towing Service/Storage Establishment												P	P
Used Car Lots												P	P

**Table 7-1: Schedule of Permitted and Special Exception Uses by Zoning Districts**

Specific Use	Zoning Districts												
	CON	S-1	PCI	R-1A	R-1	R-1B	R-2	R-3	R-NC	R-C	C-1	C-2	M-1
Veterinary Clinic, No Outdoor Kennels or Boarding Allowed									P	P	P	P	P
Veterinary Clinic, Boarding Allowed, No Outdoor Kennels												SE	P
Wholesale Trade Establishment												P	P
<b>Industrial Uses</b>													
Manufacturing, Heavy													P
Manufacturing, Light												SE	P
Research & Development Activities											SE	SE	P
Salvage Materials Storage in Closed Buildings enclosed with 6-ft Walls													SE
Warehouses												SE	P

## Table Notes:

1. All office, business and commercial uses permitted in the R-NC zoning district are limited to a maximum 10,000 square feet in gross floor area, and in the R-C zoning district are limited to a maximum 15,000 square feet in gross floor area.
2. Existing single-family and duplex residential dwelling units are considered a permitted use within the C-1 and C-2 zoning districts and are exempt from non-conforming structure or use of structure provisions as established in Section 1.07 of this code. However, no new single-family, duplex, or townhome residential dwelling units are permitted in the C-1 and C-2 zoning districts.

**7.07.00 Bulk and Dimensional Regulations.**

In order to carry out the purposes, intent and provisions of this code, bulk and dimensional regulations for particular zoning districts are hereby established. Except as may be qualified by the provisions of this code, no structure or part thereof, shall hereafter be built or moved on a lot which does not meet all of the minimum bulk and dimensional regulations for the zoning district in which the structure is located; and except as may be qualified by the provisions of this code, no structure shall hereafter be used, occupied or arranged for use on a lot which does not meet all of the minimum bulk and dimensional regulations for the zoning district in which such structure is located.

**7.07.01. Schedule of Area, Height, Bulk and Placement Regulations.**

Except as specifically provided in this code, regulations governing the minimum lot area, width, area per dwelling unit, required front, side and rear yards, maximum permitted floor area ratio, maximum permitted height of structures, maximum permitted lot coverage, and related matters for the standard districts shall be as shown in Table 7-2, Schedule of Area, Height, Bulk and Placement Regulations.

Requests for administrative deviations or variances shall be considered based on situations resulting from peculiar shapes of land, the necessity of extending streets, or other unusual circumstances but shall not be permitted simply because the existing lots, setbacks, etc., do not meet these standards.

**7.07.02 Maximum Density.**

In no instance shall the maximum density specified for a given zoning district be exceeded in the approval of any application for development approved. For residential zones, maximum density shall be expressed in number of dwelling units per gross residential acre. In the determination of the maximum number of units to be allowed on a lot, the permitted number shall be made proportional to any fraction of the acreage that is part of the lot.

Table 7-2: Schedule of Area, Height, Bulk and Placement Regulations.

Standards	S-1	PCI	Residential					Mixed Use		Commercial		M-1
			R-1A	R-1	R-1B	R-2	R-3	R-NC	R-C	C-1	C-2	
Max. Density (units/acre)	N/A	N/A	4/ac	5/ac	8/ac	12/ac	15/ac	15/ac	25/ac <sup>1</sup>	15/ac	25/ac <sup>1</sup>	N/A
Max. Building Height (ft) agl <sup>2</sup>	35'	35'	35'	35'	35'	35'	45'	60'	60'	85'	85'	85'
Single-Family Detached Dwellings and Manufactured Homes												
Min. Lot Area (s.f.)			10,000	7,500	5,000	5,000	4,000	4,000	4,000			
Min. Lot Width/Lot (ft)			90	60	50	50	40	40	40			
Max. Lot Coverage (%) <sup>23</sup>			40	40	40	40	40	40	40			
Min. Yard Setbacks (ft)	Front		30	25	25	25	20	20	20			
	Side		10	7.5	5	5	5	5	5			
	Rear		25	25	20	20	20	20	20			
Duplex Dwellings and Townhomes												
Min. Lot Area (s.f.) <sup>34</sup>						7,500	5,000	5,000	5,000			
Min. Lot Width/Lot (ft) <sup>4 5</sup>						75	50	50	50			
Max. Lot Coverage (%)						40	50	50	50			
Min. Yard Setbacks (ft)	Front					25	25	10/20 <sup>6</sup>	10/20 <sup>6</sup>			
	Side					5	5	5	5			
	Rear					20	20	20	20			
Condominiums and Apartments												
Min. Lot Area (s.f.)							7,500	7,500	7,500	7,500	7,500	
Min. Lot Width/Lot (ft)							75	75	75	75	75	
Max. Lot Coverage (%)							50	50	50	50	50	
Min. Yard Setbacks (ft)	Front						25	10/20 <sup>6</sup>	10/20 <sup>6</sup>	15	15	
	Side						5	5	5	5	5	
	Rear						20	20	20	20	20	
Non-residential Uses												
Min. Lot Area (s.f.)			10,000	7,500	5,000	5,000	4,000		4,000	None	None	None
Min. Lot Width/Lot (ft)			90	60	50	50	40		40	None	None	None
Max. Lot Coverage (%)			40	40	40	40	40	50	50	Landscape/Buffer Regulations		
Min. Yard Setbacks (ft)	Front		30	25	25	25	20	15	10	15	10	10
	Side		5-25 <sup>7</sup>	5-25 <sup>7</sup>	5-25 <sup>7</sup>	5-25 <sup>7</sup>	5-25 <sup>7</sup>	5/10	5/10	0/10 <sup>8</sup>	10	0/30 <sup>8</sup>
	Rear		25	25	20	20	20	20	20	15 <sup>9</sup>	15 <sup>9</sup>	0/30 <sup>8</sup>
Max. FAR (floor area ratio) <sup>10</sup>	0.25	0.50	0.40	0.40	0.40	0.40	0.40	0.50	1.0	1.0	1.0	1.0

**NOTES FOR TABLE 7-2**

- <sup>1</sup> For parcels zoned R-C and C-2 that are located within the Accident Potential Zones (APZ-1 and APZ-II) in the MIPA Zoning Overlay, the maximum residential density is fifteen (15) units per acre.
- <sup>2</sup> Notwithstanding the maximum building heights shown in Table 7-2, measured above ground level (agl), any structure that exceeds a height of 100 feet above mean sea level (msl) shall be reviewed by Eglin AFB for comment as to its compatibility with the mission of the military installation.
- <sup>3</sup> Maximum lot coverage means the total area of the lot or parcel that may be covered by principal and accessory buildings. Swimming pools are excepted from this provision.
- <sup>4</sup> Townhomes have no minimum lot area requirement; however, they shall be built in units as determined by lot size and density criteria (i.e.: eight (8) dwelling units per acre × acres or fraction of acre = number of dwelling units). Multiple units on any size parcel must meet setback requirements. Townhouses must have a minimum nine hundred (900) square feet per dwelling unit.
- <sup>5</sup> Townhomes have a minimum lot width requirement of twenty (20) feet.
- <sup>6</sup> For duplex, townhouse, condominiums or apartments in a R-NC or R-C zoning district having no front-loaded driveways (all parking from alleys or parking lots) the front yard setback may be a minimum 10'.
- <sup>7</sup> For permitted non-residential uses, or uses approved as special exceptions in residential districts, side yard setback requirements range from five (5) feet to twenty-five (25). A minimum 1-foot setback shall be maintained for utility structures. For churches, libraries, educational, recreational and community buildings a 25-foot setback shall be maintained.
- <sup>8</sup> Side yard and rear yard setbacks for non-residential uses:
  - For setbacks shown with two numerals separated by a slash mark (i.e., 5/10) the first numeral indicates the setback required when the non-residential use is to be developed adjacent to an existing non-residential use; the second numeral indicates the setback required when the non-residential use is to be developed adjacent to an existing residential use or to a residential zoning district boundary line (regardless of the existing use).
  - If the two uses are separated by a public street, alley, body of water, or similar man-made or natural buffer, the additional setback requirement shall not apply.
- <sup>9</sup> Rear yard setbacks for C-1, C-2 Zoning Districts: The setback shown is the minimum required, except, where the rear of the property is bounded by a public alley or street the rear yard may be decreased by one-half the width of such alley or street up to ten (10) feet, but in such event there shall be provided a rear yard of not less than ten (10) feet exclusive of the alley.
- <sup>10</sup> Maximum non-residential intensity (FAR) within the Accident Potential Zones (APZ-1 and APZ-II) shall be reviewed based on compatibility with military operations as shown on Figure 10-4 of the June 2009 Eglin Air Force Base JLUS Final Report.

**7.07.03 Lot Requirements.**

- A. *Generally.* Except as may be qualified by the provisions of the code, including Section 1.06, Nonconforming uses and structures, no structure or part thereof shall hereafter be used, occupied or arranged for use on a lot which does not meet all the minimum lot size requirements presented for the zoning district in which such structure or land is located. No dwelling shall be erected on a lot or portion of a lot that does not abut upon a public street, or on an approved private street, with a minimum frontage of at least twenty-five (25) feet.
- B. Educational and recreational buildings, churches and their accessory uses, and community buildings shall have a minimum site of two (2) acres and said lot shall have a minimum width of one hundred fifty (150) feet.
- C. *Reduction of lot size or yards; subdivision.* No lot or yard existing on the effective date of this code shall thereafter be reduced in size, dimension, or area below the minimum requirements set out herein, except by reason of a portion being acquired for public use in any manner, including dedication, condemnation and purchase.
  - 1. Lots or yards created after the effective date of this code shall meet the minimum requirements established herein.
  - 2. Only a lot that meets or exceeds the minimum provisions of this code may be subdivided, to create more lots, and only then where the resultant lots shall themselves meet such minimum provisions; however, this limitation shall not bar the re-subdivision of lots for the alteration of dimensions or boundary locations where each lot conforms to the zoning requirements and the total number of lots is not increased.
- D. *Minimum front lot line.* Every lot shall have a front lot line which is at least eighty (80) percent of the minimum required lot width, except flag lots and lots with curvilinear street lines or which front on a cul-de-sac or a curve in a street, where the radius of the arc of such street line, cul-de-sac, or curve is seventy (70) feet or less, may have a front lot line not less than sixty (60) percent of the minimum lot width, or twenty-five (25) feet, whichever is less.

**7.07.04 Maximum building height.**

- A. *Generally.* Maximum building height, where specified, shall apply to all structures located in the zoning district, except those structures and appurtenances excluded below.
- B. *General height exclusions.* Except for the purpose of military compatibility height restrictions (see paragraph D, below) the height limitations of this code shall not apply to chimneys, spires, cupolas, gables, scenery lofts, domes, birdhouses, monuments, water towers, water tanks, smokestacks, or other similar roof structures and mechanical appurtenances; or any similar structure approved by the city manager or designee provided, however:
  - 1. No such structure, when located on a building roof, shall occupy an area greater than ten (10) percent of the total roof area.
  - 2. No such structure shall be used for any purpose other than a use incidental to the main use of any principal building.
  - 3. No such structure over thirty-five (35) feet in height, excluding signs, shall be located nearer to a lot line less than a distance equal to its height, except for public or private utility facilities/use. Structures which are self-collapsing within the lot lines, without impacting overhead utility lines, are exempt from this requirement.



All structures shall maintain appropriate clearance from overhead electrical conductors in accordance with applicable codes and regulations.

4. A parapet wall, cornice, or similar projection may exceed the height limit established for a given zoning district by not more than four (4) feet, but such projection shall not extend more than four (4) feet above the roof level of the building of which it is a part.

C. When located within or adjacent to a low or medium-density residential zoning district, multi-family, townhome, and condominium buildings, churches, libraries, community center buildings, country clubs, educational and recreational buildings and utility structures may not exceed thirty-five (35) feet in height, except by increasing the minimum side yards one (1) foot for each additional foot of height in excess of thirty-five (35) feet, up to the maximum allowed within the zoning district in which the building is located.

D. *Military compatibility height restrictions.*

1. Notwithstanding building heights allowed within each zoning district pursuant to Table 7-2, or approved within a C-PUD, any structure that exceeds a height of 100 feet above mean sea level (msl) shall be reviewed by Eglin AFB for comment as to its compatibility with the mission of the military installation.
2. Structures and appurtenances excluded in section 7.07.04.B are included in the height measurements for the purposes of military compatibility height restrictions.

7.07.05 *Required Yards.*

A. *Generally.* Except as otherwise specified herein, every lot shall have a front yard, side yards, and a rear yard with minimum depths not less than those specified for the respective zoning districts.

1. Where setback lines are established on streets, roads or highways, the front yard of all lots and the side yard of corner lots shall be measured from said setback lines.
2. Side yard requirements for dwellings shall be waived where dwellings are erected above stores or shops; however, such dwellings shall meet the same yard requirements established for the ground floor commercial structure.

B. *Exemptions.*

1. The following structures shall be exempt from the minimum yard requirements set forth in this code, provided however that these exemptions shall not permit encroachment into the visibility triangle:
  - a. underground and overhead utility equipment
  - b. U.S. Post Office authorized mail boxes
  - c. bus shelters and bus benches
  - d. public bicycle shelters
  - e. backflow preventers
  - f. any similar structure or device as determined by the city manager or designee.
2. Individual lots within any office, commercial or industrial project may share a common wall when approved under a master site plan for the entire project. Side yard setbacks shall not be required for contiguous units within shopping centers if a common wall agreement is included within the recorded deeds. Projects approved under this section shall be considered as one premise, regardless of ownership.

- C. *Corner Lots.* On lots having frontage on more than one street at an intersection, a required front yard shall only be required on one street frontage; the required side yard fronting the other street shall be reduced by fifty (50) percent of the required front yard for the district, but shall not be less than fifteen (15) feet.
- D. *Double frontage or through lots.* On lots having frontage on more than one street, but not located on a corner, a minimum front yard shall be provided for each street in accordance with the provisions of this section, unless a non-access easement is established on one frontage of such lot.
- E. *Wetland buffer.* When a wetland buffer is required or designated pursuant to this code, a 10-foot setback shall be required between the upland edge of the buffer and adjacent structures. Yard encroachments that are otherwise allowed by this code shall be allowed to encroach in the same manner into this setback. The city manager or designee may approve a reduction of this setback if the applicant can demonstrate that the proposed reduction will not impact the adjacent wetland buffer.

7.07.06 *Yard encroachments.*

- A. *Generally.* Every part of a required yard shall be open and unobstructed from its lowest point to the sky, unobstructed, except for that portion occupied by permitted accessory structures, trees and shrubs, except as hereinafter provided or as otherwise permitted in this code.
- B. *Cornices and Similar Features.* Cornices, awnings, eaves, gutters or other similar features shall be at least eight (8) feet above finish grade and may extend two (2) feet into any required yard or yard setback, but not nearer to any lot line than a distance of five (5) feet.
- C. *Sills, Leaders, and Belt Courses.* Sills, leaders, belt courses and similar ornamental features may extend twelve (12) inches into any required yard.
- D. *Fences and Hedges.* Fences and hedges are permitted in required yards, subject to the provisions of subsection 9.06.05 of this code.
- E. *Balconies, Chimneys, Bay Windows, etc.* Bay windows, oriels, balconies and chimneys may extend three and one-half (3-1/2) feet into any required front, side, or rear yard; but not nearer to any side lot line than a distance of five (5) feet nor to any rear lot line than a distance of fifteen (15) feet.
- F. *Outside Stairways.* An outside stairway, open or enclosed, may extend three and one-half (3-1/2) feet into any required side or rear yard, but not nearer to any side lot line than a distance of five (5) feet.

7.07.07 *Specific requirements for public and institutional uses and certain accessory uses.*

- A. *Boat shelters, lifts and docks.* Boat shelters, lifts and docks are permitted as accessory uses provided the roof or top of the structure does not exceed ten (10) feet above the mean sea level. Enclosed shelters, except those constructed prior to the adoption of this code, are not permitted in residential districts. All such structures must conform to U.S. Corps of Engineers, and Florida Department of Environmental Protection permitting and construction standards.
- B. *Child care centers, nursery schools and kindergartens.*
  - 1. Child care centers, nursery schools and kindergartens in which more than five (5) children are present at any given time shall have a minimum floor space (apart from administrative or residential use) of thirty-five (35) square feet per child.

2. Each child must also have a minimum of one hundred (100) square feet of outside play area enclosed by a minimum six-foot high chain link fence.
3. All licensed child care facilities must provide a separate kitchen and separate bathrooms apart from the normal living quarters in accordance with Chapter 10M-12, "Child Care Standards," Department of Health and Rehabilitative Services.
4. Requirements of Chapter 4A-36 of the Fire Marshal's Code, shall also apply in determining construction and safety standards.

**7.07.08** *Siting of manufactured homes in residential land use districts.*

- A. Any person desiring to site a manufactured home in a residential land use district shall comply with the following standards:
  1. The unit shall comply with the U.S. Department of Housing and Urban Development Manufactured Home Construction and Safety Standards and the Florida Manufactured Building Act.
  2. The manufactured home must have an assessed tax value (including improvements) comparable to other dwelling units in the area proposed for siting the manufactured home.
  3. The minimum horizontal dimension of the main body, as assembled on the site, shall not be less than twenty (20) feet, as measured across the narrowest portion.
  4. The pitch of the main roof shall not be less than one (1) foot of rise for each four (4) feet of horizontal run and minimum distance from eave to ridge is one-half ( $\frac{1}{2}$ ) the minimum horizontal dimension.
  5. The roofing material used shall be similar in texture, color, and appearance to that of detached single-family dwelling units in the district in which it is to be located.
  6. The materials used for the exterior finish and skirting shall be similar in texture, color, and materials to detached single-family dwelling units in the district in which it is to be located, and applied in such a manner as to make the manufactured home similar in appearance with surrounding detached single-family dwelling units. Reflection from the exterior shall not be greater than from siding coated with clear, white, gloss exterior enamel.
  7. All transportation equipment must be removed and the manufactured home must be placed on a permanent foundation and properly anchored.
- B. Manufactured homes located within a mobile home park designed exclusively for manufactured housing are exempt from the requirements of this section.
- C. Any person proposing to site a manufactured home in other than a mobile home park shall submit the following application information to the city manager or his designee:
  1. The applicant's name and address.
  2. Legal description, street address, lot number and subdivision name, if any, of the property upon which the manufactured home is to be located.
  3. Statement of ownership.
  4. Size of subject property in square feet and acres.
  5. Proof that the manufactured home has met the requirements of the U.S. Department of Housing and Urban Development Manufactured Home Construction and Safety Standards and the Florida Manufactured Building Act.
  6. Proof that the manufactured home has an assessed tax value (including improvements) comparable to other dwelling units in the area proposed for siting the manufactured home.

7. Statement describing the type and dimensions of the manufactured home proposed to be located on the property.
8. Elevations and photographs of all sides of the manufactured home proposed to be located on the property.
9. A statement describing the exterior dimensions and roof slope of the manufactured home proposed to be located on the property.
10. A description of the exterior finish of the manufactured home, including exterior walls and roof.
11. A schematic design of the manufactured home showing the roof, skirtings, and other improvements.

*D. Procedure for review of applications:*

1. After an application has been submitted, the city manager or his designee shall determine whether the application is complete. If the city manager or his designee determines the application is not complete, he shall send a written statement specifying the application's deficiencies to the applicant by mail. The city manager or his designee shall take no further action on the application unless the deficiencies are remedied.
  2. When the city manager or his designee determines the application is complete, he shall review the application, and shall decide whether the proposal complies with the standards for manufactured homes sited in residential districts. Notification of the decision shall be filed with the planning department and shall be mailed to the applicant.
- E. If any individually owned mobile home is removed from a private lot for a period in excess of six (6) months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such property is located.
- F. The temporary use of mobile homes shall be permitted for a period not to exceed one hundred twenty (120) days within any district in the City of Niceville following the occurrence of a disastrous event which renders permanent homes or buildings unsuitable or unsafe for human occupancy. Thirty-day extensions may be authorized at the discretion of the city council.

*7.07.09 Accessory structures in general.*

- A. Accessory structures. Accessory structures shall not be placed in the front yard. They may be placed in side yards, provide no structures are closer to the lot lines than five feet, and provided further, that on a corner lot accessory structures are closer to the rear lot line than five feet except when the rear property line abuts a public right-of-way. When the rear property line abuts a public right-of-way, accessory structures may be no closer than seven and one-half feet from the property line.
- B. Waterfront lots or lots of such "depth" as to allow a structure to be set back from a public right-of-way by a minimum of twenty-five (25) feet and a minimum of ten (10) feet from a principal dwelling are exempted from this provision.
- C. A detached accessory structure defined as a building, shall not be located closer than ten (10) feet to the principal building, nor closer than five (5) feet to the side and rear lot lines, nor closer than ten (10) feet to any other accessory building on the same lot.
- D. Accessory structures defined as buildings shall not be larger in size than sixty (60) percent of the square feet of living space contained in the principal structure, nor shall an accessory building may not exceed the height of the principle structure.

No accessory building shall occupy more than thirty-five (35) percent of a required yard space

- E. Nonconforming accessory uses and structures: If a principle nonconforming use or structure ceases to exist, neither shall any of its accessory uses or structures continue, unless such accessory use or structure shall thereafter conform to all the regulations of the zoning district in which it is located.
- F. No accessory structure in residential zoning districts shall be utilized for commercial uses.

#### **7.08.00 Accessory Structures.**

*7.08.01. General standards and requirements. Any number of different accessory structures may be located on a parcel, provided that the following requirements are met:*

*A. Construction and occupancy.*

Permits for accessory structures shall not be issued until a permit has been issued for the principal structure. Seawalls are not considered accessory structures and building permits for these facilities may be issued in advance of the principal structure in accordance with city regulations. All accessory structures shall comply with standards pertaining to the principal use, unless exempted or superseded elsewhere in this code.

*B. Location of accessory buildings and structures in residential areas.*

1. No detached accessory building shall be located between the principal dwelling and the front property line of the lot or parcel. Waterfront lots or lots of such depth as to allow a structure to be set back from a public right-of-way by a minimum of twenty-five (25) feet and a minimum of ten (10) feet from a principal dwelling are exempted from this provision.
2. When an accessory building is attached to a principal dwelling by a roofed passage, it shall be considered as part of the principal dwelling and must meet setback requirements of the applicable zoning district.
3. A detached accessory building that is also used as a garage apartment shall not be located closer than ten (10) feet to the principal building, nor closer than five (5) feet to the side lot line and ten (10) feet to the rear lot line, nor closer than six (6) feet to any other accessory building on the same lot.
4. The total square footage of all accessory buildings on a lot shall not be larger in size than sixty (60) percent of the square feet of living space contained in the principal structure. No single, non-habitable accessory building may exceed twelve (12) feet in height, nor may it occupy more than thirty-five (35) percent of a required rear yard.

*C. Accessory structures shall be included in all calculations of impervious surface and stormwater runoff.*

*D. Accessory structures shall be shown on any development plan submitted for review as required in section 2.06.00.*

*7.08.02. Fences and walls.*

*A. Setbacks, orientation, and placement.*

1. Fences or hedges may be located in side and rear yard setback areas only with the most forward fence line being the same as the front of the principal dwelling. Each

fence located in the side and rear yard setbacks shall not exceed the height of eight (8) feet.

2. In areas where the property faces two (2) roadways or is located in any other area construed to be a corner lot, no fence shall be located in the clear vision triangle (defined in Article 3).
3. 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.
4. A fence for safety and protection of hazard by another public agency may not be subject to height limitations above. Approval to exceed minimum height standards may be given by the building inspector upon receipt of satisfactory evidence of the need to exceed height standards.
5. Fences and walls may be located within an easement as long as they do not interfere with utilities; provided, however, such structures are subject to removal and replacement at the property owner's expense by the requesting utility agency.
6. No fence or hedge shall be constructed or installed in such a manner as to interfere with drainage on the site.
7. For the purposes of this code, split rails without gates are decorative and not considered fences when installed to a maximum height of three (3) feet measured from ground level to the top of the uppermost rail.
8. Gates are considered parts of fences and walls and are regulated accordingly. Gates shall not open or swing onto neighboring properties.

*B. Height.*

1. Measurement of height. The maximum height shall be measured from finished grade to the top of the fence or wall. The finished grade shall not be altered to increase fence height and where a berm is constructed, the height of the berm over the finished grade shall be included in determining fence height. Decorative wall columns and occasional architectural embellishments to fences may extend up to twelve (12) inches above the maximum height permitted.
  - (a) All fences require permitting. All retaining walls twenty-four (24) inches or greater require engineering and permitting.
2. Height based on zoning district.
  - (a) Residential and mixed-use districts.
    - (1) Rear yard fences. The maximum height of fences or walls in the residential and mixed use districts (R-1A, R-1, R-1B, R-2, R-3, R-NC and R-C) is six (6) feet; however, when a residential use in an R-NC or R-C district abuts a commercial use or commercial or industrial zoning district the maximum height may be increased to eight (8) feet.
    - (2) Front or street side yard fences. Fences in front of the principal building located in the required front yard or in a street side yard are allowed at a maximum height of four (4) feet provided the fence is of an open, picket style, constructed of wood, wrought iron, or aluminum materials in combination with wood, brick, or finished masonry columns.
  - (b) Commercial and industrial districts. The maximum height of fences in the commercial and industrial districts (C-1, C-2 and M-1) is eight (8) feet.

- (c) Outdoor recreation and public, civic and institutional districts. The maximum height of fences in the recreation and public, civic and institutional districts shall be six (6) feet, unless otherwise specified in this code or as approved by the planning department for health, safety, or environmental protection purposes.
  - 3. A fence or wall on a residential lot located to the rear of the principal structure and outside of the five (5) foot shoreline protection zone of a waterway is limited to a height of four feet, except in the following situations:
    - (a) An open fence is allowed to a height of six (6) feet.
    - (b) A privacy fence or wall enclosing a pool deck is allowed to a height of six (6) feet.
  - 4. Fences immediately surrounding civic or public recreational sports playing fields located on lots over one acre in size may be constructed to a maximum height of twelve (12) feet and hooded backstops for diamond sports may be increased to a maximum height of twenty-eight (28) feet, with approval of the planning department.
- C. *Design and Materials.*
- 1. Fences.
    - (a) Fences shall be constructed utilizing rot-resistant material for any part of the fence coming in contact with the ground. All fences shall be constructed of customary fencing materials and finishes.
    - (b) Chain link, aluminum (except for decorative aluminum fences), or similar metal fences shall be prohibited in yards fronting along arterial and collector roadways. Chain link fences shall not have slats, fabric or similar types of screening materials attached to them.
  - 2. Walls shall be made of the following materials:
    - (a) Brick, Norwegian brick, jumbo brick or stone.
    - (b) Split-faced block or finished masonry walls where block seams are not visible.
    - (c) Wrought iron or aluminum fence in combination with brick, jumbo brick, or finished masonry columns.
    - (d) Pre-cast concrete having a simulated wood stone or brick pattern.
    - (e) Other materials as approved by the planning department.
  - 3. Walls shall have columns spaced as follows:
    - (a) Twenty-(20) foot maximum spacing on walls one hundred (100) linear feet, or less.
    - (b) Thirty-(30) foot maximum spacing on walls one hundred and one (101)—two hundred (200) linear feet.
    - (c) Forty-(40) foot maximum spacing on walls over two hundred (200) linear feet
  - 4. No barbed wire, razor wire, or electrically charged fence shall be erected, unless approved by the planning department for safety reasons or per paragraph D below. Broken glass, steel spikes, or other sharp objects intended to restrict access along the top edge of a fence or wall are prohibited.
  - 5. Chicken wire, field fences, and other similar fence types are prohibited.
- C. *Special provisions for subdivision entrance features.*

1. Fences and walls used as decorative features at subdivision entrances may exceed maximum permitted heights by up to four (4) feet upon approval by the planning department. This measurement shall exclude decorative wall columns, which may extend a maximum of twelve (12) inches beyond the top of the wall or eighteen (18) inches above the height of a wall framing an identification sign. Light fixtures may extend up to forty-two (42) inches above the height of the wall.
2. Entrance walls and landscaping shall be located within a designated easement, tract, or common area.
3. Wall jogs and spanned footer intervals shall be used, where possible, to avoid existing trees. Buffer width requirements may be waived to the extent necessary to protect protected trees.

*D. Special provisions for fences and walls for agricultural uses.*

Fences used to contain farm animals or to separate crops relative to bona fide agricultural uses are exempt from this section. The planning department must review plans for the fence or wall before approving an application for a building permit.

**7.08.03. Garages, detached.**

- A. Detached garages and carports are permitted in all zoning districts.*
- B. Detached garages shall not be converted into any other use, without application for a development order or permit in compliance with this code.*
- C. A detached garage shall not exceed fifty (50) percent of the total living area of the principal dwelling unit*
- D. A detached garage shall not exceed twenty-five (25) feet in height unless:*
  1. The garage is located completely within all of the building setbacks for the property; and
  2. The second story of the garage is going to be developed as habitable structure.

**7.08.04. Generators, permanently installed.**

The following standards shall apply to all permanently installed generators:

- A. Generators are prohibited in the required front and street side yard and prohibited in front of the front building line of the principal structure.*
- B. Generators may be operated for testing purposes one (1) time per week, excluding Sundays, for a period not exceeding thirty (30) minutes between the hours of 10:00 a.m. and 6:00 p.m.*
- C. A maximum of one (1) generator is allowed per single-family, duplex, or townhouse residential dwelling unit and one (1) generator is allowed per multiple family building.*
- D. Generators shall be set back a minimum of ten (10) feet from the rear property line in all zoning districts.*
- E. Generators shall be set back a minimum of three (3) feet from the side interior property line(s) in all zoning districts, but shall not be located within an easement.*

**7.08.05. Boat shelters, lifts and dock facilities.**

*A. Purpose.*

This subsection establishes regulations, procedures and standards by which the city shall control and regulate development, construction and activities on, within and contiguous to its bayous, including Boggy Bayou, Rocky Bayou and Shirks Bayou.

*B. Applicability.*

No person shall construct, or add to an existing dock, seawall, bulkhead, mooring piling, modify an existing submerged land lease, or conditions thereto, or conduct dredge or fill



operations in, or contiguous to the city's navigable bayous without first obtaining the proper authorization from the appropriate federal and state agencies. The city shall review all dock construction notifications received from federal and state agencies and make the appropriate comments. All docks require permitting from local jurisdiction.

*C. Prohibitions.*

1. No dock shall be constructed such that it constitutes a hazard to navigation.
2. Enclosed shelters, except those constructed prior to the adoption of this code, are not permitted in residential districts.
3. No person who maintains or operates a dock shall allow or permit the disposal of fish carcasses, litter, waste, petroleum products or other pollutants into the harbor. Trash disposal receptacles shall be anchored to each dock to ensure compliance with the provisions of this article.
4. No fuel or oil shall be willfully or knowingly discharged in the bayous. No dock which sells or receives fuel or oil shall be constructed, operated or maintained in the bayous unless an oil abatement plan, in accordance with Coast Guard guidelines, is available at each dock. The city will review oil abatement plans for these types of facilities at the time of receipt of federal or state notification.
5. No piling(s) shall be added to the waterward end of any pier which piling(s) would make the total length of the dock more than two hundred (200) feet.
6. No vessel shall be moored or docked on the waterward end of any pier of the maximum legal length as determined pursuant to subsection (5) above, for more than seventy-two (72) hours.
7. No dock shall unreasonably interfere with the riparian rights of others.
8. No dock shall be constructed which permits the commercial docking of boats with on-board toilets unless such dock is equipped with a sewage pump out or adequate sewage control plan as determined by the city.
9. No dock shall be constructed which permits the docking of a liveaboard unless such vessel has an operable holding tank.
10. No dock shall be constructed or modified such that slip density exceeds one (1) slip per eight (8) linear feet of waterfront footage except that on canals, no lot may have more than one (1) slip per forty-five (45) linear feet of waterfront. However, all lots riparian to a canal shall be entitled to at least two (2) slips on the canal.
11. No boat or vessel, entering into, exiting or operating within the bayou shall operate at such speed that would create a wake that endangers other boats or vessels, swimmers or other persons within the harbor, or would contribute to any adjacent land erosion.
12. No heated or cooled water may be emitted into the harbor or the harbor canals other than from a boat.
13. No pier shall extend more than six (6) feet into a canal waterway.
14. No discharge of water shall contain phosphorous or any other substance likely to cause a violation of the water quality standards specified in Section 62, F.A.C.

*D. General standards.*

1. All dock structures must conform to U.S. Corps of Engineers, and Florida Department of Environmental Protection permitting and construction standards. All docks require permitting from the City of Niceville building department.
  2. Drainage rights-of-way.
    - (a) Any groundcovers disturbed in the drainage rights-of-way during construction or maintenance activities shall be promptly replaced and properly maintained by the abutting property owner to prevent erosion.
    - (b) Drainage rights-of-way shall not be filled in such a way as to reduce the cross-sectional area used for flow of stormwater.
  3. No dock or vessel shall be placed within the twenty-five (25) foot setback of a property line without providing prior written notification to the adjoining land owners and requesting their response. Any objections received from the adjoining property owners will be considered by the local planning agency in their recommendations to the city council.
  4. Safety.
    - (a) All structures and associated facilities shall be properly constructed and secured to prevent potential hazards from floating into the waterbody.
    - (b) To eliminate potential waterbody contamination, all structures shall be constructed with materials that do not result in contamination.
    - (c) The city shall require removal of derelict vessels and lifts consistent with city standards.
    - (d) No commercially operated boat docking facilities shall be permitted or operated unless equipped with fire-fighting facilities as specified by the city.
    - (e) No electrical or water service upon any dock shall be installed unless a permit is obtained from the City of Niceville Planning and Inspections Department for that service.
- E. Residential or commercial docking facilities.*
1. Placement of docking facilities. The location of docks, lifts, and boathouses within the navigable waters of the city shall be determined on an individual basis.
  2. Setbacks and size.
    - (a) No lot, or multi-contiguous lots, with less than fifty (50) feet of waterfront footage shall be allowed individual docks. Except as otherwise prohibited, docks may be allowed under the provisions of subsection (d) (2).
    - (b) The minimum setbacks from a projection of the side property line to the structure shall be a minimum of ten (10) feet. Other setbacks may be considered by the planning department based upon lot size, location, easements, existing structures, and navigation.
    - (c) No new or existing dock shall be constructed or modified such that the length of any pier as completed is greater than twenty (20) percent of the width of the bayou at the place where the pier is located, or out two hundred (200) feet, whichever is less.
    - (d) No dock shall be longer than the width, at the mean high-water line, of the lot to which the dock is attached.
      - (1) For those docks connected to uplands zoned commercial, a dock may be constructed to a length of one and five-tenths (1.5) times the width of the property at the mean high-water line.
      - (2) For the purpose of this article, lots may be combined with neighboring lots. However, no dock may exceed the limitations specified in subsection (b) above.

- (e) Other than cantilevered safety walks, all dock walkways shall be no less than three (3) feet or greater than six (6) feet.
- (f) Boat shelters, lifts and docks are permitted as accessory uses provided the roof or top of the structure does not exceed ten (10) feet above the mean sea level.
- 4. Floating docks.
  - (a) Floating docks shall not exceed a length of twenty (20) feet as measured parallel to the waterway frontage.
  - (b) Floating docks may be used in conjunction with permanent docking structures, but must meet the criteria established herein.
- 5. Boatlifts.
  - (a) All boatlifts, inclusive of all components, shall be mounted or installed within the dimensions allowed for structures in the waterbody.
  - (b) Boatlifts on waterfront lots with dimensions less than fifty (50) feet of water frontage or lots with unusual conditions are not allowed unless granted an administrative waiver by the planning department. The location of easements, culvert pipes, and navigability are unusual conditions that may be considered.
- 6. Cantilever safety walk extensions. Cantilever safety walk extensions may be approved by the planning department based upon the following criteria:
  - (a) The length of a cantilever safety walk extension shall be the minimum necessary to access the watercraft.
  - (b) Cantilever safety walk extensions shall not extend more than twelve (12) inches beyond a twelve (12)-foot boat slip or lift and pilings.
- E. *Landscape. Any groundcover disturbed in the drainage right-of-way during construction or maintenance activities shall be promptly replaced and properly maintained by the abutting property owner to stabilize the soil and prevent erosion.*
- F. *Safety. All structures and associated facilities shall be properly constructed and secured to prevent potential hazards from floating into the waterbody.*

7.08.06. *Satellite dish antenna.*

A. *Standards.*

- 1. All satellite dish antenna installations beginning with the enactment of this code shall meet the following requirements:
  - (a) The satellite dish antenna shall be considered a structure requiring a building permit to be issued prior to installation. Subsequent to installation, the antenna shall be maintained in compliance with all applicable building and electrical codes.
  - (b) The satellite dish antenna installation and any part thereof shall maintain vertical and horizontal clearances from any electrical lines and shall conform to the National Electrical Safety Code.
  - (c) The satellite dish antenna installation shall meet all FCC and manufacturer specifications, rules and requirements.
  - (d) The satellite dish antenna shall be of a nonreflective surface material and shall be made, to the maximum extent possible, to conform and blend into the surrounding area and structures. Color and location of the dish shall be considerations.
  - (e) The satellite dish antenna shall contain no advertising or signage of any type.
  - (f) The installer of any satellite dish antenna, prior to installation, shall submit detailed blueprints/drawings of the proposed satellite dish antenna installation and foundation which shall be certified by the manufacturer or a professional engineer.

- (g) The satellite dish antenna installation shall be permitted to be placed in side and rear areas of the main dwelling or commercial structure only.
- 2. The following standards are for installation in developments:
  - (a) A satellite dish antenna shall be considered an accessory structure to the main dwelling structure and shall not constitute the principal use of the property.
  - (b) The satellite dish antenna installed pursuant to this subsection shall not be used for any commercial purposes. It shall only provide service to the main dwelling structure.
  - (c) Satellite dish antenna installations shall be limited to one (1) installation per residential lot.
  - (d) The maximum size of the satellite dish antenna, whether ground or pole-mounted, shall be limited to twelve (12) feet in diameter.
  - (e) The maximum height of a ground-mounted satellite dish antenna installation shall be fifteen (15) feet.
  - (f) The maximum height of a pole-mounted satellite dish antenna installation shall be thirteen and one-half (13½) feet above the eaves of the roof.
  - (g) A satellite dish antenna shall not be permitted to be installed on the roof of any main dwelling structure.
  - (h) The satellite dish antenna installation, whether ground or pole, shall be mounted at a fixed point and shall not be portable.
- B. *Nonconforming antenna. Any satellite dish antenna lawfully installed prior to the enactment of this code shall be allowed to remain, until such time as it is replaced or moved. At the time of replacement or relocation, the provisions of this code shall be met.*

7.08.07. *Sheds, storage buildings, utility buildings, greenhouses.*

- A. Sheds, storage buildings, utility buildings, greenhouses and the like are considered non-habitable accessory buildings for the purposes of this section.
- B. Permitted locations and size for non-habitable accessory buildings.
  - 1. More than one (1) non-habitable accessory building may be permitted on a lot within the building setbacks or within the required rear or side yard setbacks; however, in no case shall the non-habitable accessory building be located in front of the building line of the principal structure.
  - 2. The total square feet of all habitable and non-habitable accessory buildings on a lot shall not be larger in size than sixty (60) percent of the square feet of living space contained in the principal structure and no single, non-habitable accessory building may occupy more than thirty-five (35) percent of a required rear yard.
  - 3. Non-habitable accessory buildings may be located as close as five (5) feet from the abutting interior side or rear property lines, with approval from the building official after review of the location of structures or buildings on abutting properties, if any, and may be located no closer than five (5) feet to a street corner side property line.
  - 4. Non-habitable accessory buildings shall comply with fire safety and other applicable standards, as may be required by the building official, for distance between the principal building and other accessory buildings located on the property.
  - 5. In no event shall a non-habitable accessory structure or any part thereof, be permitted within an easement.
  - 6. No accessory buildings used for industrial storage of hazardous, incendiary, noxious or dangerous materials shall be located nearer than one hundred (100) feet from any property line.
  - 7. Vehicles, including manufactured housing and mobile homes, shall not be used as storage buildings, utility buildings or other such uses.

C. Height. The maximum building height for any non-habitable building shall be twelve (12) feet.

7.08.08. *Swimming pools.*

A. *Purpose.*

- (1) The purpose of this subsection is to regulate the location of swimming pools as to minimum distances from buildings or structures and from side or rear property lines for human safety, construction integrity and to abate noise, as well as protect the health, safety and welfare of the citizens of the city. Safety barriers in the form of pool enclosures, fences or walls are necessary to prevent accidental injury or drownings.

B. *Location.*

1. No portion of a swimming pool outside a building shall be located at a distance less than six (6) feet from a building measured from the building to the water's edge.
2. No portion of a swimming pool outside a building shall be located at a distance less than four (4) feet from any side or rear property line, or building line measured from the property line to the water's edge.

C. *Fencing.*

1. Any person who owns, possesses, manages, operates, maintains or controls any real property where any swimming pool is situated shall erect a fence around the perimeter of any such pool which shall be no less than four (4) feet in height and such a fence may be built, constructed or erected either around the immediate proximity of such pool or around or within the boundary of the real property where such pool is located, whichever method shall provide an obstacle barrier and security for any such pool. The term "immediate proximity of such pool," as used in this subsection, shall be construed as that area which includes the pool, the surrounding patio, or the play or lounge area associated therewith; provided, however, that when any such pool is located within an area of real property where such real property is bounded by a lake, Choctawhatchee Bay and bayous thereof, Niceville Harbor or the Gulf of Mexico, such person shall not be required to erect a fence along the shore of any of those water bodies, provided that the remaining boundaries of such property, wherein the pool is located, shall be required to be fenced as provided by this section.
2. All such fences shall be constructed of sound material erected in accordance with good trade practice with no space between adjacent fence components of greater than four (4) inches including those types of fences commonly known as chain link, wood picket, stockade, woven wire or woven wood. All gates providing ingress or egress into the pool area shall have an effective self-closing, self-latching mechanism incorporated therein and the owner and the person who owns, occupies or possesses the real property where any such pool is located shall keep any such gate in a latched condition when such pool is not actually being used or supervised by any such person or by any person having the permission to use or supervise any such pool. A solid wall of brick, stone or masonry material of at least four (4) feet in height shall be sufficient to provide an enclosure for any such pool. The purpose of this section is to provide a barrier which shall be comprised of any or a combination of all of the above and foregoing types of fences or walls which are intended to prevent the unrestricted entry of persons or animals into such a pool area. The side of a building may also be considered to be part of any such barrier. Such pools which are wholly enclosed by screen enclosures or other similar enclosure devices shall be exempt from the provisions of this section.

- D. Roof. Any solid roof covering for a swimming pool, hot tub, or spa shall adhere to the setbacks of the principal structure.
- E. Lights. Lights used to illuminate any swimming pool shall be arranged and shaded to reflect light away from adjoining properties.

## DIVISION II. ZONING OVERLAYS

### 7.09.00 Community Redevelopment Area (CRA) zoning overlay.

#### 7.09.01. Purpose.

The purpose of the community redevelopment area (CRA) zoning overlay is to establish the parameters that will enable the promotion of redevelopment activities that will provide consistent land regulations and performance standards compatible with the adopted Community Redevelopment Area Plan. At the same time, the city recognizes that there are existing uses, both nonresidential and residential, within the CRA overlay zone that need to remain as viable properties throughout the implementation of the redevelopment plan. The CRA overlay zone is established to preserve and promote the area of the Historic Downtown District, Turkey Creek Recreation Area District, Highlands District, and the John Sims Parkway District of the City of Niceville. The intent of the CRA overlay zone is to provide flexibility in location and design requirements to support and encourage economic development in the CRA district.

**7.09.02 Description of boundaries.** The CRA overlay zone is identified as: containing 340 acres commencing at the Niceville/Valparaiso City limits on Boggy Bayou along the current City limits north to a point directly west of Nathey Street. East across Turkey Creek and along Nathey Street to S.R. 85. South on S.R. 85 to the northern property line of Quality Inn. East along the southern boundary of the Eglin Golf Course to Davis Drive. North on Davis Drive to the right-of-way of Reynolds Avenue. South on Reynolds right-of-way to the right-of-way of Powell Drive. East on Powell Drive to Cedar Avenue. South on Cedar Avenue to East John Sims Parkway, west on John Sims Parkway to Partin Drive North/South. South on Partin Drive to Helms Street. West on Helms to Jones Avenue. North on Jones approximately 300 feet then southwest along property ownership boundaries to a point approximately 200 feet east of the intersection of Edge Avenue with Bayshore Drive. Across Bayshore Drive to MHW of Boggy Bayou. Then around the shoreline (MHW) of Boggy Bayou to point of Beginning.

#### 7.09.03 Applicability.

This section shall be applicable to all new construction, additions to existing structures or additional structures on a developed site. For the purposes of this section, the term "shall" indicate a regulatory requirement or standard, and the term "should" indicate a suggested guideline that is not considered a regulatory requirement.

#### 7.09.04 Design standards.

Except where specific approval is granted by the city manager or designee due to unique and peculiar circumstances or needs resulting from the size, configuration or location of a site requiring a modification of the standards as set forth below, the minimum standards shall be as follows:

- A. **Streets and rights-of-way.** Whenever public or private streets, rights-of-way, pedestrian ways, bikeways or driveway approaches are to be constructed as part of any development after the effective date of this code, they shall be designed in accordance with the requirements of this section. Whenever existing public or private streets, rights-of-way, pedestrian ways, bikeways or driveway approaches abutting a

development do not meet the requirements of this paragraph, the city manager or designee may require that they be improved to conform to these requirements.

1. Driveway approaches and curb cuts.
2. Width (residential except multifamily). In properties developed for residential use (except multifamily), curb cuts for driveways not less than 12 feet and not more than 24 feet. A joint-use driveway shall have a minimum driveway of not less than 20 feet and not more than 24 feet.
3. Width (residential multifamily). Properties developed for residential multifamily use shall have curb cuts for driveways not less than twenty-four (24) feet wide and not more than forty (40) feet wide.
4. Width (nonresidential). Properties developed for commercial use shall have curb cuts for driveways not less than twelve (12) feet nor more than forty (40) feet wide.
5. Distance from drainage inlet. No curb cut shall be made within three (3) feet of a drainage inlet.
6. Spacing. Where more than one (1) curb cut is to be located on any single property, the minimum distance between such curb cuts on local streets shall be forty-two (42) feet, and on all arterial and collector streets shall be in accordance with the requirements set forth in Article 8 of this code.
7. Number and location on midblock properties. Except where specific approval is granted as provided above, there shall be no more than two (2) curb cuts for the use of any single property fronting any single local street, and no more than one curb cut for the use of any single property fronting on any single arterial or collector.
8. Number and location on corner properties. Where property is located on a corner lot fronting more than one (1) street, not more than one (1) curb cut for the benefit of such property shall be made on each street. Corner safety islands shall be provided at all corners and no curb cuts or driveway shall be constructed or maintained on the radius of any curved curbing nor closer to the point of curvature than fifteen (15) feet on a local street and not within thirty (30) feet on the point of curvature of an intersecting arterial or collector street.
9. Sidewalk section. All driveway approaches constructed in areas of the city with existing or required sidewalks shall contain a sidewalk section of the width and grade and minimum construction standards established by the public works director for sidewalks in such areas.
10. Joint use driveways. No curb cut for a driveway approach shall be made within one (1) foot of the extended side property line of the property to be serviced by the driveway unless a joint-use driveway for the two (2) adjoining properties shall be located on the common property line by written agreement running with the land, recorded in the public records of Okaloosa County and signed by all the owners of the adjoining property using the common driveway. The public works director shall be authorized to require the establishment of joint-use driveways in connection with the reduction of the driveway spacing requirements of this subsection and Article 8 of this code.
11. Authority to alter curb cuts. Where the use, convenience and necessity of the public require, the public works director shall have the authority to order the owners or agents in charge of property adjacent to which curb cuts are maintained, to alter the curb cut in such manner as he or she shall find reasonably necessary under

the circumstances. The notice required by this section shall require compliance by permittee within thirty (30) days of such notice; be in writing; and be served upon permittee as required by law.

**7.09.05 Vehicular access for multi-family, office, commercial or industrial developments.**

Direct or indirect vehicular access to local residential streets shall not be permitted, other than from corner lots, for the uses described above when adequate access is available from either collector or arterial streets.

**7.09.06 Sidewalks.**

Sidewalks shall be required on at least one side of the street on all street frontages in nonresidential, commercial and industrial developments in accordance with standards established by the city.

**7.09.07 Public facilities.**

All developments shall be provided with sufficient utility easements including potable water, sanitary sewer, electric power and light, telephone, natural gas, cable television, and any other franchised utilities, including access for maintenance. Sufficient easements shall be provided for stormwater management facilities, including access for maintenance. All public and private street networks and parking lots shall be designed to allow easy access for solid waste disposal and emergency service vehicles. In addition to new development, any enlargement of any existing building that increases impervious surface of the project site shall require submittal of a drainage plan to ensure that stormwater management requirements are met.

**7.09.08 Private recreation and open space facilities for multifamily residential developments.**

Multifamily residential developments, with the exception of those located within the boundaries of the city's dense business area, are required to reserve five (5) percent of the total lot area for recreation and open space facilities. This land area requirement shall be provided in addition to any open space requirement established in Section 12.04. In the event a buffer yard is required between the multifamily development and an adjacent single-family land use or zoning district, the buffer yard land area requirements may be credited toward the recreation/open space land area requirement.

**7.09.09 Solid waste disposal facilities for multifamily residential, nonresidential, office, commercial or industrial developments.**

- A. Dumpsters, centralized garbage storage areas, compactors and similar solid waste disposal facilities associated with the land uses described above shall not be allowed any closer than ten (10) feet to either the property line or zoning district boundary line of a single-family or duplex residential development or zoning district.
- B. Solid waste disposal facilities shall not be located within public street rights-of-way of arterial or collector streets in any zoning district, and they shall not be located within local street rights-of-way in mixed use zoning districts without city manager or designee approval.
- C. Solid waste facilities must be screened from adjoining property and from public view.

**7.09.10 Mechanical equipment.**

Mechanical equipment for multifamily residential, nonresidential, office, commercial or industrial developments shall not be allowed any closer than ten (10) feet to either the property line or zoning district boundary line of a single-family or duplex residential development or zoning district; and shall be screened from adjoining property and from public view. Roof-mounted electrical, mechanical, air conditioning and communications equipment shall be completely screened from adjacent properties and public view from the public right of way. The equipment



screening shall be such that the equipment is not visible within a two hundred-foot radius. The radius shall be measured from the exterior side of the screen to a point ten (10) feet above finished grade. All mechanical equipment must be equipped with the manufacturer's recommended sound attenuation.

**7.09.11 Parking.**

- A. The city discourages construction of more than the minimum number of parking spaces required by this code, in order that more natural vegetation may be preserved and in order to control stormwater runoff in a more natural manner.
- B. The use of permeable paving materials is encouraged in parking lots, especially for "overflow" parking or parking spaces in excess of the requirements of this title.
- C. Site design should minimize the impact of automobile parking and driveways on the pedestrian environment, adjacent properties and pedestrian safety.
- D. The following are some examples of techniques used to minimize the impacts of driveways and parking lots.
  - 1. Locate surface parking at the rear or side of the zoning lot.
  - 2. Break large parking lots into multiple smaller ones.
  - 3. Minimize the number and width of driveways and curb cuts.
  - 4. Share driveways with abutting zoning lots.
  - 5. Locate parking in less visible areas of the site.
  - 6. Locate driveways so they are visually less dominant.
  - 7. Provide special pavers or other surface treatments to enhance and separate pedestrian areas from vehicle maneuvering and parking areas.
  - 8. Parking located along a commercial street front where pedestrian traffic is desirable lessens the attractiveness of the area to pedestrians and compromises the safety of pedestrians along the street. On-site surface parking on a commercial street front should be minimized and where possible should be located behind a building.

**7.09.12 Building Façade Finish.**

Metal curtain walls (an exterior building wall which carries no roof or floor loads and consists entirely or principally of metal, or a combination of metal and glass, and other surfacing materials supported by a metal framework) shall be limited to a maximum of thirty (30) percent per elevation of a building located in the CRA. The remaining percentage of each façade elevation shall have a finish treatment. The planning commission may grant requests to exceed this maximum standard on a case-by-case basis with consideration being given to developments that incorporate design guidelines suggested in this section and exhibit superior site design.

**7.09.13 Design guidelines.**

Most development in the city is located on infill or redevelopment sites; therefore, projects should take their surroundings into account. These recommended design guidelines are intended as suggested methods to improve the character and fit of new development and to encourage respect for how architecture, landscape features, and public improvements help establish context, and steadily improve the quality of the city's residential and commercial neighborhoods. These guidelines are intended for designers and developers to look closely at the area surrounding their specific project and create developments that enhance and complement the built and natural environment. The design guidelines are flexible in their application and maybe

applied to specific projects during review by city staff and any applicable review board(s). The intent is to create the highest level of design quality while providing the needed flexibility for creative site design. Use of the following design guidelines is a means for addressing aesthetic and environmental concerns in the development process.

*A. Site planning.*

1. The construction of roads across isolated wetlands shall be limited, and any roads that are built should be constructed on pilings or with adequate culverts to allow the passage of floodwaters.
2. The use of drainage facilities and vegetated buffer zones as open space, recreation and conservation areas is encouraged.

*B. Building design and architectural elements.* The placement of buildings should respond to specific site conditions and opportunities such as irregular-shaped lots, location on prominent intersections, views, or other natural features. On-site surface parking should be visually minimized and where possible should be located behind a building. Site characteristics to consider in building design include, but are not limited to, the following:

1. Site buildings to avoid or lessen the impact of development on environmentally sensitive and critical areas such as wetlands, stream corridors, fragile vegetation and wildlife areas, etc.
2. The design and placement of a structure and its massing on the site should enhance solar exposure for the project and consider the shadow impacts on adjacent buildings and public areas.
3. The placement of buildings and other development features should enable the preservation of significant or important trees or other vegetation.
4. Where a new structure shares a site with an existing structure, or a major addition to an existing structure is proposed, the new structure should be designed to be compatible with the original structure. This is particularly important if the original structure has historical or architectural merit to the community.
5. Building entrances should be clearly visible from the street. Using entries that are visible from the street makes a project more approachable and creates a sense of association with neighboring structures.
6. New development should be sited and designed to encourage human activity on the street. To accomplish this end, entrances, porches, balconies, decks, seating and other elements can be designed to promote use of the street front and provide places for human interaction. For example, for commercial developments such elements can include shop front windows, outdoor seating/dining, rooftop decks, balconies, and canopies that protect pedestrians from the elements.
7. Development projects that are adjacent to a less-intensive zoning district with differing development standards, may create substantial adverse impacts that result from inappropriate height, bulk and scale relative to their neighbors. Careful siting and design treatments can help mitigate some height, bulk and scale impacts; in other cases, actual reduction in the height, bulk and scale of a project are advisable to adequately mitigate adverse effects. In some instances, careful siting and design treatment may be sufficient to achieve reasonable transition and mitigation of height, bulk and scale differences. Some techniques for achieving compatibility are:

- a. Use of architectural style, details (such as rooflines or fenestration), exterior colors or materials that derive from the less intensive zone district.
  - b. Creative use of landscaping or other screening.
  - c. Location of features on-site to facilitate transition, such as locating required open space on the zoning district edge so the building is located farther from the lesser intensity zoning district.
  - d. In a mixed-use project, siting the more compatible use(s) near the zoning district edge.
- C. *The exterior architectural elements of buildings and structures.* New buildings developed in an established neighborhood with an identifiable character may be viewed as undesirable intrusions unless they respond positively to the architectural characteristic of existing buildings.
1. Guidelines for architectural elements encourage new development in established neighborhoods to complement neighboring buildings and consider how design gives a neighborhood its identity. This does not mean that new buildings must excessively mimic older existing buildings. Rather, the guidelines suggest that new buildings use some traditional building concepts or elements.
  2. Components that define the appearance of a building, such as roofs, windows, porches, modulations, entries, materials, balconies and details can successfully relate to older buildings while still looking contemporary.
- D. *Architectural context.* New buildings proposed for existing neighborhoods with a well-defined and desirable character should be compatible with or complement the architectural character and siting pattern of neighboring buildings.
1. Architectural features. Taking note of the architectural characteristics of surrounding buildings can help new buildings be compatible with their neighbors when a consistent pattern is already established by similar building articulation; building scale and proportions; architectural style(s); roof forms, building details and fenestration patterns; or materials. Even when there is no consistent architectural pattern, building design and massing can be used to complement and enhance certain physical conditions of existing surrounding development.
  2. In cases where an existing context is either not well defined, or may be undesirable, a well-designed new project has the opportunity to establish a pattern or identity that future redevelopment can build on.
- E. *Human scale.* The design of new buildings should incorporate architectural features, elements and details that achieve a desirable human scale through the use of human-proportioned architectural features and site design elements clearly oriented to human activity. Building elements that may be used to achieve human scale are as follows:
1. Pedestrian-oriented storefront windows and doors directly facing the street or publicly accessible open space such as courtyards, gardens, patios, or other unified landscaped areas.
  2. Window patterns, building articulation and other exterior treatments that help identify individual units in a multi-family building or mixed-use building.
  3. Stepping back upper stories (generally above the third or fourth floor).
  4. Porches or covered entries that offer pedestrian weather protection such as canopies, awnings, arcades, or other similar elements wide enough to protect at least one person.

*F. Structured parking garages.*

1. The presence and appearance of structured parking garages and their entrances should be minimized so they do not dominate the street frontage.
  - a. Ramps should be visually screened from streets and adjacent residential zoning districts and oriented towards the interior of the lot within a project where possible.
  - b. Ramps profiles should be hidden on the exterior elevations.
  - c. Roof top parking should be visually screened with articulated parapet walls or other architectural treatment.
  - d. Parking levels above the ground floor should maintain the same vertical and horizontal articulation or rhythm and incremental appearance established on the ground floor.
  - e. The openings of the garage should be designed in a manner that obscures parked vehicles.
  - f. Decorative architectural elements on the ground floor level should be designed to accommodate the pedestrian scale.
2. Exterior lighting shall utilize fixtures provided with cut off shielding in order to eliminate glare and spillage onto adjacent properties and roadways.
3. Rooftop mechanical equipment. All rooftop mechanical equipment should be screened from public view from both above and below by integrating it into building and roof design.
4. Blank walls. Buildings should avoid large blank walls facing the street, especially near sidewalks. Where blank walls are unavoidable, due to the requirements of a particular land use or structural needs, they shall not exceed a length of fifty (50) feet, or twenty (20) percent of the length of the building facing the street, whichever is less, and should receive design treatment to increase pedestrian comfort and interest.
5. Utilities and service areas. Building sites should locate service elements like trash dumpsters, loading docks and mechanical equipment away from the street front wherever possible. When elements such as dumpsters, utility meters, mechanical units and service areas cannot be located away from the street front, they should be situated and screened from view and should not be located near pedestrian routes.
6. All telephones, vending machines, or any facilities dispensing merchandise, or a service on private property, should be confined to a space built into the building or buildings or enclosed in a separate structure compatible with the main building(s). All exterior forms, attached or not to buildings should be in conformity to and secondary to the building. They should be an asset to the aesthetics of the site and to the neighborhood.

*7.09.14 Special Planning Areas.*

The CRA Commission, with the approval of the Niceville City Council, may designate and establish a Special Planning Area. Such Special Areas must be entirely within the CRA and recommended for authorization based on a determination that its designation will: assist in economic development, provide for public safety, enhance public access and uses, improve the delivery of public services, or provide for the implementation of specific recommendations within the CRA Plan.

To be designated as a Special Planning Area by the CRA, the area must be a contiguous area of twelve (12) acres or smaller, be in one ownership, either public or private, and have a development plan approved by the CRA Commission.

The specific approvals of the individual interpretations of the Special Planning Area Plan will be provided by the CRA Director, with emphasis on: architectural design, site plan compatibility, parking adequacy, and public access considerations. At the discretion of the CRA Director, a Special Planning Area Plan may be provided to the City's Planning and Zoning Board for approval.

#### **7.10.00 Military influence planning area (MIPA) zoning overlay.**

##### *7.10.01 Purpose.*

It is the purpose of this section to promote the public health, safety and general welfare, and to ensure the compatibility between existing or future airports, and the surrounding land uses, by minimizing adverse impacts to interior noise levels for surrounding habitable land uses, and by placing restrictions on certain types of outdoor lighting that may negatively affect military aircraft operations. The regulations in this section are meant to implement the recommendations from Section 10 of the June 2009 Eglin Air Force Base Joint Land Use Study (JLUS) Final Report and the 2013 BRAC Supplemental Environmental Impact Statement (SEIS).

##### *7.10.02 Description of geographic boundary.*

The entire land area located within the Accident Potential Zones (APZ-I and APZ-II) depicted on Figure 10-2 of the JLUS, as well as the remaining portions of all parcels through which the APZ lines fall, and all land located within the 65 dB DNL noise contour line within the city depicted on Figure 3-3 of the Record of Decision, Final SEIS, as well as the remaining portions of all parcels through which the 65 dB DNL noise contour line falls, are hereby designated as the boundary of the MIPA zoning overlay.

- A. The MIPA boundary is depicted as the "MIPA Overlay Zone" on the adopted Future Land Use Map.
- B. The MIPA boundary is depicted as the "MIPA Zoning Overlay" on the "City of Niceville Official Zoning Map" and shall be applied and operated in conjunction with any other zoning district in which such lands are located. Such lands may be used as permitted by such other zoning districts except as limited or qualified by the requirements of the MIPA zoning overlay regulations set forth in this section.

##### *7.10.03 Military review; minor or major development review required.*

All new development within the MIPA zoning overlay requiring special consideration according to this section shall be reviewed as a minor or major development pursuant to Section 2.05 of this code, unless exempted by this section. All new development shall be reviewed by Eglin AFB for comment as to its compatibility with the mission of the military installation and those comments forwarded to the planning commission prior to any public hearing pertaining to the development.

##### *7.10.04 Land use compatibility.*

For development located within an Accident Potential Zone (APZ-I or APZ-II), as identified in Figure 10-2 of the 2009 Eglin AFB JLUS:

- A. Future land use or zoning amendments that result in higher than the existing adopted residential densities shall not be approved.
- B. Changes in non-residential land use and intensity shall be reviewed based on their compatibility with military operations as identified in Figure 10-4 of the 2009 Eglin AFB JLUS.

7.10.05 *Outdoor lighting standards to reduce potential for aircraft accidents.*

- A. *Purpose and intent.* The purpose and intent of the provisions for the regulations of outdoor lighting within military airport environs is to reduce the potential for aircraft accidents related to pilot vision impairment or pilot confusion created by outdoor lighting. Accordingly, it is the intent of this code to require outdoor lighting practices and systems that will minimize light pollution, glare, and flash illumination that may interfere with a pilot's or navigator's ability to control or navigate aircraft. The intent is also to promote optimum conditions for effective night-time military flight operations and ground training.
- B. The standards in this subsection apply to outdoor lighting for all development within the MIPA zoning overlay, including installation of new lighting and repair or replacement of existing lighting (whether for aesthetic purposes or because lighting was damaged or destroyed).
- C. *Lighting prohibited within the MIPA zoning overlay.* The following lighting or glare that can cause distraction, flash blindness, vision impairment, or visual interference while piloting or navigating an aircraft are prohibited within the MIPA zoning overlay:
  - 1. Series, lines, rows, or patterns of lights, whether supported by cables or other physical means, or laid upon a ground or building, that may resemble navigational or flight safety aids, landing pads, or lighting common to general or military aviation.
  - 2. Lighting designed for the creation of sky glow to attract attention, in excess of the lighting used to provide safety, security, and utility.
  - 3. Outdoor floodlighting by flood light projection above the horizontal plane.
  - 4. External illumination for signs.
- D. *Lighting standards within the MIPA zoning overlay.*
  - 1. *Outdoor lighting limitation.* Outdoor lighting shall only be used to accommodate minimum illumination for general safety, security and utility within a MIPA zoning overlay.
  - 2. *Parking lot lighting standards.* For all parking lots, outdoor lighting shall be full cutoff or properly shielded.
  - 3. Landscape, decorative, and architectural lighting.
    - a. Luminaries used to illuminate flags, statues, steeples, monuments, and other tall narrow objects shall be illuminated with the type of luminary that directs the narrowest beam capable of illuminating the object.
    - b. Lighting on buildings for aesthetic purposes shall be directed downward from the top.
  - 4. *Fixed lights, including street lights, must be full cutoff or properly shielded.* All light fixtures that are required to be shielded shall be installed in such a manner that all light emitted by the fixtures, either directly from the lamp or indirectly from the fixture, is projected below a horizontal plane extending from the bottom of the fixture.
  - 5. *Automobile canopies.* All luminaries mounted on the under surface of automobile canopies for service stations, drive-in restaurants, or other commercial or industrial uses shall be fully shielded.

- E. Outdoor lighting plan.* Within the MIPA zoning overlay, as well as anywhere else in the city, an outdoor lighting plan shall be submitted with a site plan or subdivision application for any non-residential use to determine compliance with the requirements of this article. Prior to final approval of a site plan or subdivision plan for which an outdoor lighting plan is required, the plan is subject to review and comment by the military.
- F. Exemptions.* The following outdoor lighting is exempt from this section:
1. Search lights, laser source lights, or any similar high-intensity lighting used in emergencies by police and fire personnel or at their direction; or for meteorological data gathering purposes undertaken with approval by the city.
  2. Airport lighting which is required for the safe and efficient movement of aircraft during flight, takeoff, landing, and taxiing is exempt from the provisions of this section. All other outdoor lighting at airport facilities shall comply with the provisions of this article.
  3. Holiday or decorative lights illuminated November 20 through January 15 each year, so long as such lights placed on property or buildings within a MIPA zoning overlay are not determined to adversely affect pilot vision or comprehension.
- G. Nonconforming outdoor lighting.*
1. Following application of this section, the installation of new lighting or the replacement of lighting shall be made in strict compliance with this code. Routine maintenance, including changing the lamp, ballast, starter, photo control, fixture housing, lens and other required components, is permitted for all existing fixtures not subject to subparagraph 2 below.
  2. All outdoor lighting that fails to conform to this section that is damaged in excess of 50 percent of its market value shall be discontinued, removed, made to conform to this section, or replaced with lighting that conforms to this section.
  3. Any fixture that, due to excessive glare, produces prohibited glare as prohibited in subsection 3.06.03.C, shall be required to either discontinue use of the fixture in question or replace the fixture with one that conforms to the requirements of this section.
- H. Temporary lighting permits.* Outdoor lighting which is inconsistent with this section may be allowed on a temporary basis for special events, construction activities, or temporary outdoor lighting needs for public assembly or public safety so long as the outdoor lighting does not create a potential distraction, flash blindness, vision impairment, or visual interference for aircraft pilots or navigators and would not cause a potential unreasonable risk for flight safety or interfere with any military airport operation or with ground activities at military installations.

**7.10.06 Noise level reduction.**

Noise level contours are incrementally measured from the highest typical decibel (dB) generated within a military installation to 65 dB within non-military property. The noise level reduction (NLR) regulations in this section apply to the noise level contours delineated in Figure 3-3 of the Record of Decision, Final SEIS F-35 Beddown (June 26, 2014). The Department of Defense (DoD) and other federal agencies have determined that noise exposure below 65 dB is generally compatible with non-military development. The Environmental Protection Agency (EPA) and the Federal Aviation Administration (FAA) have established an interior Day Night Average Sound Level (or DNL) goal of 45 dB.

- A. *Purpose and intent.* The purpose of this subsection is to establish standards for reducing interior noise levels through construction techniques that result in an interior DNL of approximately 45 dB. This means that techniques must be used that provide interior NLR of 25 dB within the 65-70 dB DNL noise contours, and an interior NLR of 30 dB within the 70-75 DNL noise contours (Note: there are no portions of the city that are located within a noise contour greater than 75 dB).
- B. *Applicability.*
1. The provisions of this article shall apply to the construction of any building or structure or portion of a building or a structure located within the 65dB or greater noise contours, except work located primarily in a public right-of-way, public utility towers and poles, and mechanical equipment not specifically regulated in this article.
  2. Buildings or structures moved onto or within the MIPA zoning overlay shall comply with applicable provisions of this article.
  3. The regulations prescribed by this subsection shall not be construed to require the sound conditioning or other changes or alteration of any preexisting structure not conforming to this article as of the effective date of this article or otherwise interfere with the continuance of any such preexisting nonconforming use. Nothing herein contained shall require any such change in the construction or alteration of a structure which was begun prior to the effective date of this article, and is diligently pursued.
- C. *Approval of methods of construction.*
1. Noise level reduction construction standards shall be consistent with the 2010 Florida Residential Building Code, Section R324, Airport Noise, as amended.
  2. When required by this subsection to provide noise attenuation the applicant must provide either:
    - a. A testing certificate from an accredited noise testing lab that a new structure or addition to existing structure built to the submitted engineering plans will achieve an average minimum NLR dB equal to or greater than the reduction required;
    - b. An engineering judgment signed and sealed by an engineer licensed in the State of Florida that the structure or addition built to the submitted engineering plans will achieve an average minimum equal to or greater than the reduction required; or
    - c. Plans using the standards contained in "Guidelines for Sound Insulation of Residences Exposed to Aircraft Operations" prepared for the Department of the Navy by Wyle Research and Consulting, Arlington, Virginia, April 2005 on file with the Florida Building Commission.
- D. *General design requirements.* The NLR requirements may be achieved by any suitable combination of building design, choice of building materials and execution of construction details in accordance with established architectural and acoustical principles. The NLR requirements shall apply to all occupied rooms having one or more exterior walls or ceilings, when furnished in accordance with the intended final usage of the room.
- G. *Failure to comply with allowable interior noise levels.* A property owner may be granted a waiver of the allowable interior noise levels by the building official and a certificate of occupancy may be issued if:



1. The property owner has made a documented good faith effort to achieve the interior noise level standard, but the field test required by paragraph C reveals non-compliance; and
2. The property owner can demonstrate that a substantial and unreasonable additional expense would be involved to achieve the required interior noise level.

**7.10.07 Disclosure.**

No person shall sell, lease, nor offer for sale or lease any property within a MIPA zoning overlay unless the prospective buyer or lessee has been duly notified through one (1) or more of the following requirements.

**A. Disclosure with sale or lease contract.**

1. *Sale of residential property.* Any contract for the sale of residential property that is located in whole or part within a MIPA zoning overlay, shall include, as an attachment to the contract of sale, a military airport disclosure notice, in a form approved by the city. The military airport disclosure notice shall be dated and signed by the purchaser(s) and the seller(s). If the seller is represented by a real estate agent, the agent shall witness the signature(s) of the seller(s). The seller is responsible for providing a copy of the signed Disclosure Notice to the Eglin AFB Planning Office. A disclosure notice form will be made available by the planning and zoning department.
2. *Lease of residential property.* Any contract for the lease of a residential dwelling for more than seven (7) months shall be subject to the notification requirements set forth in subsection A.1.
3. *Consumer protection.* The failure of a sales contract to comply with the requirements of subsection A.1 shall enable a party to the contract who is aggrieved by such failure to rescind the contract any time prior to settlement. The failure of a lease contract to comply with the requirements of subsection A.2 shall enable a party who is aggrieved by such failure to rescind the contract any time prior to the contract termination date. The right of rescission provided by this subsection is not an exclusive remedy, and any other right or cause of action available to a party to the sales or lease contract shall remain.

**B. Realty sales offices and marketing.** Sales offices used to market or sell new residential homes or mobile homes, including pre-construction sales, which will be constructed on lots located in a MIPA zoning overlay, must display a map illustrating military installation property boundaries, accident potential zones, clear zones, runway protection zones, and noise level contour zones over 65 dB. This display requirement also applies to temporary reality sales offices. Pamphlets illustrating the same information appearing on paper not less than eight and one-half (8½) inches by eleven (11) inches shall also be made available and placed in public view.

1. *Display requirements.* The display map shall be no smaller than twenty-four (24) inches by thirty-six (36) inches and must be prominently displayed in a public area of the office and copies of such map must be available on paper which is eight and one-half (8½) [inches] by eleven (11) inches or larger in dimension. The display map and pamphlet must include a statement that additional information regarding the MIPA zoning overlay and zoning is available at the Niceville Building Department and include its most current telephone number. The location of the residential development shall be denoted on the map or pamphlet.

2. *Temporary permits.* A temporary permit shall not be issued for a realty sales office located in the City of Niceville unless it contains a requirement for compliance with subsections B.1 and B.4.
  3. *Site plan permits.* A site plan approval for any commercial or office use within the city shall include a statement that any realty sales office use shall comply with the display requirements of this section.
  4. *Marketing brochures.* Any real estate office or business within Okaloosa County that produces a marketing brochure for residential home sales or rental units located on property wholly or partially within a MIPA zoning overlay shall include in said brochure the following statement: "Some or all of the property within this residential development lies within a MIPA zoning overlay. Information regarding such zoning overlays, including airport noise impacts, can be obtained from the City of Niceville, Florida."
- C. *Covenants and restrictions.* Residential plats proposed within a MIPA zoning overlay shall incorporate disclosure requirements within covenants and restrictions.

## ARTICLE 3. DEFINITIONS

### 3.00.00 - Purpose.

#### **3.00.00 Purpose.**

The purpose of this article is to provide definitions applicable to the land development code.

~~Abut: To physically touch or border upon, or to share a common property line.~~

~~Abutting property: Any property that is immediately adjacent or contiguous to or immediately across any road or public right-of-way from the property in question.~~ Abut or abutting: To physically touch or border upon, or to share a common property line or be separated from such a common border by a public right-of-way, alley or easement of record.-

~~Accessory apartment. A second dwelling unit located on an existing single family lot, for use as a complete, independent living facility with provision within the accessory apartment for cooking, eating, sanitation, and sleeping. Such a dwelling is an accessory use to the main dwelling.~~

~~Accessory structure. A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure. An accessory structure shall not be an independent living facility.~~

~~Accessory use: A use of land or structure that:~~

~~(a) Is clearly incidental to and customarily found in connection with a principal building or use;~~

~~(b) Is subordinate to and serves a principal building or a principal use;~~

~~(c) Is subordinate in area, extent, or purpose to the principal building or principal use served;~~

~~(d) Contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and~~

~~(e) Is located on the same parcel of land as the principal building or use served.~~

~~Accessory buildings and uses: Subordinate and incidental use to the principal use.~~

~~Accessory use: A use of land or structure or portion thereof customarily incidental and subordinate to the principal use of the land or structure and located on the same parcel.~~

~~Adjacent to a protected environmentally sensitive area: Any location within five hundred (500) feet of the boundary of any protected environmentally sensitive area, whether the location is on or off the development site.~~

~~Adult day care center: Any building, buildings, or part of a building, whether operated for profit or not, in which is provided through its ownership or management, for a part of a day, basic services to three or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services.~~  
~~Adult congregate living facility: A type of residential care facility, defined in Chapter 400, Part 2, Florida Statutes.~~

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**Adverse effects:** Any modifications, alterations, or effects on waters, associated wetlands, or shorelands, including their quality, quantity, hydrology, surface area, species composition, or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the reasonable use of property, including outdoor recreation. The term includes secondary and cumulative as well as direct impacts.

**Adversely affected person:** Any person who is suffering or will suffer an adverse effect to an interest protected or furthered by the local government comprehensive plan, including but not limited to: interests related to health and safety; police and fire protection services; densities or intensities of development; transportation facilities; recreational facilities, equipment, or services; and environmental or natural resources. The alleged adverse effect 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.

**Agricultural activity:** Any farming and forestry operation affecting land or waters such as site preparation, clearing, fencing, contouring, soil preparation, plowing, planting, harvesting, construction of access roads, extraction of stumps and submerged logs, and placement of bridges and culverts.

**Alcoholic beverage:** A liquid brewed or distilled for human consumption, containing more than one (1) percent alcohol by weight, including beer, wine and liquors.

**Alley:** See Street.

**Alteration:** Human-caused activity that modifies, transforms, or otherwise changes the land and/or vegetation, including, but not limited to: removal, displacement, mowing, or disturbance of vegetation excluding permitted prescribed burns; removal, displacement, demucking or disturbance of soil, rock, minerals or water within a plant's root zone; placement of vehicles, structures, debris, fill or other material objects thereon, including introduction or injection of water and other substances; use of mechanical equipment, including vehicle rutting, within a plant's root zone; dredging or excavation of land; construction of new structures or expansion of existing structures; installation of utilities, roads, stormwater management systems, septic tanks, bulkheading, fencing, agricultural activities, site preparation, land clearing, tree cutting, mechanized vegetation removal, contouring, placement of bridges or culverts, extraction of stumps or submerged logs, and the disposal of solid or liquid waste.

**(a)** Alteration of a building within a flood hazard area: Any construction or renovation to an existing structure other than a repair or addition. Alterations are classified as Level 1, Level 2, and Level 3 in the Florida Building Code.

**(b)** Alteration of a watercourse: A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood. ~~Alter or alteration: Work done on a system other than that necessary to maintain the system's original design and function.~~

**Animal clinic, hospital:** An establishment where animals are admitted for examination and treatment by one (1) or more persons practicing any form of veterinary medicine, not including a kennel. Animals may be boarded or lodged overnight provided such activity is totally confined within the building. No outside pens or runs shall be allowed (see Kennel). ~~Animal clinic: An establishment where animals are admitted for examination and treatment by one (1) or more~~

~~persons practicing any form of veterinary medicine. Animals may be boarded or lodged overnight provided such activity is totally confined within the building. No outside pens or runs shall be allowed (see Kennel).~~

Apartment: See Dwelling, multi-family.

Apartment, public lodging establishment:

(a) Non-transient apartment. A non-transient apartment is a building or complex of buildings in which 75 percent or more of the units are available for rent to non-transient tenants.

(b) Transient apartment. A transient apartment is a building or complex of buildings in which more than 25 percent of the units are advertised or held out to the public as available for transient occupancy. ~~Apartment refers to residence used either by long term or transitory tenants. They may exist either in R-3 multiple-family or PUD districts.~~

*Appurtenant structure:* A structure which is on the same parcel of property as the principal structure to be insured under the federal flood insurance program and where the use is incidental to the use of the principal structure.

*Architect:* A person registered and currently licensed to practice architecture in the State of Florida.

~~Area of shallow flooding: A designated AO, AH or VO zone on the flood insurance rate map, or other area designated on a map by the director with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident.~~ Area of shallow flooding: A designated AO, AH or VO zone on the flood insurance rate map, or other area designated on a map by the director with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident.

*Area of special flood hazard:* The area of special flood hazard shall include:

- (a) All areas designated on a flood hazard boundary map as Zone A or a flood insurance rate map as Zones A, AO, AH, A1—30, AE, A99, VO, or V1—30, VE or V. The relevant flood hazard boundary map and flood insurance rate maps, and any revisions thereto, are adopted by reference and declared to be a part of this Code.
- (b) Other areas of the community designated on a map by the director as having a one (1) percent or greater chance of flooding in any given year. This may include isolated topographic depressions with a history of flooding or a high potential for flooding.

*Associated wetlands:* Any wetland that is adjacent or contiguous to waters, or which has a direct hydrologic connection to waters.

*Automobile:* See Motor vehicle.

*Automobile court:* See Motel.

*Automobile rental service:* Establishment primarily engaged in renting or leasing passenger autos.

*Automobile Service Station:* Buildings and premises designed to cater principally to automobiles, where gasoline, oils and greases, batteries, tires and automobile accessories may be supplied and dispensed at retail.

*Base flood:* The flood having a one (1) percent chance of being equaled or exceeded in any given year. The area at risk from the base flood is called the SFHA. Properties within the SFHA

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are at a high risk of flooding, with at least a 26-percent chance of flooding over the course of a 30-year mortgage.

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

*Bed and breakfast inn:* A bed and breakfast inn is a family home structure, with no more than 15 sleeping rooms, which has been modified to serve as a transient public lodging establishment, which provides the accommodation and meal services generally offered by a bed and breakfast inn, and which is recognized as a bed and breakfast inn in the community in which it is situated or by the hospitality industry. [509.242, F.S.]

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*Beneficial functions of a protected environmentally sensitive area:* Those functions, described in the conservation element of the comprehensive plan, that justify designating an area as environmentally sensitive.

*Bicycle paths:* Bicycle paths and bicycle facilities are those built in accordance with the Florida Department of Transportation (DOT) design and construction standards.

*Block:* A tract of land bounded by streets, alleys, shorelines, waterways or other definite boundaries.

*Board:* Board shall mean the Niceville Planning Board otherwise known as the planning commission.

*Boarding house:* An establishment where lodging is provided for compensation: (a) by prearrangement, (b) other than in dwelling units, (c) for a total of six to 24 persons unrelated by blood, marriage or legal adoption to the owner or operator of the boarding house, and (d) with service of meals to boarders. For similar facilities for 25 or more persons, refer to the definition of hotel in this article. Owners/operators must be registered with the Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants in order to be considered a boarding house by the city. Boarding houses shall not include homes with foster children placed by the Florida Department of Children and Family Services, small community residential homes and large community residential homes. ~~Boarding house: A dwelling used for the purpose of providing meals or lodging or both to persons other than members of the family occupying such dwelling.~~

*Breakaway wall:* A wall that is designed and constructed to collapse under specified lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

*Building:* A structure created to shelter any form of human activity. This may refer to a house, barn, garage, church, hotel, or similar structure. Buildings may refer to a historically or architecturally related complex, such as a courthouse and jail, or a house and barn. Parking lots and garages are hereby deemed to be "buildings."

*Building area:* The total ground area, taken on a horizontal plane at the mean grade level, of each building and accessory building, but not including uncovered entrance platforms, terraces and steps.

*Building clusters:* A group of structures, arranged in a geometric configuration other than a straight line, and sharing the same common areas and amenities such as swimming pools, parking lots, etc.

*Building frontage:* The single facade constituting length of building or that portion of a building occupied by a single office, business, or enterprise abutting a street, parking area, or other means of customer access such as an arcade, mall, or walkway.

**Building height:** The vertical distance measured from the established mean grade at the front building line to the highest point on the roof, including the chimneys.

**Building inspector:** A city officer of the code enforcement department or buildings inspection department who has been appointed by the city manager to review and inspect buildings, building plans and development plans, including erosion and sediment control plans, construction site waste management plans, and to enforce the land development code. Individual appointed by the city manager/city planner to carry out inspections required by the building code and to issue permits under the Standard Building Code, as amended.

**Building line:** The innermost edge of any required yard or setback.

**Building permit:** A permit for construction, issued by the building inspector according to the Standard Florida Building Code, as amended.

**Building setback:** A line parallel to the front lot line, tangent to the nearest part of the principal building extending from side lot line to side lot line.

**Campground:** A place where buildings or sites for vehicles or tents are rented for use as temporary living quarters for recreational purposes.

**Certification of occupancy:** Official certification that a premises conforms to provisions of the zoning ordinance and building code, and to be used or occupied. Such certification is granted for new construction or for the substantial alteration or additions to existing structures. A structure may not be occupied unless such certificate is issued.

**Certified contractor means a contractor who has received training to inspect and maintain erosion and sediment control practices and construction site waste management practices**

**Child care center:** An establishment where children, other than members of the family occupying the premises, are cared for away from their own home by day or night. The term includes day nurseries, but does not include foster homes.

**Church:** A building designed and/or used for public worship.

**City planner:** The city manager, or designee, responsible for assuring the orderly growth of Niceville and to enforce ordinances pertaining to zoning and development.

**Clearing:** The removal of trees and brush from the land, not including the ordinary mowing of grass. Clearing means the destruction and removal of vegetation by manual, mechanical, or chemical methods

**Clinic:** An establishment where patients who are not lodged overnight are admitted for treatment and examination by one (1) or a group of persons practicing any form of healing or health related services which is lawful in the State of Florida.

**Club:** Buildings, facilities and property owned and operated by a corporation or association of persons for social or recreational purposes, including those organized chiefly to promote friendship or welfare among its members, but not operated primarily for profit or to render a service which is customarily carried on as a business.

**Cluster housing:** Single-family dwelling units are constructed after development design wherein certain standards are relaxed to permit modifications in lot size, shape, width, depth, orientation and building setbacks. (Cluster housing differs from townhouses in that they do not have common walls.)

**Coastal A Zone:** part of the coastal SFHA where wave heights can be between 1.5 and 3 feet during the base flood event.

*Coastal high hazard area:* The area below the elevation of the Category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model. A Coastal High Hazard Area (CHHA) is identified as Zone V or Zone VE on FEMA flood maps. These parts of the coastal SFHA are called "V zones" and they show areas where waves and fast-moving water can cause extensive damage during the base flood event. In V zones, wave heights are larger than 3 feet.

Commercial transient living accommodations: Hotels, motels, bed and breakfast, boarding houses, and other transient accommodations. Commercial transient living accommodations do not include any form of short- or long-term residential uses.

*Commercial use:* Activity carried out for monetary gain.

Community residential home: A dwelling unit licensed to serve clients of the Department of Children and Family Services, which provides a living environment for seven or more unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

(a) Community residential home, large: A dwelling unit licensed to serve clients of the DCF, which provides a living environment for seven (7) or more unrelated residents.

(b) Community residential home, small: A dwelling unit licensed to serve clients of the DCF, which provides a living environment for six (6) or fewer unrelated residents who operate as the functional equivalent of a family.

*Comprehensive plan:* The adopted City of Niceville comprehensive plan, as adopted and amended, as required by the Local Government Comprehensive Planning Act (LGCPA) enacted by the Florida Legislature in 1975. The Florida Attorney General has affirmed that the plan is preeminent in resolving conflicts involving the plan and city ordinances.

*Concurrency:* A condition where specified facilities and services have or will have the necessary capacity to meet the adopted level of service standard at the time of impact of the development project.

Construction site waste management plan means a document indicating the specific measures to manage and dispose of materials such as surplus or refuse building materials and hazardous wastes to reduce the risk of pollution.

Contractor means a person who is certified or registered by the state department of business and professional regulations.

*County:* County shall mean Okaloosa County, Florida.

*Cultural resource:* A site, object, structure, building or district listed on the city's survey of cultural resources or in the historic preservation element of the city comprehensive plan or on the local register of historic places.

*DBH:* Diameter at breast height. "Breast height" is defined to be fifty-four (54) inches above the surface of the ground at the base of the plant or tree. In the case of a tree with multiple main stems, the diameter shall be the sum of the diameters of the stems.

*Demolition:* The tearing down or razing of twenty-five (25) percent or more of a structure's external walls.

*Density or gross density:* The total number of dwelling units by the total site area, less public right-of-way.

*Detention:* The collection and storage of surface water for subsequent gradual discharge.



*Developer:* Any person who engages in or proposes to engage in a development activity either as the owner or as the agent of an owner of property.

*Development of regional impact:* Development that impacts on infrastructure, concurrency, the environment or other considerations beyond the political jurisdiction in which development occurs.

*Development or development activity:* Any of the following activities:

- (a) Construction, clearing, filling, excavating, grading, paving, dredging, mining, drilling or otherwise significantly disturbing the soil of a site.
- (b) Building, installing, enlarging, replacing or substantially restoring a structure, impervious surface, or water management system, and including the long-term storage of materials.
- (c) Subdividing land into two (2) or more parcels.
- (d) A tree removal for which authorization is required under this Code.
- (e) Erection of a permanent sign unless expressly exempted by this Code.
- (f) Alteration of a historic property for which authorization is required under this Code.
- (g) Changing the use of a site so that the need for parking is increased.
- (h) Construction, elimination or alteration of a driveway onto a public street.

*Development order:* An order granting, denying, or granting with conditions an application for ~~a specific development or a development permit, approval of a development project or activity.~~ A distinction is made between development order, which encompasses all orders and permits, and three (3) distinct types of development orders: preliminary development order, final development order and development permit. See sub-paragraphs below:

*(a) Preliminary development order:* Any preliminary approval which 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.

*(b) Final development order:* 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 the 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.

*(c) ~~Development permit:~~ Any permit that authorizes the construction, erection, alteration, modification, repair, or demolitions of any building or structure1; all types of construction permits (plumbing, electrical, foundation, mechanical, and so forth); and, grading and clearing permits, tree removal permits, sign permits, etc.*

~~*Development permit:* For purposes of this Code a development permit is that official city document 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~~

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~~addition to the building permit itself), grading and clearing permits, septic tank permits, tree removal permits, sign permits, etc.~~

~~(a)~~ *Dimension variance*: A departure from the terms of this ordinance pertaining to height, width, depth and area of structures and size of yards and open spaces where such departure will not be contrary to the public interest, and where conditions are peculiar to the property because of its size, shape or topography, and not the result of actions of the applicant.

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*Direct hydrologic connection*: A surface water connection which, under normal hydrological conditions, occurs on an average of thirty (30) or more consecutive days per year. In the absence of reliable hydrologic records, a continuum of wetlands may be used to establish a direct hydrologic connection.

*District*: A geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, objects, or areas, which are united historically or aesthetically by plan or physical development. A district may be comprised of individual resources which are separated geographically but are linked by association or history.

*Domestic animals*: A domesticated animal such as a cow, horse, sheep, pig, goat or chicken; but not necessarily limited to such. Dogs and cats are not included.

*Dormitories*: A room, apartment or building containing sleeping accommodations operated for the use of students enrolled in an educational institution.

*Drainage way*: any channel that conveys surface runoff throughout the site.

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*Drip line*: The outermost perimeter of the crown of a plant as projected vertically to the ground.

*Drive-in restaurant*: An establishment where food is served to persons in vehicles for consumption on or off the premises.

*Dry cleaners*: An establishment where the process of removing stains from wearing apparel, textiles, fabrics, rugs, etc. is carried on. It may include the process of dyeing clothes or fabrics.

*Dwelling*: A building which is designed or used exclusively for residential purposes, but does not include hotels, motels or any temporary lodging for transient residence.

*Dwelling unit*: A single housing unit providing complete, independent living facilities for one (1) housekeeping unit, including permanent provisions for living, sleeping, eating, cooking and sanitation.

(a) *Dwelling, single-family*: A dwelling designed for and/or occupied by one (1) family and having one (1) primary entrance.

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(b) *Dwelling, two-family (duplex)*: A dwelling which has two (2) kitchens and is designed for and/or occupied by two (2) families, having one (1) or two (2) primary entrances.

(c) *Dwelling, multiple*: A dwelling designed for and/or occupied by three (3) or more families and having one (1) or more primary entrances.

*Easement*: An interest in land owned by another which entitles the holder to a specific use or enjoyment.

*Elevations*: All mean sea level (MSL) elevations in this ordinance shall be measured from certified bench marks throughout the area.

*Enclosed living area:* Measurements made from outside of exterior walls. Screened porches, garages, patios, and closets not opening to the interior shall not be construed to mean enclosed living area.

*Enforcing officer:* See city planner.

*Engineer:* A person registered and currently licensed to practice professional engineering in the State of Florida.

*Erosion and sediment control manual:* the field manual on sediment and erosion control best management practices for contractors and inspectors currently in use by the building inspector and/or public works director.

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*Erosion and sediment control plan:* set of plans prepared by or under the direction of a licensed professional engineer indicating the specific measures and sequencing to be used to control erosion and sediment on a development site during and after construction.

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*Erosion control:* a measure that prevents erosion.

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*Estuarine setback:* The mean sea level (MSL) as established by the National Geodetic Vertical Datum of 1929 plus two and one-half (2½) feet.

*Existing:* For purposes of the stormwater management provisions of this Code, the average condition immediately before development or redevelopment commences.

*Facade:* The entire building wall, including wall face, parapet, fascia, windows, doors, canopy and roof on any complete elevation.

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*Family:* One (1) or more individuals occupying a dwelling unit and living as a single household unit.

*Fences:* Open chain link, brick, wrought iron or wood fences separating lots or for partitioning of swimming pools, gardens, or patios, subject to restrictions contained in the various zoning districts.

*Filling station:* See Automobile service station.

*Finding:* A determination or conclusion based on the evidence presented and prepared in support of a decision by the planning commission or by the Niceville City Council.

*First floor level; lowest floor of structure:* See Ground floor.

*Flood or flooding:* A temporary, partial or complete inundation of normally dry land from the overflow of inland or tidal waters, or from the unusual and rapid accumulation of runoff or surface waters from any source.

*Flood elevation certificate:* A certificate prepared by the Federal Emergency Management Agency, FEMA, to be completed by persons wishing to build in flood hazard areas. The certificate must be completed prior to the issuance of a building permit by the building inspector.

*Flood hazard areas:* Areas of Niceville identified as flood hazard areas by the flood insurance rate map (FIRM) prepared by the Federal Emergency Management Agency or in the Niceville Comprehensive Plan.

*Flood hazard boundary map (FHBM):* The map issued by the Federal Emergency Management Agency showing flood-prone areas. Drawn from United States Geological Survey Maps, it does not provide flood elevations and is intended to be used only until the flood insurance rate map is produced.

*Flood insurance rate map (FIRM):* The official map issued by the Federal Emergency Management Agency showing both the area of special flood hazard and the risk premium zones within the city.

*Floodplain management ordinance:* An ordinance developed by the City of Niceville regulating the construction in the city's floodplain.

*Floodplain:* Land which will be inundated by floods known to have occurred or reasonably characteristic of what can be expected to occur from the overflow of inland or tidal waters and the accumulation of runoff of surface waters from rainfall.

*Floodway:* The channel of a natural stream or river and portions of the floodplain adjoining the channel, which are reasonably required to carry and discharge the floodwater or flood flow of any natural stream or river.

*Floor area, gross:* Total floor area of all stories including halls, stairways, elevator shafts, and other related uses, measured to outside faces of exterior walls.

*Floor area, minimum:* The area included within the surrounding walls of a building exclusive of vent shafts, courts, carports, garages, breezeways, patios and stairwells.

*Floor area ratio (FAR):* A means for determining intensity of land use. FAR is calculated by adding all authorized floor levels minus setback, landscape and parking requirements and then dividing this total by the gross site area.

*Fraternities:* See Clubs.

*Frontage:* ~~That side of a lot abutting on a street; the front lot line.~~ The length of the property line of any one premises along a street on which it borders, that side of a lot abutting on a street; the front lot line.

*Functionally dependent use:* A use which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a 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.

*Garage apartment:* An accessory building containing living facilities and space for at least one (1) automobile.

*Garage, mechanical:* Buildings where the services of an automobile service station may be rendered, i.e., maintenance, service and repair of automobiles; not to include body work, painting, storage for purpose of using parts, or any other activity which may be classified as a junk yard.

*Garage, private residential:* An accessory building or portion of the principal building, including carport, used for the storage of automobiles owned by occupants of the principal building.

*Government uses and structures:* Any land, building or use that is owned and operated by the city, county, state or federal government, and over which such government exercises direct and complete control.

*Grade:* The average elevation of the ground adjoining a building or structure on all sides.

~~*Grading:* excavation or fill of material, including the resulting conditions thereof.~~

*Gross density or density:* The total number of dwelling units divided by the total site area, less public right-of-way.

*Gross floor area:* The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two

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(2) buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling [height] is less than six (6) feet.

*Ground floor:* See first floor level.

*Guest home:* A private dwelling in which transient sleeping accommodations are provided for monetary gain. Same as a short-term rental, tourist home or vacation rental. Only applicable to R-3 zoning districts.

*Habitable first floor:* The first floor usable for living, which includes working, sleeping, eating, cooking or recreation, or any combination thereof. A floor used only for storage purposes is not a habitable floor.

*Highest adjacent grade:* The highest natural elevation of the ground surface adjacent to the proposed walls of a structure.

*Home occupation:* Any activity carried out for gain by a resident [and] conducted as an accessory use in the resident's dwelling unit.

*Homeowners association:* A group of homeowners in a geographical area banded together for a specific purpose.

*Hospital:* A building where medical and surgical diagnosis or treatment is available to persons under the care of doctors and nurses.

*Hotel:* A building containing guest rooms designed to be used or rented for sleeping purposes by transient guests. An establishment where lodging is provided for compensation other than in dwelling units, and for 25 or more persons. A hotel must provide a centralized front desk area that is open 24-hours for all check-in/check-out and service needs and daily room cleaning service. Additionally, the hotel must be managed, maintained, and operated by a single entity and shall be marketed like a hotel, condotel, or similar name that infers "hotel-like" services. Hotel units may contain kitchenette facilities (limited cabinet space and small appliances), sitting/living rooms, and bedrooms. However, bedrooms shall not contain walk-in closets. For purposes of these regulations, the term "hotel" shall be construed to include motel, motor court, motor inn, tourist court, motor lodge and similar facilities, if for 25 or more occupants. For establishments where a smaller number of persons are accommodated, see bed and breakfast inn, boardinghouse, rooming house.

*Impervious surface:* 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, semi-impervious surfaces such as compacted clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots and other similar structures.

*Improvement:* Any man-made, immovable item which becomes part of, is placed upon, or is affixed to real estate.

*Junkyard:* Premises or portions thereof used for the storage or sale of used and discarded materials, including but not limited to, paper, rags, metal, building materials, appliances, household furnishings, machinery, vehicles, equipment, or parts thereof. The storage for a period of two (2) or more months of two (2) or more wrecked or partly dismantled motor vehicles, parts of dismantled motor vehicles, or the sale of parts thereof, not capable of or not intended to be restored to highway operating condition shall also constitute a junkyard. For the purposes of this Code, such uses as automobile reclaiming businesses, automotive wrecking businesses, automotive salvage businesses and recycling centers shall be considered junkyards.

*Kennel:* A shall mean any commercial or business premises or other premises where dogs are boarded for compensation, or are cared for or trained for hire, or are kept for sale or bred for

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sale, where the care, breeding or sale of the dogs is the principal means of livelihood of the occupants of the premises.

*Kindergarten:* A building used for the instruction of preschool-aged children.

*Land area:* The total land area within the property lines of a lot.

*Land surveyor:* A person duly registered in the State of Florida under Chapter 472, Florida Statutes, who is in good standing with the State Board of Professional Engineers and Surveyors.

*Land use:* the development that has occurred on the land, the development that is proposed by a developer on the land, or the use that is permitted or permissible on the land under an adopted comprehensive plan or element or portion thereof, land development regulations, or a land development code, as the context may indicate.

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*Land use certificate:* Certificate issued by the city manager indicating that a proposed use of land is in conformity with the zoning regulations, a prerequisite to issuance of a building permit.

*Land use intensity:* The overall structural mass and open space relationship in a developed property. It correlates that amount of floor area, livable space, recreation space and car storage of a property with the size of its site or land area.

*Laundry, self-service:* A business that provides coin operated washing, drying, dry cleaning and/or ironing machines for hire to be used by customers on the premises.

*Level of service:* an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility.

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*Lock-out units:* Rooms with a separate bath within a living unit that can be accessed by means other than the main entrance of a dwelling unit without entering the dwelling unit. Lockout units are considered as separate units for the purposes of calculating residential density, parking and concurrency and are allowed as both short- and long-term residential uses.

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*Limit of Moderate Wave Action (LiMWA):* The LiMWA marks the inland limit of the Coastal A Zone— the part of the coastal SFHA referenced by building codes and standards where wave heights can be between 1.5 and 3 feet during a base flood event.

*Lodging house:* See boardinghouse.

*Long-term care facility:* A nursing home facility, assisted living facility, adult family-care home, board and care facility, or any other similar residential adult care facility.

(a) *Adult family-care home.* A full-time, family-type living arrangement, in a private home, under which a person who owns or rents the home provides room, board, and personal care, on a 24-hour basis, for no more than five (5) disabled adults or frail elders who are not relatives. The following family-type living arrangements are not required to be licensed as an adult family-care home:

1. An arrangement whereby the person who owns or rents the home provides room, board, and personal services for not more than two adults who do not receive optional state supplementation under section 409.212, F.S. The person who provides the housing, meals, and personal care must own or rent the home and reside therein.

2. An arrangement whereby the person who owns or rents the home provides room, board, and personal services only to his or her relatives.

3. An establishment that is licensed as an assisted living facility under Chapter 429, F.S.

(c) Assisted living facility. Any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.

(d) Nursing home facility. Any institution, building, residence, private home, or other place, whether operated for profit or not, including a place operated by a county or municipality, which undertakes through its ownership or management to provide nursing services for a period exceeding 24-hour nursing, personal or custodial care for three or more persons not related to the owner or manager by blood or marriage, who by reason of illness, physical infirmity, or advanced age require such services, but does not include any place providing care and treatment primarily for the acutely ill. A facility offering services for fewer than three persons is within the meaning of this definition if it holds itself out to the public to be an establishment which regularly provides such services.

Long-term residential use: Any residential accommodation that is available for occupancy for 181 days or more.

*Lot:* A designated parcel, tract or area of land established by plat, subdivision or as otherwise allowed by law.

(a) *Corner lot:* A lot abutting upon two (2) or more streets at a street intersection.

(b) *Double frontage lot:* A lot having frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

(c) *Interior lot:* Lot other than a corner lot.

(d) *Nonconforming lot:* A lot which fails to meet requirements of the zoning district in which it is located with regard to lot area, width or other characteristic.

*Lot depth:* The average horizontal distance between the front and rear property line.

*Lot line:* The boundary dividing a lot from a right-of-way or adjoining tracts of land.

*Lot of record:* A lot which exists as shown or described on a plat or deed in the records of the local registry of deeds.

*Lot width:* The horizontal distance measured along the building setback line, between the two (2) side property lines.

*Lowest floor:* The lowest enclosed floor of a structure, including a basement, but not including the floor of an area enclosed only with insect screening or wood lattice as permitted by the flood damage prevention regulations in this Code.

*Maintenance:* That action taken to restore or preserve the original design and function of any structure or system.

*Major deviations:* A major deviation is a deviation other than a minor deviation, from a final development plan.

*Manufactured home:* A dwelling unit fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly at the building site, with each section bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards.

*Manufactured housing:* Manufactured housing has the following features or characteristics. It is:

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- (a) Mass produced in a factory;
- (b) Designed and constructed for transportation to a site for installation and use when connected to required utilities;
- (c) Either an independent, individual building or a module for combination with other elements to form a building on the site.

*Marina:* A premises or site used for the rental of covered or uncovered boat slips or dock space, marine fuel and lubricant sales, boat and motor rental facilities, live bait sales, and boat dry storage. In addition, an auto parking lot, modern public rest rooms, potable water and minor boat and engine repair facilities shall be available. Sanitary facilities (pump out) for boats with personnel living aboard are required by the Department of Environmental Protection and these regulations. Lounges, motel and restaurant facilities, ice, food and beverage sales, on and off premises, ship's chandler and fishing tackle sales, major boat and engine repair facilities are permitted uses in connection with a marina as a principal business offering facilities for boats, crews and guests.

*Mean sea level:* The average height of the sea for all stages of the tide. For purposes of this Code the term is synonymous with National Geodetic Vertical Datum (NGVD).

*Metes and bounds:* A system of describing and identifying land by a series of lines around the perimeter and an area known as a metes and bounds description; "metes" means bearings and distances and "bounds" refers to monuments, both legal and physical.

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

- (a) Alteration of the location of any road, walkway, landscaping or structure by not more than five (5) feet.
- (b) Reduction of the total amount of open space by not more than five (5) percent, or reduction of the yard area or open space associate 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:* 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, stormwater management or other required improvements, and where the resultant lots comply with the standards of this Code.

*Mobile camper:* A vehicle constructed with wheels and designed for temporary lodging when traveling or for recreational use (other than mobile homes).

*Mobile Home:* A transportable structure designed to be used as a year-round residential dwelling, built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards, which became effective for all manufactured home construction on June 15, 1976.

*Mobile home park:* A parcel of land on which four (4) or more mobile home sites are located.

*Motel:* any public lodging establishment for transient automobile travelers which offers rental units with an exit to the outside of each rental unit, daily or weekly rates, off-street parking for each unit, a central office on the property with specified hours of operation, a bathroom or connecting bathroom for each rental unit, and at least six rental units, and which is recognized as a motel in the community in which it is situated or by the Aindustry. ~~building or group of buildings~~



~~designed to provide sleeping accommodations for transient automobile travelers.~~ Includes auto courts, tourist courts, motor lodges or motor inns. [509.242, F.S.]

*Motor vehicle:* A self-propelled free moving vehicle, usually with four (4) or more wheels, primarily for conveyance on a street or roadway.

*Multifamily dwelling:* Any residential structure containing two (2) or more separate dwelling units.

*Natural systems:* Systems which predominantly consist of or are used by those communities of plants, animals, bacteria and other flora and fauna which occur indigenously on the land, in the soil or in the water.

*New construction:* Structures or substantial improvements for which the "start of construction" occurred on or after the effective date of this Code, and any alteration, repair, reconstruction or improvement to a structure which is in compliance with the flood damage prevention regulations.

*Newspaper of general circulation:* a newspaper published at least on a weekly basis and printed in the language most commonly spoken in the area within which it circulates, but does not include a newspaper intended primarily for members of a particular professional or occupational group, a newspaper whose primary function is to carry legal notices, or a newspaper that is given away primarily to distribute advertising.

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*Nonconforming use:* Any use of a building or land lawfully existing at the time of passage of this ordinance which does not conform to the regulations of the district in which it is located.

*Noxious matter:* Material capable of causing injury to living organisms by chemical reaction.

*Nursery school:* See Kindergarten.

*Nursing, congregate living facility or rest home:* A home for two (2) or more aged, convalescent, chronically ill or incurable persons, not the same family, where food and shelter or care are provided. Does not include hospitals, clinics or similar institutions.

*Object:* A material thing of functional, aesthetic, cultural, historical, or scientific value that may be by nature of design, movable, yet related to a specific setting or environment.

*Open space:* Any natural, recreational, or common open areas, either publicly or privately owned, set aside, dedicated, designated, or reserved for the private use or enjoyment of owners or occupants of land adjoining such open space, or for the public at large.

(a) *Primary open space.* Conservation areas such as wetlands, surface waters, special flood hazard areas, listed species habitat, strategic ecosystems and significant geologic feature and associated buffers.

(b) *Secondary open space.* Pervious open spaces designed as active or passive recreation areas intended primarily for recreational or pedestrian use, such as community fields, greens, and pervious areas of plazas or squares; stormwater management areas.

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

*Original appearance:* That appearance (except for color) which, to the satisfaction of the director (preservation planner), 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, in the opinion of the director (preservation planner), to the style and materials of the building.

*Outbuilding:* A structure erected for the purpose of sheltering domestic animals and/or the storage of crops or equipment.

*Owner:* A person who, or entity which, alone, jointly or severally with others, or in a representative capacity (including without limitation, an authorized agent, attorney, 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.

*Parcel:* A unit of land within legally established property lines. If, however, the property lines are such as to defeat the purposes of this Code or lead to absurd results, a "parcel" may be as designated for a particular site by the director.

*Parking lot:* A parcel used for the storage or parking of motor vehicles, either for compensation or to provide an accessory service to a commercial or residential use.

*Perimeter control* a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

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*Permissible use:* Any use authorized in a particular zoning district, whether a permitted use, conditional use or special exception use.

*Permit* official city document which authorizes the commencement of improvements and structures.

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*Persons:* Any individual, group of individuals, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other entity, including state and local governments and agencies.

*Phasing* clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

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*Planned unit development:* A district allowing an organized comprehensive program for flexible planning approval of improvements on a parcel of land in compliance with basic and specific development objectives and regulations, allowing individualized land use and site plans (also, PUD).

*Planning commission:* A body of qualified citizens appointed by the city council to fulfill the functions described by Florida Statutes 163.185; also, may be referred to as the planning board.

*Planning department:* A department of city employees appointed by the city manager/city planner to fulfill the functions of the "local planning agency."

*Plat:* A map or drawing depicting the division of lands and lots, blocks, parcels, tracts or sites being a complete exact representation of the subdivision and other information in compliance with the Florida Plat Act.

*Pollutant:* Any substance, contaminant, noise, or manmade or man-induced alteration of the chemical, physical, biological, or radiological integrity of air or water in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

*Premises:* A parcel of land under one (1) ownership and all the structures thereon.

*Principal building:* The buildings in which the principle use of the lot on which it is situated is conducted.

*Principal use:* The main use of land or structures, as distinguished from accessory use.

*Property line:* The recorded boundaries of a lot or tract of land under one (1) ownership.

*Protected environmentally sensitive area:* An environmentally sensitive area designated for protection in the conservation element of the city comprehensive plan.

*Protected tree:* Any tree that has a DBH of more than twelve (12) inches and which is not otherwise exempted from this Code.

*Protected wellhead:* Those wellheads with a permitted capacity of one hundred thousand (100,000) gallons per day (GPD) or more.

*Public health, department of:* Okaloosa County Health Department.

Public lodging establishments: [509.242, F.S.]

(a) Transient public lodging establishment. Any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

(b) Nontransient public lodging establishment. Any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

(c) If 25 percent or more of the units in any public lodging establishment fall within a classification different from the classification under which the establishment is licensed, such establishment shall obtain a separate license for the classification representing the 25 percent or more units which differ from the classification under which the establishment is licensed.

(d) A public lodging establishment may advertise or display signs which advertise a specific classification, if it has received a license which is applicable to the specific classification and it fulfills the requirements of that classification.

*Public notice or due public notice:* Publication of notice of the time, place and purpose of a meeting or hearing in a newspaper of general circulation, notice as required by s. 125.66(2) for a county or by s. 166.041(3)(a) for a municipality. The public notice procedures required in this part are established as minimum public notice procedures. [163.3164, F.S.]

*Public nuisances:* Objectionable sights, sounds, activities, which may be regulated under the city's police powers.

*Public offices:* A building or portion thereof which is rented, leased or similarly obtained by the city, county, state or federal government and employees direct the administrative and executive functions and affairs of such government.

*Public utilities and service structures:* Buildings or structures required for public utilities and services, including but not limited to potable water, stormwater sewage, communication services, fire and police protection, mass transportation, and streets and highways necessary for the operation and maintenance of public utilities or services.

*Rate:* Volume per unit of time.

*Recreational vehicle:* A vehicular type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.

*Regulatory floodway:* The channel of river or other watercourse and the adjacent land areas that must be unobstructed in order to discharge the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.

*Remove:* To relocate, cut down, damage, poison, or in any other manner destroy or cause to be destroyed, a tree.

*Residence:* See Dwelling.

*Residential dock or pier:* A dock or pier constructed adjacent to a residential lot for gratis recreational purposes and/or mooring of private boats.

*Restaurant:* Establishment designed to serve foods and beverages which are consumed on the premises within the confines of the principal building.

*Restrictive covenants:* Private regulations recorded with the final plat, which limit or otherwise impact upon the use, intensity and development patterns of the land within a subdivision or parcel of land for a specified time.

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

*Rooming house:* See Boarding house.

*Runoff coefficient:* Ratio of the amount of rain which runs off a surface to that which falls on it; a factor from which runoff can be calculated.

*Sand dunes:* Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

*Sediment:* The mineral or organic particulate material that is in suspension or has settled in surface or ground waters.

*Sediment control:* measures that prevent eroded sediment from leaving the site.

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*Setback line (street):* A line measured perpendicular to and parallel with the center line of the right-of-way of the road.

*Shopping center:* A group of commercial establishments planned, constructed and managed as an entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, and designed to serve a community or neighborhood.

*Short term residential use:* Any residential accommodation that is available for occupancy for 180 days or less, including lockout units. Only allowable in R-3 zoning.

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*Sidewalks:* The Florida Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways is used as a reference to determine safety and need of sidewalks in subdivisions and other types of development. Final decision as to whether or not sidewalks are to be installed rests with the city manager/city planner based upon site development review or with the Niceville City Council in the event of conflicting opinion.

*Sign:* A structure designed and erected for the purpose of showing directions, giving information or advertising.

(a) *Abandoned signs:* An abandoned sign is a sign which no longer advertises or gives correct directions to a bona fide business conducted, a service performed or a product sold, or which is not being maintained, as determined by the city manager or his designee.

(b) *Awning signs:* An awning sign is a sign painted on, printed on or attached flat against the surface of an awning.

(c) Banner signs: Banner signs are signs made of fabric or any nonrigid material, string pennants, festoon or wind-blown attention catching devices.

(d) Billboard signs: A billboard sign is any sign composed of a flat surface upon which advertising copy is displayed promoting goods, services or other things not sold or available upon the site where the sign is located. The advertising copy may be changed manually, mechanically or electronically. Any mechanical or electronic devices must meet all state department of transportation regulations.

(e) Canopy signs: A canopy sign is a sign which is suspended from, attached to, supported from or forming a part of a structure constructed of rigid materials, including but not limited to metal, wood, concrete, plastic or glass, which is attached to and supported by a building or by columns, poles or braces extended to the ground.

(f) Directional signs: Directional sign shall mean

1. A sign, permanently erected or permitted in the public right-of-way or private property by the city, county, the state or other governmental agency, including signs which denote the name of any thoroughfare, the route to any city, town, village, educational institution, public building, historic place, shrine or hospital, to direct and regulate traffic, to denote any railroad crossing, bridge, ferry or other transportation or transmission company for the direction or safety of the public.

2. A sign, notice or symbol for the information of the Federal Aviation Agency as to locations, directions, landings and conditions affecting safety in aviation.

(g) Free-standing signs: A free standing sign (also known as a ground sign) is a sign supported by poles or braces in the ground and not attached to any building.

(h) Nonconforming signs: A nonconforming sign is:

1. A sign which was erected legally but which does not comply with subsequent enacted sign restrictions and regulations;

2. A sign which does not conform to the requirements of this article but for which a nonconforming permit or variance has been issued;

3. A sign in existence prior to the adoption of this article which does not conform to the provisions of this article.

(i) Nonportable signs: A nonportable sign is any sign other than those that by definition are portable.

(j) Obscene, indecent or immoral signs: A sign containing any statement, word, character or illustration which the average person applying contemporary community standards, would find to appeal to the prurient interest, when considering the dominant theme of the material taken as a whole.

(k) Off-premises signs: An off-premises sign is an outdoor sign which advertises or directs attention to an establishment, business, merchandise, service, commodity, attraction or entertainment that is sold, produced, manufactured or furnished at a place other than the property on which the sign is located. This definition does not include billboard signs.

(l) On-premises signs: An on-premises sign is a sign which advertises or directs attention to an establishment, business, merchandise service, commodity, attraction or entertainment that is sold, produced, manufactured or furnished at the property on which the sign is located.

(m) Outdoor signs or signs: Any display, device or structure using letters, graphics, symbols or copy designed primarily for the purpose of advertising or directing attention to a location, product, subject, person or service which is displayed to be viewed from out-of-doors.

(n) Political signs: A political sign is a sign identifying and urging support for or opposition to a particular political issue, political party, or candidate for public office.

(o) Portable signs: A portable sign is a sign capable of being carried or moved about. This includes a sign mounted on wheels or on a trailer chassis, a sidewalk sign or a sandwich sign.

(p) Projecting signs: A projecting sign is any sign other than a wall sign affixed to any building or wall whose leading edge extends beyond such building or wall.

(q) Readerboard or price signs: A readerboard or price sign has movable copy integrated into the sign.

(r) Roof signs: A roof sign is a sign erected over or on, and wholly or partially dependent upon, the roof of any building for support, or attached to the roof in any way.

(s) Snipe signs: A snipe sign is a sign which is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes or fences or to other objects, and the advertising matter appearing thereon is not applicable to the present use of the premises upon which such sign is located.

(t) Subdivision signs: A subdivision sign means a sign which contains only the name of a platted subdivision or other residential development.

(u) Under canopy signs: An under canopy sign is a sign suspended beneath a canopy, ceiling, or roof.

(v) Vehicle signs: A vehicle sign is a permanent or temporary sign affixed to or placed in or upon any parked vehicle, parked trailer or other parked device capable of being towed, the primary purpose of which is to attract the attention of the traveling public, provided that this definition does not include any signs which are required by any unit of government and does not include a single sign placed on a single vehicle or trailer at a residence of an individual, which sign identified the vehicle or trailer as being for sale.

(w) Window signs,

1. Window signs, permanent: A permanent window sign is any sign which is painted on, applied to, attached to or projected upon or within the exterior or interior of a building glass area, including doors, or located within fifteen (15) feet of the interior of a building glass area, including doors, or any interior illuminated signs whose identification, message, symbol, insignia, visual representation, logo-type or any other form which communicates information can be read from off- premises contiguous property or public rights-of-way.

2. Window signs, temporary: A temporary window sign is a window sign of a temporary nature used to direct attention to identifying merchandise or a change in the status of the business, including but not limited to signs for sales, specials, going out of business and grand openings.

Sign height: The vertical distance measured from ground grade nearest the base of the sign to the highest point of any sign.

*Significant adverse effect:* Any modification, alteration, or effect upon a protected environmentally sensitive area which measurably reduces the area's beneficial functions as delineated in the conservation element of the city comprehensive plan.

*Single-family dwelling:* A structure containing one (1) dwelling unit, and not attached to any other dwelling unit by any means. A single-family unit may contain an accessory apartment pursuant to this Code.

*Site:* 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-project~~ a parcel of land or a contiguous combination thereof, of greater than or equal to one acre, where grading work is performed as a single unified operation.

*Site (archaeological):* The location of a significant event, activity, building, structure, or archeological resource where the significance of the location and any archeological remains outweighs the significance of any existing structures.

*Site development:* a permit issued by the city for the construction or alteration of ground.

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*Site development plan:* A plan, to scale, showing uses and structures proposed for a parcel of land required by this ordinance. Includes lot lines, streets, sidewalks, building sites, reserved open space, existing buildings, major landscape features, disposition of stormwater and proposed utility lines and easements. Site development plans must be approved by the city manager/city planner prior to the issuance of permits.

*Special exception:* A use that would not be appropriate generally or without restriction throughout the zoning division or district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning district as special exceptions, if specific provision for such special exception is made in any particular zoning district. The planning commission will hear the requests for special exception where required in this zoning ordinance and make recommendation to the city council.

*Spot zoning:* Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses and not for the purpose or effect of furthering comprehensive zoning planning.

Stabilization means the use of practices that prevent exposed soil from eroding.

*Start of construction:* The date the construction permit was issued, provided the "actual start of construction" was within one hundred eighty (180) days of the permit date. The "actual start of construction" means the first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and the first placement of permanent elements of a structure on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or of the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; installation of streets and/or walkways; excavation for a basement, footings, piers or foundations; erection of temporary forms; or the installation of appurtenant structures. This definition does not apply to new construction or substantial improvements under the Coastal Barrier Resources Act (P. L. 97-348).

*Stormwater:* The flow of water which results from, and that occurs immediately following, a rainfall.

*Stormwater management system:* The system, or combination of systems, designed to treat stormwater, or collect, convey, channel, hold, inhibit, or divert the movement of stormwater on, through and from a site.

*Stormwater runoff:* That portion of the stormwater that flows from the land surface of a site either naturally, in manmade ditches, or in a closed conduit system.



**Story:** That portion of a building included between the surface of any floor and the surface of the next floor above it or if there is no floor above it, then the same between such floor and the ceiling next above.

**Story, half:** A space under a sloping roof which has the line of intersection of the roof and wall face not more than three (3) feet above the floor level.

**Street:** A right-of-way provided for vehicular, pedestrian and animal traffic. Includes all of the land lying between the right-of-way lines as delineated on a plat, whether improved or unimproved.

(a) **Alley.** A private or public right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose primary frontage is on a street.

(b) **Collector street.** A street providing for traffic movement between local streets and major thoroughfares.

(c) **Cul-de-sac.** A street with a single common ingress and egress and with a turnaround at the end.

(d) **County roads.** Roads and streets transgressing Niceville but are the responsibility of the county for maintenance in accordance with Florida Statutes.

(e) **Loop street.** A local street having two (2) open ends, each end connecting with the same street and no other streets intersecting between the ends.

(f) **Marginal access street.** The same as a loop street, but having other streets intersecting between its ends.

(g) **Private street.** A street that has not been dedicated to public use.

(h) **Public street.** A right-of-way which has been platted and approved in accordance with Niceville subdivision regulations.

**Structure:** 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. "Structure" also includes fences, billboards, swimming pools, poles, pipelines, transmission lines, tracks, manufactured homes, mobile homes, poster panels, and advertising Meansigns. s anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, manufactured homes, mobile homes, billboards, and poster panels.

**Subdivision:** The division or re-division of a parcel of land into two (2) or more parcels.

**Substantial improvement:** Any combination of repairs, reconstruction, alteration, or improvements to a structure, taking place in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure.

**Surface water:** Water above the surface of the ground whether or not flowing through definite channels, including the following:

- (a) Any natural or artificial pond, lake, reservoir, or other area which ordinarily or intermittently contains water and which has a discernible shoreline; or
- (b) Any natural or artificial stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, street, roadway, swale or wash in which water flows in a definite direction, either continuously or intermittently, and which has a definite channel, bed or banks; or

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(c) Any wetland.

*Swimming pool:* Any constructed pool used for swimming, bathing or wading, and including all buildings, fences, and appurtenances thereto.

*Timeshare project:* A timeshare project is a timeshare property, as defined in chapter 721, that is located in this state and that is also a transient public lodging establishment. [509.242, F.S.]

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*Townhouse:* Permitted in R-2, R-3, PUD or R-NC districts. Each townhouse shall be considered a separate building and shall be separated from adjoining townhouses by the use of separate exterior walls meeting the requirements for zero clearance from property lines as required by the type of construction and fire protection requirements; or shall be separated by a party wall; or, when not more than three (3) stories in height, may be separated by a single wall meeting the requirement in F.S. 481.203, Section 7 (a), (b) and (c).

*Trailer:* See Mobile home.

*Tree protection zone:* A circular zone around each protected tree defined as follows:

- (a) If the drip line is less than six (6) feet from the trunk of the tree, the zone shall be that area within a radius of six (6) feet around the tree.
- (b) If the drip line is more than six (6) feet from the trunk of the tree, but less than twenty (20) feet, the zone shall be that area within a radius of the full drip line around the tree.
- (c) If the drip line is twenty (20) feet or more from the trunk of the tree, the zone shall be that area within a radius of twenty (20) feet around the tree.

*Transient occupancy:* when it is the intention of the parties that the occupancy will be temporary.

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*Used car junkyard:* A lot or group of contiguous lots used for the dismantling or wrecking of used automobiles or the storage, sale or dumping of dismantled or wrecked cars or their parts.

*Vacation rental:* A vacation rental is any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but that is not a timeshare project. (509.242, F.S.)

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*Variance:* Modification of the zoning ordinance regulations when such modification will not be contrary to the public interest and when, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. A variance is authorized only for height, area, bulk and size of structure or yard size and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the district or classification or in adjoining districts or classifications.

*Vegetation line:* That line of perennial vegetation that marks the normal landward limit of high tide.

*Vehicle use area:* An area used for circulation, parking, and/or display of motorized vehicles, except junk or automobile salvage yards.

*Visibility clearance at intersections:* That triangular space on a corner lot closest to the intersecting streets upon which nothing is permitted to be built, placed or grown in such a way as to impede visibility.

*Water or waters:* Includes, but is not limited to, water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, streams, rivers, lakes, ponds, or

diffused surface water and water percolating, standing, or flowing beneath the surface of the ground.

*Water body:* Any natural or artificial pond, lake, reservoir, or other area with discernable shoreline which ordinarily or intermittently contains waters.

*Watercourse:* Any body of water, including, but not limited to lakes, ponds, rivers, streams, natural or artificial channel, ditch, canal, ~~stream~~, river, creek, waterway, and bodies of water delineated by the city, or wetland through which water flows in a definite direction, either continuously or intermittently, and which has a definite channel, bed, banks or other discernible boundary.

*Water's edge and wetland's edge:* The water's or wetland's edge shall be determined by whichever of the following indices yields the most landward extent of waters or wetlands:

- (a) The boundary established by the average annual high water mark;
- (b) The landward boundary of hydric soils; or
- (c) The landward boundary of wetland vegetation, based on the wetland vegetation index.

Waterway means a channel that directs surface runoff to a watercourse or to the public storm drain.

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*Wellhead protection area:* A diameter of two hundred (200) feet around a well site where no other land use is permitted.

*Wetland:* Land that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do or would support, a prevalence of vegetation typically adapted for life in saturated soil conditions. The term includes, but is not limited to swamp hammocks, hardwood swamps, riverine cypress, cypress ponds, bayheads and bogs, wet prairies, freshwater marshes, tidal flats, saltmarshes, mangrove swamps and marine meadows.

*Yard:* The open space surrounding the principal building on any lot.

(a) Front yard: That portion of the yard extending the width of the lot, measured between the front lot and the front building line.

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(b) Rear yard: That portion of the yard extending the width of the lot, measured between the rear lot line and the rear building line.

(c) Side yard: That portion of the yard extending the width of the lot, measured between the side lot line and the side building line on both sides.

*Zero lot line:* A developmental approach in which a dwelling unit is sited along one (1) or more lot lines.

*Zone of exclusion:* All land within a two hundred (200) foot radius of an existing or designated protected wellhead. No development activities shall take place in the zone of exclusion.

*Zoning district:* A section of the city designated in this ordinance text and delineated on the zoning map wherein all requirements for use of land and building and development standards must be uniform.

*Zoning map:* The map or maps, which are part of the zoning ordinance, and delineate the boundaries of zone districts.

*Zoning official:* The city manager/city planner or his designee responsible for administering the zoning ordinance.

(Ord. No. 92-23, 12-10-92; Ord. No. 00-10-01, 10-10-00; Ord. No. 11-04-02, 4-12-11; Ord. No. 20-11-01 , § 1, 11-10-20)