

## Subpart B - LAND DEVELOPMENT REGULATIONS

### Chapter 86 GENERAL PROVISIONS

#### **Chapter 86 GENERAL PROVISIONS**

[Sec. 86-1. Title.](#)

[Sec. 86-2. Legislative authority and binding effect.](#)

[Sec. 86-3. Legislative purpose, intent and scope.](#)

[Sec. 86-4. Consistency with comprehensive plan.](#)

[Sec. 86-5. Applicability.](#)

[Sec. 86-6. Interpretation and conflict.](#)

[Sec. 86-7. Minimum requirements.](#)

[Sec. 86-8. General interpretation of certain terms.](#)

[Sec. 86-9. Definition of terms.](#)

[Sec. 86-10. Status of Code, prior offenses.](#)

[Sec. 86-11. Violations and penalties.](#)

[Sec. 86-12. Codification.](#)

[Sec. 86-13. Injunctive relief.](#)

[Sec. 86-14. Saving clause.](#)

#### **Sec. 86-1. Title.**

This subpart B shall be entitled the "City of Key West Land Development Regulations." When used in this subpart B, unless the context indicates otherwise, the term "this ordinance" or "land development regulations" refers to the city land development regulations.

(Ord. No. 97-10, § 1(1-1.1), 7-3-1997)

#### **Sec. 86-2. Legislative authority and binding effect.**

The legislative authority for the land development regulations is as follows:

- (1) F.S. § 163.3202 mandates that local governments shall adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan.
- (2) F.S. § 163.3202 requires that land development regulations shall contain specific and detailed provisions necessary or desirable to implement the adopted comprehensive plan and shall as a minimum:
  - a. Regulate the subdivision of land.
  - b. Regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open space.
  - c. Provide for protection of potable water wellfields.
  - d. Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater management.

## Subpart B - LAND DEVELOPMENT REGULATIONS

### Chapter 86 GENERAL PROVISIONS

- e. Ensure the protection of environmentally sensitive lands designated in the comprehensive plan.
- f. Regulate signage.
- g. Provide for concurrency management. The concurrency management system must require that no development order or permit for development be issued unless such order or permit is conditioned on the availability of required public facilities and services concurrent with the impacts of the development. The concurrency management system is further elaborated in chapter IX, Capital Improvements, of the city comprehensive plan.
- h. Ensure safe and convenient on-site traffic flow considering needed vehicle parking.

(Ord. No. 97-10, § 1(1-1.2), 7-3-1997)

#### **Sec. 86-3. Legislative purpose, intent and scope.**

The purpose of the land development regulations is to assist implementation of the city's comprehensive plan. More specifically the land development regulations are intended to carry out comprehensive plan policies concerned with land use; transportation; housing, parks; recreation and open space; conservation; public facilities including water, wastewater and drainage system improvements; fiscal management; and intergovernmental coordination.

(Ord. No. 97-10, § 1(1-1.3), 7-3-1997)

#### **Sec. 86-4. Consistency with comprehensive plan.**

The land development regulations, pursuant to F.S. §§ 163.3201 and 163.3202, are adopted to assist in carrying out the desired general policies of the comprehensive plan for managing the use of land and water within the city. The land development regulations are and shall remain consistent with the comprehensive plan as mandated by F.S. ch. 163, part II: "County and Municipal Planning and Land Development Regulation." The land development regulations shall be amended as necessary to ensure consistency with the city comprehensive plan.

(Ord. No. 97-10, § 1(1-1.4), 7-3-1997)

#### **Sec. 86-5. Applicability.**

- (a) *General applicability.* The land development regulations shall apply to all development, including redevelopment or changes in land use throughout the city. No development, as defined in this subpart B, or change in land use shall be undertaken without prior authorization pursuant to this subpart B.
- (b) *Status of previously issued construction permits.* The provisions of this subpart B and any amendments thereto shall not affect the validity of any lawfully issued and effective construction permit if the development activity authorized by the permit commenced prior to the effective date of this subpart B, and the building permit has not expired. Upon expiration of any such building permit, the developer shall comply with the provisions of the land development regulations as amended as well as the building codes as amended in obtaining a new building permit.

(Ord. No. 97-10, § 1(1-1.5), 7-3-1997)

#### **Sec. 86-6. Interpretation and conflict.**

- (a) *General interpretations.* In the interpretation and application of this subpart B, all provisions shall be:

## Subpart B - LAND DEVELOPMENT REGULATIONS

### Chapter 86 GENERAL PROVISIONS

- (1) Considered as minimum requirements for the promotion of the public health, safety, morals and general welfare;
  - (2) Liberally construed in favor of the city; and
  - (3) Deemed neither to limit nor repeal any other powers granted under state statutes.
- (b) *Conflicts.* More specific provisions of this subpart B shall be followed in lieu of more general provisions that may be more lenient than or in conflict with the more specific provision. Where the provisions of this subpart B appear to conflict with another law, the most restrictive provision shall govern.

(Ord. No. 97-10, § 1(1-1.6), 7-3-1997)

#### **Sec. 86-7. Minimum requirements.**

In their interpretation and application, the land development regulations shall be held to be minimum requirements, adopted for the protection of the public health, safety, morals and general welfare. Whenever the requirements of the land development regulations are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

(Ord. No. 97-10, § 1(1-2.11), 7-3-1997)

#### **Sec. 86-8. General interpretation of certain terms.**

For the purpose of the land development regulations, certain terms used in the land development regulations are defined in this section. When not inconsistent with the context, words used in the present tense include the future; words in the singular number include the plural; and words in the plural number include the singular number. The word "shall" is always mandatory and not merely directory. The word "structure" shall include the word "building." The word "used" shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used. The word "lot" includes the word "plot," "tract," and "building site."

(Ord. No. 97-10, § 1(5-21.1), 7-3-1997)

#### **Sec. 86-9. Definition of terms.**

Terms not otherwise defined in this section shall be interpreted first by reference to the comprehensive plan and this subpart B; secondly, by reference to generally accepted engineering, planning, or other professional terminology if technical; and otherwise according to common usage, unless the context clearly indicates otherwise. For the purpose of enforcing and administering this subpart B, the following words shall have the definition and meanings ascribed:

*Abandon* means to discontinue a land use for a period of 24 months without demonstrating an intent to continue the use as indicated by the following:

- (1) Allowing licenses to lapse;
- (2) Removing meters;
- (3) Not maintaining a structure in a habitable condition;
- (4) Not making a unit available for occupation (i.e., advertising or marketing through a Realtor or other agent); and/or
- (5) Failure to perform pursuant to the terms of an active building permit.

## Subpart B - LAND DEVELOPMENT REGULATIONS

### Chapter 86 GENERAL PROVISIONS

*Abutting. See Adjoining.*

*Access, point of,* means a driveway or other opening for vehicles onto a public street.

*Accessory apartment* means a second attached or detached dwelling unit contained within a single-family detached dwelling or an accessory building (structure) on the same lot as a single-family detached dwelling for use as a complete, independent living quarters, with provisions for living, sleeping, bathing, and cooking which meet the following criteria:

- (1) The principal single-family dwelling shall:
  - a. Contain no more than one accessory apartment;
  - b. Be owner-occupied when the original accessory unit occupancy permit is initiated; and
  - c. Not be used or licensed for transient rental housing.
- (2) The accessory apartment shall:
  - a. Contain no more than 600 square feet of gross floor area;
  - b. Be occupied by a person or household for whom the unit is a primary residence;
  - c. Accessory units shall be used only by permanent residents;
  - d. Accessory units may not be rented transiently nor can they be granted a business tax receipt for transient use; and
  - e. Adequate public utilities and public facilities shall be available concurrent with the permitting of such unit.

*Accessory structure* means a subordinate structure that is detached from the principal structure, the use of which is incidental to that of the principal structure.

*Accessory use* means a use that is clearly incidental to the principal use, that is subordinate in area, extent or purpose to the principal use and that contributes to the comfort, convenience or necessity of the principal use, and that is located on the same lot with such principal building or use. In a residential district, the accessory use shall not be nonresidential in character.

*Adjoining lot or land* means a lot or parcel of land that shares all or part of a common lot line including a common right-of-way with another lot or parcel of land.

*Administrative official* and *city official* mean the official appointed by the city manager to administer and enforce the land development regulations.

*Advertising structure* means a structure of any kind or character, including any sign, billboard, or other object or structure erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign may be placed.

*Alley* means any public or private right-of-way set aside for secondary public travel and servicing which is less than 30 feet in width.

*Alteration* means any change in the arrangement of a building, including work affecting the structural parts of a building or any change in occupancy, or change in wiring, plumbing, or heating systems.

*Apartment* means a room or a suite of rooms within an apartment building arranged, intended or designed to be used as a home or residence of one family and with kitchen facilities for the exclusive use of the one family.

*Apartment building* means a building which is used or intended to be used as a home or residence for three or more families living in separate apartments.

*Appeal* means a request for a review of a decision, finding, order, interpretation or other action concerning the land development regulations.

## Subpart B - LAND DEVELOPMENT REGULATIONS

### Chapter 86 GENERAL PROVISIONS

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

*Awning* means a light, protective appurtenance to a building.

*Boat* means every description of watercraft, barge and airboat other than a seaplane, used or capable of being used as a means of transportation on or under the water.

*BRAC* means the federal base realignment and closure commission pursuant to the Defense Closure and Realignment Act of 1990, Public Law 101-510, as amended.

*Buffer strip* means a parcel or tract of land, plant material, or other landscaping that is used to separate one use from another to shield or block noise, light or other nuisances.

*Buildable area* means the portion of a lot remaining after required yards and required open space and landscaped areas have been provided.

*Builder* means any person, firm, association, syndicate, partnership, corporation, Realtor or corporation who constructs model homes and other residential dwellings for sale to the public.

*Building* means any structure having a roof and which is entirely separated from any other structure by space or by walls in which there are no communicating doors or windows or any similar opening.

*Building coverage* means the percentage of lot area covered by buildings and including roofed porches, decks and similar structures as well as all ground cover above 30 inches above grade.

*Building height* means the vertical distance measured from the crown of the road to the highest point of the roof.

*Building, principal*, means a building in which the principal use of the lot in which it is located is conducted.

*Building site* means a parcel of land which is or may be occupied by a building, and including the open spaces (yard setbacks) required; see the definition of *Lot*.

*Certificate of appropriateness* means a document issued by the historic architectural review commission as provided by this subpart B.

*Comprehensive plan* means the city comprehensive plan, as may be amended, and which was prepared and adopted pursuant to the "County and Municipal Planning and Land Development Regulation Act," F.S. ch. 163, part II.

*Conditional use* means a use permitted in a particular zoning district only upon successful demonstration that the use as proposed on a specific site will comply with all the conditions and standards for the location, design, and/or operation of such use as specified in the land development regulations and as authorized by the city.

*Conditional use permit* means any administrative permit issued pursuant to article III of [chapter 122](#).

*Contiguous* means next to, abutting, or touching and having a boundary, or portion thereof, which is coterminous.

*Continuum of care* means a comprehensive homeless assistance system that includes: a system of outreach and assessment (to determine the needs and conditions of the homeless); emergency shelters and transitional housing with appropriate supportive services; housing with, or without supportive services that has no established limitation on the amount of time in residence; and any other activity that clearly meets an identified need of the homeless and fills a gap in services.

## Subpart B - LAND DEVELOPMENT REGULATIONS

### Chapter 86 GENERAL PROVISIONS

*Courtyard* means an open, unobstructed, unoccupied space, other than a yard, on the same premises on which the building is located. An unoccupied open space on the same lot with the principal building and fully enclosed on at least three adjacent sides by walls of the principal building.

*Density* means the maximum number of units divided by the gross land area. It is typically expressed in units per acre.

*Density, maximum gross residential*, means the density which shall be determined by dividing the maximum allowable units by the gross acres of land (i.e., dwelling units/gross land acres). All residential densities denoted on the future land use map and the official zoning map stipulate the maximum gross densities permitted for development on the land. Gross land area shall be defined as those contiguous land areas under common ownership proposed for residential development.

*Developer* means any individual, firm, association, syndicate, copartnership, corporation, trust or any other legal entity commencing proceedings under this subpart B to effect the subdivision and/or development of land in the city and includes the term "subdivider," including model homes.

*Development* means the carrying out of any building activity or excavation, including the making of any material change in the use or appearance of any structure or land, or the dividing of land into two or more parcels. The following activities or uses shall be taken for the purposes of these land development regulations to involve development:

- (1) A reconstruction, alteration of the size, or material change in the external appearance of a structure on land.
- (2) A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land.
- (3) Alteration of a shore, stream, lake, pond, or canal, including any coastal construction as defined in F.S. § 161.021.
- (4) Commencement of drilling, except to obtain soil samples or excavation on a parcel of land.
- (5) Demolition of a structure.
- (6) Clearing of land as an adjunct of construction.
- (7) Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

*District* means any section area of the city to which these land development regulations apply, within which the zoning requirements are uniform.

*Drive-through establishment*, including drive-in and drive-up, means an establishment which, by design, physical facilities, service or by packaging procedures, encourages or permits customers to receive services, obtain goods or be entertained while remaining in a motor vehicle.

*Dwelling*. See *Dwelling unit* and *living unit*.

*Dwelling, attached*, means a one-family dwelling attached to one or more one-family dwellings by a common wall.

*Dwelling, detached*, means a dwelling which is not attached to any other dwelling by any structural means.

*Dwelling, duplex or two-family*, means a detached residential building containing two dwelling units, designed for occupancy by not more than two families.

*Dwelling, multiple-family*, means a residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

*Dwelling, one-family or single-family*, means a dwelling unit containing only one dwelling unit and occupied exclusively by one family as a single housekeeping unit.

## Subpart B - LAND DEVELOPMENT REGULATIONS

### Chapter 86 GENERAL PROVISIONS

*Dwelling unit* and *living unit* mean either:

- (1) A single-family dwelling;
- (2) A mobile home or recreational vehicle dwelling; or
- (3) Any room or group of rooms located within a two-family or multiple-family dwelling, or transient living accommodations including a recreational vehicle as defined in F.S. § 513.01, and forming a single habitable unit with facilities that are used or intended to be occupied for living, sleeping, and sanitation by one family at a time.

*Easement* means a grant to another party by a property owner of the right to use land for a specific purpose, such as but not limited to drainage or placement of utility lines.

*Emergency housing* generally refers to housing used to alleviate an immediate housing crisis, where the individual or family resides for 30 days or less.

*Emergency shelter* means any facility with sleeping accommodations, the primary purpose of which is to provide temporary shelter for the homeless in general, or for specific populations of the homeless e.g. persons with alcohol and other substance abuse problems and/or mental illness.

*Excavation* means removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

*Extended care facility* means a longterm care facility or a distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged or a governmental medical institution.

*Family* means:

- (1) One person or a group of two or more persons related by blood, marriage, adoption, or foster care occupying a dwelling unit as a separate, independent, not-for-profit housekeeping unit with a single kitchen and set of culinary facilities. Such family may also include up to two unrelated persons who serve as servants or caretakers for the housekeeping unit; or
- (2) Up to four unrelated persons occupying a dwelling unit as a separate, independent, not-for-profit housekeeping unit with a single kitchen and set of culinary facilities.

*Fence* and *wall* mean a structure intended to separate or enclose or define space, basically freestanding; constructed of one or more of materials such as wire, wood, stone, cement or brick; designed to be decorative or ornamental or to serve utilitarian purposes as to control ingress or egress of persons or animals. A hedge, wall, or landscaped berm may constitute a fence.

*Flag lot* means a lot not fronting on or abutting a public road and where access to the public road is by a narrow, private right-of-way.

*Floodplain* means an area likely to flood based on the officially adopted flood issuance rate map (FIRM).

*Floodplain, tidal*, means an area likely to flood or become inundated from water which is subject to tidal action.

*Floor area ratio* means the total floor area of the buildings on any lot, parcel or site divided by the area of the lot, parcel or site.

*Foster care facility* means a residential facility which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of its residents. The capacity of such a facility shall not be more than three residents. Reference [section 122-1246](#).

*Front lot line* means the dividing line between the lot and the street.

*Frontage* means all the property abutting measured along the street line.

## Subpart B - LAND DEVELOPMENT REGULATIONS

### Chapter 86 GENERAL PROVISIONS

*Governmental facility* means any office, facility, building or property owned, leased, or used by the federal government, the state, or any unit of local government, except such uses as are specifically listed elsewhere in the land development regulations as specific uses, and except housing projects sponsored by government agencies.

*Grade, established,* means the elevation at the street line, as established by the city.

*Green area.* See *Open space.*

*Group home facility* means a residential facility which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of its residents. The capacity of such a facility shall be at least four residents but not more than 15 residents. For the purposes of this section, group home facilities shall not be considered commercial enterprises. Reference [section 122-1246](#).

*Home occupation* means any money-raising occupation or activity carried on within a residential property, where the activity is conducted only by members of the family living within the residence; where products are not offered for sale from the premises; where no evidence of the occupation is visible or audible from the exterior of the residential property, except for allowable signage; where traffic is not generated in excess of that customary of a residence; and where no commercial vehicles are kept on the premises or parked overnight on the premises unless otherwise permitted by the land development regulations. The occupation must be clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change residential character thereof. Reference sections [122-1306](#) and [122-1307](#).

*Homeless* means an individual or family which has a primary nighttime residence that is: (1) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for persons with mental illness); (2) an institution that provides a temporary residence for individuals intended to be institutionalized; or (3) a public or private place not designed for, or ordinarily used as, regular sleeping accommodations for human beings. The term does not include any individual imprisoned or otherwise detained.

*Homeless assistance conveyance* means that method of conveying military property at no cost, to local redevelopment authorities (LRA's) or homeless providers, in order to address the needs of homeless individuals as identified in a continuum of care program.

*Homeless persons with special needs* means a homeless person that has special physical, mental, or other social needs such as: (but not limited to) persons with alcohol and/or drug addiction, mental illness, single women with children, abused individuals, etc.

*Hotel* means a building with dwelling units for accommodation of transient guests or tenants and providing services common to hotels, including but not limited to a central office or lobby, room service, food service and daily maid service, and otherwise complying with requirements of the state hotel and restaurant commission. For the purpose of this definition, the term "dwelling unit" shall be defined as a sleeping room with bath, flush toilet, lavatory and storage closet.

*Houseboat* means a watercraft used as a dwelling and moored in the same general area at least eight hours a day for ten days in any month.

*Housing unit* means an occupied or vacant house, apartment, or a single room occupied by one individual, known as single-room occupancy (SRO), that is intended as separate living quarters.

*Intensity* means the floor area ratio as defined in this section.

*Land use classifications.* The purpose of the land development regulations is to classify uses into specially defined types on the basis of common functional characteristics and land use compatibility. These provisions apply throughout the zoning regulations. All land use activities are classified into the following activity types:

- (1) *Residential activities:*

## Subpart B - LAND DEVELOPMENT REGULATIONS

### Chapter 86 GENERAL PROVISIONS

- a. Single-family/two-family dwellings and accessory residential units. Reference sections [122-231](#) through [122-234](#)
  - b. Multifamily dwellings.
  - c. Manufactured housing. Reference [section 122-1276](#)
  - d. Group homes.
  - e. Approved home occupations.
- (2) *Community facilities:*
- a. *Airport facilities* means activities which are customarily incidental to airport operations and maintenance including airport terminal; heliport; fixed base operators; airport hangars; runways, taxiways, ramps and aprons for the landing, takeoff, or surface maneuvering of aircraft; and communicative and visual guidance systems. The Federal Aviation Administration (FAA) regulations shall govern placement and specifications of structures within the airport operations area.
  - b. *Cemetery* means property used for the interring of the dead.
  - c. *Community centers, clubs, and lodges* mean not-for-profit activities typically operated by a government or by a group of persons for social or recreational purposes and primarily including services which are not customarily carried on as a business for profit.
  - d. *Cultural and civic activities* means activities typically performed by public or private not-for-profit private entities for the promotion of a common cultural or civic objective such as historical, literary, scientific, musical, dramatic, artistic or similar objectives.
  - e. *Educational institutions and day care.*
    1. *Educational institutions* includes a place for systematic instruction with a curriculum the same as customarily provided in a public school or college. These activities include nursery school and kindergarten facilities designed to provide a systematic program to meet organized training requirements.
    2. *Day care* includes activities typically performed by an agency, organization or individual, any of which must be duly licensed by the state, providing day care without living accommodations for persons not related by blood or marriage to, and not the legal wards or foster children of, the attendant adult.
  - f. *Golf course and support facilities* means large unobstructed acreage with enough room over which to walk or ride a prescribed course, and to stroke one ball long distances. Commercial miniature golf courses and driving ranges and similar facilities are excluded from this activity as defined.
  - g. *Hospitals and extensive care facilities* means institutions providing health services, primarily for inpatients, and medical or surgical care; including, as an integral part of the institution, related facilities, central service facilities, and staff offices.
  - h. *Nursing homes, rest homes and convalescent homes* mean activities customarily performed by a home for the elderly or infirm in which three or more persons not of the immediate family are received, kept or provided with food, shelter and care for compensation. This definition shall also apply to assisted living facilities as licensed by the State of Florida. This activity shall not include duly state-licensed volunteer adult foster care homes in which three or fewer foster adults are placed. Neither does the principal activity include hospitals, clinics or similar institutions that diagnose and treat the sick or injured.
- For purposes of permitted density and intensity, the floor area ratio shall govern, not units per acre. Individual living units or resident nursing beds shall be treated as 0.1 equivalent

## Subpart B - LAND DEVELOPMENT REGULATIONS

### Chapter 86 GENERAL PROVISIONS

unit under the city's building permit allocation ordinance, section 108-1056 et seq. If a facility is developed to remain operational during and after a category 5 hurricane, and therefore does not contribute to the evacuation of vehicles, the city commission may exempt this facility from the requirements of the building permit allocation ordinance or may authorize an alternate equivalency factor.

- i. *Place of worship* means activities customarily performed in a building where persons regularly assemble for religious worship and which building, together with its accessory building and uses, is maintained and controlled by a religious body organized to sustain public worship.
  - j. *Protective services* means fire, law enforcement and emergency medical related facilities planned and operated for the general welfare of the public.
  - k. *Public parks and recreation areas* means public parks and recreation land and facilities developed for use by the general public.
    - 1. *Active parks and recreation* means leisuretime activities, usually of a more formal nature and performed with others, often requiring equipment and taking place at prescribed places, sites or fields. This may include but is not limited to swimming, tennis and other court games, baseball and other field sports, and playground activities.
    - 2. *Passive parks and recreation* means leisuretime activities not considered active. This may include water-related activities such as boardwalks and interpretive trails, fishing piers as well as boating. Passive recreation may also include non-water-related activities such as hiking, golfing, observation towers, and picnicking.
  - l. *Public and private utilities* means use of land which is customary and necessary to the maintenance and operation of essential public services, such as electricity and gas transmission systems; water distribution, collection and disposal; communication; and similar services and facilities.
- (3) *Commercial activities.*
- a. *Amusement* means active or passive recreation facilities by profit oriented firms.
  - b. *Bar and lounge* mean a commercial establishment selling and dispensing for the drinking on the premises of liquor, malt, wine or other alcoholic beverages. This shall not include the sale of alcoholic beverages accessory to and within a restaurant use.
  - c. *Boat sales and service* means a commercial establishment where boat sales and rentals may occur together with minor servicing and sale of marine supplies but excluding boatbuilding or shipbuilding.
  - d. *Business and professional offices* means government offices, not-for-profit administrative services, and private for-profit offices extending advice, information or consultation of a professional nature; insurance, real estate, and financial services; banking services; and executive management and administrative activities. Offices exclude commercial storage of goods and chattels for the purpose of sale or resale as a principal use.
  - e. *Commercial retail use* means a use that sells goods or services at retail which is subdivided into the following three classifications in which total area includes both sales area under roof and any outside sales area:
    - 1. *Commercial retail low intensity* means commercial retail uses that generate less than 50 average daily trips per 1,000 square feet.
    - 2. *Commercial retail medium intensity* means commercial retail uses that generate between 50 and 100 average daily trips per 1,000 square feet.

## Subpart B - LAND DEVELOPMENT REGULATIONS

### Chapter 86 GENERAL PROVISIONS

3. *Commercial retail high intensity* means commercial retail uses that generate above 100 average daily trips per 1,000 square feet.
- f. *Funeral home* means undertaking and funeral services involving care and preparation of human deceased prior to burial, excluding crematories, crematory operations and columbariums. Such a premises, structure or site shall not be used for the burial, prolonged storage or permanent disposition of deceased human remains.
- g. *Gasoline station* means a structure or place where gasoline, oil and greases, and incidental accessory sales and services are supplied and dispensed to the motor vehicle trade. Uses permissible at a gasoline station do not include major mechanical and body work; straightening of body parts; painting; welding; storage of automobiles not in operating condition; or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in service stations. A gasoline station is neither a repair garage nor a body shop.
- h. *Hotel, motel and transient lodging* mean any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings, which is:
1. Rented more than three times in a calendar year for periods of less than 30 days or one calendar month, whichever is less;
  2. Advertised or held out to the public as a place regularly rented to transients.
- i. *Marina* means a commercial establishment providing for the docking, storage, and servicing of watercraft, including dispensing of motor fuel.
- j. *Medical services* means the provision of therapeutic, preventive or other corrective personal treatment services by physicians, dentists and other licensed medical practitioners, as well as the provision of medical testing and analysis services. These services are provided to patients who are admitted for examination and treatment by a physician and with no overnight lodging.
- k. *Parking lot and facilities* means a governmental or private commercial building or structure solely for the off-street parking of operable motor vehicles.
- l. *Restaurant, excluding drive-through*, means any establishment, which is not a drive-through service establishment, where the principal business is the sale of food, desserts and beverages to the customer in a ready-to-consume state. This includes service within the building as well as takeout or carryout service. For the purpose of this subpart B and impact fee assessments, a takeout or carryout restaurant shall be limited to no more than five chairs or bench seats without tables or counter tops.
- m. *Restaurant, drive-through*, means any establishment where the principal business is the sale of foods, desserts and beverages generally contained in a ready-to-consume state and the service and/or consumption of foods, desserts, or beverages may by design occur within a motor vehicle parked upon the premises.
- n. *Small recreation power-driven equipment rental* means rental of low-speed vehicles, jet skis, mopeds, scooters and/or other similar nonautomotive, two- or three-wheeled, power-driven vehicles, excluding the rental of automobiles, trucks, tractors, or other vehicles.
- o. *Vehicular sales* means the sale or rental of motor vehicles and related equipment, with incidental accessory service activities.
- p. *Veterinary medical services* means the provision of animal medical care and treatment by a state-licensed veterinarian.
- (4) *Light industrial*. The following compatible land uses shall be considered light industry:
- a. Warehousing, miniwarehousing, and wholesaling within enclosed buildings.

## Subpart B - LAND DEVELOPMENT REGULATIONS

### Chapter 86 GENERAL PROVISIONS

- b. Mechanical repair and service, including but not limited to machine shops and vehicular repair, service and maintenance.
- c. Light manufacturing including skilled trades and services, light processing and metal fabrication, assembly and distribution functions, electronics, research and development, and similar uses.
- d. Building materials supply and storage, and contractor's storage.
- e. Vocational trade schools.
- f. Accessory uses to those described in this subsection.

*Living area* means the minimum floor area of a dwelling as measured by its outside dimensions exclusive of carports, porches, sheds, and attached garages.

*Loading dock* means a platform used for the loading and unloading of freight.

*Loading space* means space logically and conveniently located for bulk pickups and delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

*Lot* means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are required in the land development regulations. A lot shall be comprised of contiguous land. In no case shall land be divided or combined in a manner which creates a residential lot or parcel which does not meet the requirements of this subpart B. All lots shall have frontage on an improved public street, or on an approved private street, and may consist of the following:

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

*Lot, buildable, and buildable site* mean a site of at least sufficient size to meet minimum zoning requirements for use, coverage and area, including the open spaces mandated. Such buildable site may be a single lot or, for common ownership of two or more adjacent lots, parcels, or fractions thereof which have common street frontage, the entire area under common ownership shall be deemed the buildable lot or buildable site.

*Lot, building,* means a building site area which shall be at least the minimum area required for the zone in which the area is located, and such building lot shall be consistent with all lot requirements within the respective zoning district. The term "building lot" is not necessarily synonymous with the term "lot" as defined in this section. A building lot is always at least one lot or one lot plus a part of another lot or a combination of two or more lots or fractions thereof.

*Lot, corner,* means a building site abutting on two or more streets at their intersection. The second or other abutting street is described as the "intersecting" or "secondary" street; other lots often front to that second, or even third, street. A lot abutting on curbed streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

*Lot depth* means the mean horizontal distance between the front lot line and the rear lot line measured at right angles to the width.

*Lot dimensions* mean as follows:

## Subpart B - LAND DEVELOPMENT REGULATIONS

### Chapter 86 GENERAL PROVISIONS

- (1) *Depth.* Depth of a lot shall be considered to be the distance between the midpoints of the straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
- (2) *Width.* Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; provided, however, that width between side lot lines at their foremost points, where they intersect with the street lines, shall not be less than 80 percent of the required lot width except for lots on the turning circle of a cul-de-sac, where the 80-percent requirement shall not apply.

*Lot, double frontage, and through lot* mean a lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.

*Lot frontage* means the portion of the lot nearest the street. Lots are normally platted within blocks to uniformly front along a street which is the frontage or primary street. On corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under the definition of "yard" in this section.

*Lot, illegal nonconforming,* means a lot which was never duly approved by the city and fails to conform to the present land development regulations.

*Lot, interior,* means a lot other than a corner lot with only one frontage on a street.

*Lot, legal nonconforming,* means a lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of the land development regulations, but which fails because of such adoption, revision or amendment to conform to the present land development regulations.

*Lot lines* means the lines bounding a lot or buildable site as defined in this section.

*Lot of record* means a lot which is a part of a subdivision, the map of which has been duly approved by the city and recorded in the office of the clerk of the circuit court of the county or a lot described by metes and bounds, the description of which has been thus recorded.

*Lot, reversed frontage,* means a lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot or a through lot.

*Lot, through,* means a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as a double frontage lot.

*Lot, zoning,* means a tract of land consisting of one or more lots of record, or parts thereof, under single ownership located entirely within a block and occupied by or designated by its owner or developer at the time of filing for any zoning approval or building permit as a tract to be developed for a principal building and its accessory buildings, or a principal use, together with such open spaces and yards as are designated and arranged, or required under the zoning ordinance, to be used with such building or use.

*Low-speed vehicle* means any four-wheeled electric vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including neighborhood electric vehicles.

*Manufactured building* means a closed structure, building assembly, or system of subassemblies, which may include structural, electrical, plumbing, heating, ventilating or other service systems manufactured in manufacturing facilities, for installation or erection, with or without other specified components, as a finished building or as part of a finished building which shall include but not be limited to residential, commercial, institutional, storage and industrial structure (F.S. § 553.36). The building plans for such structures must be sealed by the state department of community affairs.

*Mining* means the removal, either in or upon the soil of the earth or beneath the soil, of any valuable inert or lifeless substance formed or deposited in its present position through natural agencies alone, as a commercial business.

## Subpart B - LAND DEVELOPMENT REGULATIONS

### Chapter 86 GENERAL PROVISIONS

*Noncomplying building or structure* means any building or other structure, for which the use is a lawful (permitted or nonconforming), but the building or other structure does not comply with all applicable sections of the land development regulations, including but not limited to size and dimension regulations, off-street parking requirements, landscape requirements, nuisance abatement standards, or height requirements, either on the effective date of the ordinance from which this section derives or as a result of any subsequent amendment.

*Nonconforming density* means the number of dwelling or living units per acre greater than the number allowed by the land development regulations, which were legally established or licensed prior to the effective date of the ordinance from which this section derives.

*Nonconforming use* means a use of a building or structure or of a tract of land which does not, on the effective date of the ordinance from which this section derives, or amendment thereto, conform to any one of the current permitted uses of the zoning district in which it is located, but which was legally established in accordance with the zoning in effect at the time of its inception or which use predates all zoning codes and which use has not changed or been abandoned. This definition shall not operate to make legal an unlicensed transient rental accommodation located in a residential structure.

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

*Open space (green area)* includes the gross area of the site less building coverage, parking surface, internal traffic circulation system, and other impervious surfaces, all of which should be open from the ground to the sky. Open space areas shall remain open and unobstructed to the sky that can be used for active or passive recreation purposes. Parking and loading areas of any type shall not be allowed in any required open space.

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

*Parking space, off-street*, means a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley and so that any automobile may be parked and unparked without moving another. For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at 300 square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements of this definition are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all city ordinances and regulations.

*Patio* means an open unoccupied space on the same lot fully enclosed on all four sides by the principal building.

*Permanent housing* means affordable and/or assisted housing that is expected to be available to low/moderate income and/or homeless persons, for an indefinite period of time.

*Permeable surface* means any surface permitting full or partial absorption of stormwater into previously unimproved land.

*Pitched roof* means a roof with a pitch of no less than 4/12 (a four-inch rise in a 12-inch horizontal run).

*Planned development or redevelopment* means land under unified control, planned and developed as a whole in a single operation or approved programmed series of operations for dwellings, for dwelling units and related uses and facilities; includes principal and accessory uses and structures substantially related to the character of the development and the surrounding area of which it is part; and is developed according to the comprehensive and detailed plans which include but are not limited to streets, utilities, lots or building sites and the like but also site plans and detailed plans for other uses and improvements,

## Subpart B - LAND DEVELOPMENT REGULATIONS

### Chapter 86 GENERAL PROVISIONS

facilities and services as will be for common use by some or all of the occupants of the planned unit development but will not be provided, operated or maintained at public expense.

*Port expansion at the Truman Waterfront Parcel* means the following activities at the Truman Waterfront parcel which shall constitute port expansion:

- (1) Any increase in cruise ship berthing capacity (other than the one existing cruise ship berth on the Outer Mole Pier, which shall be appropriately permitted by the State of Florida).
- (2) Development of new port facilities designed to accommodate ferry service, or use of the existing cruise ship berth at Outer Mole Pier to provide ferry service.
- (3) Development of new port facilities that require either new maritime related infrastructure or channel dredging.

The replacement or repair of existing infrastructure, so long as that activity is in the same location and does not increase capacity, as well as maintenance dredging shall not be considered expansion.

*Premises* means any land together with any structures occupying it.

*Principal structure* means a building occupied by the principal use of the premises or lot. In a residential district any dwelling shall be deemed to be the principal building on the lot where it is located. An attached carport, shed, garage, or any other structure with one or more walls or a part of one wall being a part of the principal building and structurally dependent, totally or in part, on the principal building shall comprise a part of the principal building and be subject to all regulations applied to the principal building. A detached and structurally independent carport, garage, or other structure shall conform to the requirements of an accessory building. A detached and structurally independent garage, carport, or other structure conforming as an accessory building may be attached to the principal building by an open breezeway not to exceed six feet in width. A connecting breezeway in excess of six feet and enclosed on one or both sides, including louvers, lattice or screening, shall cause the entire structure to be construed as the principal building and shall be subject to the regulations applicable to the principal building.

*Project area.* For the purpose of computing density, lot coverage, and floor area ratio for any project site, the project area shall not include public rights-of-way, or land lying below the mean high water line.

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

*Public water and sewer service* means water and sewer systems, including pipes, rights-of-way and treatment plants, owned and operated by the city or operated under a franchise granted by the city.

*Recreational and landscaped open space* means unroofed or screen roofed ornamental landscaped areas and recreational areas which are easily accessible and regularly available to occupants of all dwelling units on the lot wherein the open space is located. Rooftops, porches, raised decks, parking spaces, driveways, utility and service areas are not calculated as open space.

*Redevelopment* constitutes "development" and shall be subject to the land development regulations.

*Rental housing* means affordable and/or assisted rental housing that is expected to be available to low/moderate income and/or homeless persons at rents that do not exceed the established fair market rent (FMR) as determined by the U.S. Department of Housing and Urban Development (HUD).

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

*Setback* means the required open spaces of a lot where buildings are not permitted.

- (1) Setbacks are required for the purpose of providing and ensuring open space and become part of the yard but not necessarily the total yard.

## Subpart B - LAND DEVELOPMENT REGULATIONS

### Chapter 86 GENERAL PROVISIONS

- (2) Setbacks shall be measured from the lot, building site, boundary lines and will be designated as "front yard setback," "rear yard setback," "side yard setbacks," combining to surround and define the remaining buildable area.
- (3) Setbacks go with the land and are not intended to control or direct the actual placement or orientation of buildings.
- (4) Buildings may be designed and constructed to fit on any part of the buildable area and are not required to front on the platted front of the lot or building site.

*Sheltered* means families and persons whose primary nighttime residence is a supervised publicly or privately operated shelter, including emergency shelters, transitional housing for the homeless, domestic violence shelters, residential shelters for runaway and homeless youth, and any hotel/motel/apartment voucher arrangements made because the person is homeless. The term does not include persons living doubled-up or in overcrowded or substandard conventional housing.

*Shoreline* means the mean high water line for tidal water bodies and ordinary high water line for nontidal waters for inland water bodies.

*Short-term housing* generally refers to housing that accommodates the immediate needs of individual (up to six months), and provides both housing and supportive services to homeless persons to facilitate movement to transitional or permanent housing.

*Sign* means any device designed to inform or attract the attention of persons not on the premises on which the sign is located; provided, however, that the following shall not be included in the application of the regulations in this subpart B:

- (1) *Number and surface area.* In determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements or where reasonable doubt exists about the relationship of elements, each element shall be considered to be a single sign.
- (2) *Off-site sign* means a sign other than on-site sign.
- (3) *On-site sign* means a sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

*Social services special needs housing* means short-term housing units which provide continuum of care services to a capacity of not more than 36 homeless persons with special needs.

*Story* means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, or any portion of a building used for human occupancy between the topmost floor and the roof. A basement or cellar not used for human occupancy shall not be counted as a story.

*Street* means, in addition to the definition contained in [section 1-2](#), a public or private right-of-way set aside for public travel which is 30 feet or more in width. A street affords principal means of access to abutting property. Street classifications include the following:

- (1) *Arterial streets.* Arterial streets serve as principal routes through the city. The purpose of these facilities is to move large volumes of traffic from one part of the region or county to another. Arterial roads also provide connections between major activity centers of the county or city.
- (2) *Major collector streets.* Major collector streets collect and distribute traffic from residential access streets to arterial streets or other collector streets.
- (3) *Minor collector streets.* Minor collector streets collect traffic from local streets and feed traffic to major collectors and arterials.

## Subpart B - LAND DEVELOPMENT REGULATIONS

### Chapter 86 GENERAL PROVISIONS

- (4) *Residential access streets and local streets.* Residential access streets and local streets are streets which directly serve abutting properties and residences. These streets should be relatively safe and quiet and should be completely free of any through traffic.

*Street centerline* means the midpoint between the street right-of-way or the surveyed centerline of the street.

*Street right-of-way line* means the property line which bounds the right-of-way set aside for use as a street. Where sidewalks exist and the exact location of the right-of-way is unknown, the side of the sidewalk farthest from the centerline of the traveled street shall be considered as the right-of-way line.

*Structural alteration* means any change, except for repair or replacement in the supporting members of a building, such as bearing walls, columns, beams, or girders.

*Structure* means anything built, constructed or assembled with a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, signs and poster panels, driveways, pools, and ponds.

*Subdivision* means the division and recording in accordance with the city's land development regulations of a parcel of land into two or more lots or blocks for the purpose of transfer of ownership or development for development, sale or lease.

*Supportive housing* means housing which includes housing units and group quarters, that have a supportive environment and include a planned supportive service component.

*Supportive services* means services that include (but are not limited to): case management, housing counseling, job training and placement, primary health care, mental health services, alcohol/drug abuse treatment, emergency food, domestic violence and family services, child care, veterans services, etc.

*Swimming pool* means a water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level of the surrounding land, or an above-surface pool, having a depth of more than 30 inches, designed, used and maintained for swimming and bathing.

*Terrace* means an unoccupied open space adjacent to the principal building on one or two sides, prepared with a hard, semihard, or improved surface, and uncovered, for the purpose of outdoor living.

*Total floor area* and *gross floor area* mean the areas of all floors of a building, including finished basements and all covered areas, including porches, sheds, carports, and garages. If the first finished floor level of an elevated building or structure is elevated to a height greater than seven feet above the finished grade, the area below such first floor shall be included in calculating gross floor areas of the building or structure.

*Townhouse* means a one-family dwelling in a group of at least three and no more than ten such units in which each unit has its own front and rear access to the outside, and the units are designed with distinctive facades or varied setbacks. No unit is located over another unit, and each unit is separated from any other unit by one or more common fire resistant walls.

*Transient living accommodations* or *transient lodging.* Any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings, which is 1) rented for a period or periods of less than 30 days or one calendar month, whichever is less; or which is 2) advertised or held out to the public as a place rented to transients, regardless of the occurrence of an actual rental. Such a short-term rental use of or within a single-family dwelling, a two-family dwelling or a multifamily dwelling (each also known as a "residential dwelling") shall be deemed a transient living accommodation.

- (1) *Campground* means a place set aside and offered by a person, for either direct or indirect remuneration of the owner, lessor, or operator of such place, for the parking, accommodation, or rental of five or more recreational vehicles or tents, and the term also includes buildings and sites set aside for group camping and similar recreational facilities; and the rental of cottages and apartments.

## Subpart B - LAND DEVELOPMENT REGULATIONS

### Chapter 86 GENERAL PROVISIONS

- (2) *Guesthouse* and *roominghouse* mean any place wherein tourists, transients, travelers or persons desiring temporary residence are provided with sleeping and sanitary facilities. Cooking facilities may or may not be provided in a guesthouse. The number of rooms in a guesthouse shall not exceed 25. The minimum room sizes for a guesthouse shall be as follows:
  - a. Single room, 80 square feet.
  - b. Double room, 100 square feet.
  - c. Multiple occupancy room, 100 square feet; in addition, 50 square feet for each occupant over two.
- (3) *Hotel* means a structure primarily for transient guests, including rooms with or without cooking and complete apartment facilities, but confined within one principal building except for necessary accessory buildings.
- (4) *Motel* means a group of transient accommodation units under one ownership or on one tract of land and designed primarily for access by automobile. Overnight guests may stay for longer periods than overnight.
- (5) *Tourist court* means a group of tourist accommodation units under one ownership or on one tract of land providing facilities for longer periods of time, and with cooking facilities within the individual units.
- (6) *Transient apartment* means any apartment building or condominium apartment building, in which three or more units are advertised or held out to the public as available for transient occupancy.
- (7) *Transient unit or room* means any room accommodating beds, including conventional beds as well as sofa-beds, Murphy beds, or other types of beds with unique multipurpose or space-saving designs, which can be locked and keyed from the exterior of the premises or from a common hallway, foyer, or other common area and can be held out to the public as distinct sleeping quarters for overnight lodging or for a longer period of time.

*Transitional housing* generally refers to housing that accommodates the needs of individuals coming out of emergency shelter situations or short-term housing, and transitioning into permanent housing. Transitional housing provides both housing and supportive services to homeless persons to facilitate movement to independent living within 24 months.

*Truman Waterfront Port* means one of the city's deep water port facilities.

*Unsheltered* means families and individuals whose primary nighttime residence is a public or private place that is not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

*Use* means the purpose or activity for which the land or building thereon is designed, arranged or intended or for which it is occupied or maintained, and shall include any manner of performance of such activity with reference to the specifications of the zoning ordinance.

*Vacant* means a building or parcel of land which is neither occupied nor used or is in a nonoperative state.

*Vacation of easement or right-of-way* means the abandonment of a public easement or right-of-way which results in the removal of the easement or right-of-way, reuse of the property, and/or a change in the ownership of the property.

*Variance* means a relaxation of the terms of the land development regulations where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the land development regulations would result in unnecessary and undue hardship. As used in the land development regulations a variance is authorized only for height, area, size of structure, or size of yards and open spaces. Establishment or

Subpart B - LAND DEVELOPMENT REGULATIONS

Chapter 86 GENERAL PROVISIONS

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 zoning district or uses in an adjoining zoning district.

*Vehicle* means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

*Water-dependent uses* means activities which can be carried out only on, in or immediately adjacent to water areas because the use requires access to the water body for: waterborne transportation, including ports or marinas; recreation; electrical generating facilities; or water supply.

*Water-related uses* means activities which are not directly dependent upon access to a water body, but which provide goods and services that are directly associated with water-dependent or waterway uses and/or provide supportive services to persons using a duly permitted marina.

*Watercourse* means any natural or artificial channel, ditch, canal, stream, river, creek, waterway or wetland which flows either continuously or intermittently, and which has a definite channel, bed, banks or other discernable boundary.

*Wetland* shall be defined based on hydrology as well as hydric soil and wetland vegetation. Wetlands shall include transitional wetlands and shall include those areas that are 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 following vegetative species are wetland species commonly found in the city, although the applicable state and federal list of jurisdictional wetland vegetation shall apply:

Common Name of Wetland Species	Scientific Name
Black mangrove	Avicennia germinas
White mangrove	Laguncularia racemosa
Red mangrove	Rhizophora mangle
Buttonwood	Conocarpus erectus
Saltwort	Batis maritima
Glasswort	Salicornia spp.
Sea purslane	Sesuvium portulacastrum
Sea blite	Suaeda linearis
Sea oxeye daisy	Borrichia spp.
Salt grass	Distichlis spicata

Subpart B - LAND DEVELOPMENT REGULATIONS

Chapter 86 GENERAL PROVISIONS

Dropseed	Sporobilus virginicus
Key grass	Monanthochloe
Fringe-rushes	Fimbristylis spp.
Cordgrass	Spartina spartinae
Sawgrass	Cladium jamaicewiss
Spike rush	Eleocharis celluosa
Cattail	Typha spp.

Wetland jurisdictional determinations shall be consistent with those of the state department of environmental protection, the South Florida Water Management District, and the U.S. Army Corps of Engineers.

*Yard* means an open space at grade between a building and the adjoining lot lines, unoccupied, open to the sky and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the structure shall be used (a driveway or off-street parking area may be a portion of a yard).

*Exception of corner lots.* On corner lots abutting two intersecting streets, the front, side and rear lot lines shall be determined as follows:

- (1) One street frontage shall be declared a front yard; and
- (2) The other street frontage shall be a street side yard.
- (3) The rear yard shall be the yard opposite the declared front yard.
- (4) The remaining yard shall be the interior side yard.

*Yard, front,* means the yard abutting a street (i.e., street frontage lot). The depth of required front yards shall be measured in such a manner that the yard established is a strip of at least the minimum width required by district regulations with its inner edge parallel with the front lot line. Such yard shall be measured from the nearest point of the building, including the roof, to the front (street frontage) property line. The front yard regulations shall apply to all lots fronting on a street.

*Yard, rear,* means a yard extending across the rear of a lot between the side lot lines and which is the minimum horizontal distance between the rear of the main building or any projections thereof other than projections or encroachments specifically provided for in this subpart B. For all corner lots, the rear yard shall be as indicated in the definition of the term "yard" under "exception of corner lots." The depth of required rear yards shall be measured in such a manner that the yard established is a strip of at least the minimum width required by district regulations with its inner edge parallel with the rear lot line. Such yard shall be measured from the nearest point of the building, including the roof, to the rear property line.

## Subpart B - LAND DEVELOPMENT REGULATIONS

### Chapter 86 GENERAL PROVISIONS

*Yard, side*, means a yard between the main building and the sideline of the lot and extending from the front lot line to the rear yard, which is the minimum horizontal distance between a side lot line and the side of the main building or any projections thereof. For all corner lots, the side yard shall be as indicated in the definition of the term "yard" under "exception of corner lots." The width of required side yards shall be measured in such a manner that the yard established is a strip of at least the minimum width required by district regulations with its inner edge parallel with the side lot line. Such yard shall be measured from the nearest point of the building, including the roof, to the side property line.

(Ord. No. 97-10, § 1(5-21.2), 7-3-1997; Ord. No. 97-20, § 1(ex. A, B), 9-16-1997; Ord. No. 98-16, § 1, 6-2-1998; Ord. No. 98-31, § 1, 11-10-1998; Ord. No. 98-32, § 1, 12-1-1998; Ord. No. 99-18, § 1(Exh. A), 9-8-1999; Ord. No. 00-04, § 27, 2-1-2000; Ord. No. 00-10, § 3, 6-7-2000; Ord. No. 00-14, § 1(Exh. A), 7-5-2000; Ord. No. 02-06, § 1, 2-20-2002; Ord. No. 04-07, § 1, 4-6-2004; Res. No. 06-292, § 1, 9-6-2006; Ord. No. 09-06, § 1, 4-7-2009; Ord. No. 10-04, § 1, 1-5-2010)

**Cross reference**— Definitions generally, § 1-2.

#### **Sec. 86-10. Status of Code, prior offenses.**

Any prosecution arising from a violation of any ordinance repealed by this subpart B, which prosecution may be pending at the time this subpart B becomes effective, or any prosecution which may be started within one year after the effective date of this subpart B as a consequence of any violation of any ordinance repealed therein, which violation was committed prior to the effective date of this subpart B, shall be tried and determined exactly if such ordinance had not been repealed.

(Ord. No. 97-10, § 1(1-1.10), 7-3-1997)

#### **Sec. 86-11. Violations and penalties.**

In addition to the penalties provided in this chapter, the city may exercise authority provided for through [section 1-15](#).

(Ord. No. 97-10, § 1(1-1.11), 7-3-1997)

#### **Sec. 86-12. Codification.**

The land development regulations shall be incorporated in the Code of Ordinances, and the word "ordinance" may be changed to "section," "article," or other appropriate word, and the sections of the land development regulations may be renumbered or relettered to accomplish such intention.

(Ord. No. 97-10, § 1(1-1.12), 7-3-1997)

#### **Sec. 86-13. Injunctive relief.**

In addition to any penalty provided by law for the violation of any section of this subpart B or any condition duly imposed by the city, the city may bring suit in the circuit court to enjoin, restrain, or otherwise prevent the violation of any section of this subpart B or any condition duly imposed by the city.

(Ord. No. 97-10, § 1(1-1.13), 7-3-1997)

Subpart B - LAND DEVELOPMENT REGULATIONS

Chapter 86 GENERAL PROVISIONS

**Sec. 86-14. Saving clause.**

The obligations, restrictions, rights and/or regulations existing before the effective date of the ordinance from which this subpart B derives on land located in the corporate city limits shall not be impaired, affected or avoided by the adoption of this subpart B.

(Ord. No. 97-10, § 1(1-1.9), 7-3-1997; Ord. No. 98-14, § 1, 5-5-1998)

Subpart B - LAND DEVELOPMENT REGULATIONS

Chapters 87—89 RESERVED

**Chapters 87—89 RESERVED**