



## CHAPTER 1

### GENERAL PROVISIONS

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## 1.00.00           **GENERALLY**

### 1.00.01    **Purpose and Intent**

This land development code (LDC) is adopted for the purpose of implementing, in part, the comprehensive plan, and is intended to:

- A. Establish comprehensive regulations, procedures, and standards for review and approval of the development of land based on the comprehensive plan;
- B. Foster and preserve public health, safety, comfort, and welfare, and aid in the harmonious, orderly, aesthetically pleasing, and socially beneficial development of the City in accordance with the comprehensive plan;
- C. Conserve the value of land, buildings, and resources, and protect landowners from adverse impacts of adjoining developments;
- D. Protect the character and maintain the stability of residential, business, industrial, recreation, and public areas, and enhance property values, stabilize older neighborhoods and business centers, and increase the economic benefits to the City arising out of its cultural resources;
- E. Control and regulate growth of the City;
- F. Provide specific procedures to ensure that local development orders and permits are conditioned on the availability of public facilities and services that meet level of service requirements (concurrency);
- G. Balance the interest of the general public with that of individual property owners; and
- H. Protect and, where necessary, preserve valuable natural resources including, but not limited to: environmentally sensitive land, water resources, wildlife habitats, and threatened or endangered species.

### 1.00.02    **Relationship to the Comprehensive Plan**

The Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, *F.S.*, provides that local governments adopt a comprehensive plan and land development regulations which implement the adopted comprehensive plan. The standards and provisions in this LDC have been designed to implement the comprehensive plan, as may be amended from time to time.

### 1.00.03    **Effect on Easements, Covenants, and Other Agreements**

This LDC shall not interfere with, abrogate, or annul any easements, covenants, or other agreements between parties, provided, however, that the provisions of this LDC shall control where this land development code imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by such easements, covenants, or agreements.

## 1.01.00           **TITLE**

This land development code shall be known as and entitled the “Fernandina Beach Land Development Code” and may be referred to herein as the “LDC.” Sections of the LDC shall be cited as “Fernandina Beach LDC, Section\_\_\_\_\_.”

## 1.02.00           **AUTHORITY**

This LDC is enacted pursuant to the requirements and authority of Chapter 163, Part II, *F.S.*, and Chapter 166, *F.S.*

## 1.03.00 APPLICABILITY

### 1.03.01 Generally

- A. Except as specifically provided, the provisions of this LDC shall apply to all development in the City.
- B. The use of any parcel of land, or any structure, or any combination thereof, within the corporate limits of the City shall be in conformance with the requirements of the LDC.
- C. Principal uses, accessory uses, buildings, and structures that are not identified as permissible are prohibited. To be identified as permissible, such uses, buildings, and structures shall be included in this LDC or interpreted as included as provided for in Section 1.05.00 and Chapter 2.
- D. A change of use shall conform to the standards, criteria, requirements, and procedures of this LDC.
- E. Where a local development order or permit that was lawfully issued prior to the effective date of this LDC expires or is otherwise invalidated any further development on the site subject to the local development order or permit shall conform to the standards, criteria, requirements, and procedures of this LDC.

### 1.03.02 Exemptions

The situations described in (A) and (B) below are exempt from the provisions of this LDC.

- A. The provisions of this LDC and any amendments thereto shall not affect the validity of any valid and effective local development order or permit that was issued prior to the effective date of this LDC under the following situations:
  1. The development activity authorized by the local development order or permit was commenced prior to the effective date of this LDC, and such activity continues without interruption (except because of war or natural disaster) until the development is complete;
  2. The development activity authorized by the local development order or permit will be commenced after the effective date of this LDC but within six (6) months of the issuance of a valid building permit which was issued prior to the effective date of this LDC; or
  3. The development activity authorized by the local development order is proceeding in accordance with the time limits contained in the local development order.
- B. The provisions of this LDC and any amendments thereto shall not affect work required for public facilities and services within the public right-of-way, as further described below:
  1. Work required for the installation of facilities for the distribution or transmission of gas, water, sewer, electricity, cable, telephone, or telecommunications services;
  2. Work required for the purpose of inspecting, repairing, or replacing any existing water or sewer lines, mains, or pipes; and
  3. Work required for the purpose of inspecting, repairing, or replacing cables, power lines, utility poles, utility tunnels, or the like.

### 1.03.03 Lots of Record

- A. One dwelling unit may be constructed on a substandard, platted lot of record in a residential or mixed-use zoning district.

#### 1.03.04 Demolition of Structures on Substandard Lots

- A. Applicability. Except as may be provided hereinafter to the contrary, in connection with replats, subdivisions, specific regulations, and specifically described lots or parcels of land, all buildings or structures located in the R-1, R-2, RLM, and R-3 zoning districts shall be constructed or erected upon a building site containing at least one (1) platted lot. Such building site shall have a minimum street frontage of fifty (50) feet.
- B. Building site requirements. Wherever there may exist a single-family residence(s), duplex building(s), or any lawful accessory building(s) or structure(s) which was heretofore constructed on property containing one (1) or more substandard platted lots or portions thereof, such substandard lot or lots shall thereafter constitute only one (1) building site. No permit shall be issued for the construction of more than one (1) single-family residence. Such structures shall include, but not be limited to, swimming pools, tennis courts, walls, fences, or other at-grade or aboveground improvements.
- C. Removal of buildings. If a single-family residence or duplex building which exists on more than one (1) substandard lot is voluntarily demolished or removed, no permit shall be issued for the construction of more than one (1) building on the building site.

#### 1.03.05 Construction or Demolition of Structures on Combined Lots

- A. In order to maintain open space, visual corridors, neighborhood character, property values and visual attractiveness of residential areas, wherever there may exist a single-family detached residential unit or, a duplex structure or any auxiliary building or structure, including but not limited to, swimming pools, or any other improvement which was heretofore constructed on property containing one or more platted lots or portions thereof (excluding walls or fences), such lots thereafter constitute one building site and must be considered the "lot of record", and no permit will be issued for the construction of more than one residential dwelling unit on the site. All construction on the building site must comply with all existing zoning and density requirements.
- B. The demolition or removal of any residence or structure, whether voluntary or involuntary, does not have the effect of changing the establishment of the building site.
- C. A change from the foregoing provisions for the purpose of establishing building sites, or separation of building sites requires supermajority approval by the Board of Adjustment in accordance with the variance approval process contained in Section 10.02.00 in a quasi-judicial hearing at which all interested persons will be afforded an opportunity to be heard.

#### 1.04.00 CITY MANAGER

The City Manager is the chief administrative official of the City. For the purposes of this LDC, the City Manager administers, interprets, and implements the standards, criteria, and procedures of this LDC. The City Manager may delegate such responsibilities to City staff. Throughout this LDC, the term "City Manager" is used to indicate the person responsible for specified actions, except where specified actions are reserved or specifically delegated to another position. In all instances, "City Manager" means the "City Manager or designee."

## 1.05.00 INTERPRETATIONS

### 1.05.01 Generally

- A. In the interpretation and application of this LDC, all provisions shall be liberally construed in favor of the objectives and purposes of the City and deemed to neither limit nor repeal any other powers granted to the City under State Statutes.
- B. In interpreting and applying the provisions of this LDC, the provisions shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and general welfare of the City.
- C. Specific provisions of this LDC shall be followed in lieu of general provisions that may be in conflict with the specific provision.
- D. Where any provisions of this LDC conflict with any other provisions of this LDC or with other regulations, the more stringent restrictions shall be applied.
- E. If a specific regulation, standard, definition, development criteria, or provision is not included in this Land Development Code, the regulation, standard, definition, development criteria, or provision, shall not be permitted.

### 1.05.02 Responsibility for Interpretations

- A. In the event that any question arises concerning the application of regulations, standards, definitions, development criteria, or any other provision of this LDC, the City Manager shall be responsible for interpretation. In the interpretation of this LDC, the City Manager shall seek guidance from the comprehensive plan.
- B. Responsibility for interpretation by the City Manager shall be limited to standards, regulations, and requirements of this LDC, and shall not be construed to include interpretation of any technical codes adopted by reference in this LDC. Interpretation shall not be construed to override the responsibilities given to any commission, board, or official named in other sections or chapters of this LDC.

### 1.05.03 Rules for Interpretation of Boundaries

Where uncertainty exists as to boundaries of any district shown on the zoning map, the following rules shall apply:

- A. Boundaries shown as following or approximately following any street shall be construed as following the centerline of the street.
- B. Boundaries shown as following or approximately following any platted lot line or other property line shall be construed as following such line.
- C. Boundaries shown as following or approximately following section lines, half-section lines, or quarter-section lines shall be construed as following such lines.
- D. Boundaries shown as following or approximately following the shoreline of a water body shall be construed as following such shoreline.
- E. Where any public street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of that street or alley added thereto by virtue of vacation or abandonment.

### 1.05.04 Rules of Construction

The following rules of construction shall be applied in the interpretation of the provisions of this LDC:

- A. The word "shall" is mandatory and the word "may" is discretionary.

1. Words used in the present tense shall include other tenses.
2. Words in the singular shall include the plural, and words in the plural shall include the singular.
3. Words denoting the masculine gender shall be construed to include the feminine and neuter.
4. The word "person" means an individual, corporation, governmental agency, business trust, estate, trust, partnership, or association, two (2) or more persons having a joint or common interest, or any other legal entity.
5. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of such building or land.
6. The words "written" and "in writing" mean any representation of words, letters, or figures, whether by printing or otherwise.

#### 1.05.05 Computation of Time

- A. In computing any period of time prescribed or allowed, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, a Sunday, nor a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.
- B. The term "day" means a calendar day.
  1. The term "month" means a calendar month.
  2. The term "year" means a calendar year unless otherwise indicated.

#### 1.05.06 Computation of Required or Permitted Units

When the determination of required or permitted units as required by this LDC results in a fractional unit, a fraction in excess of  $\frac{1}{2}$  shall not be counted as one (1) unit.

#### 1.06.00 DOCUMENTS ADOPTED BY REFERENCE

- A. The map identified by the title, "Zoning Map, Fernandina Beach, Florida," which shows the boundaries and designations of the zoning districts is hereby adopted into and made part of this LDC.
- B. The Flood Insurance Rate Map identified in Section 3.01.02(A) is hereby adopted into and made part of this LDC.
- C. Technical codes which have been adopted by reference are identified in Sections 22-26 through 22-34 of the *Code of Ordinances of the City of Fernandina Beach, Florida*.
- D. Chapter 333, *Florida Statutes*.
- E. Historic Preservation Guidelines, Downtown Historic District.
- F. Old Town Preservation and Design Guidelines.
- G. CRA Design Guidelines.
- H. Design and engineering standards manuals under current usage by FDOT, SJRWMD, FDEP, USACOE and other agencies, as applicable.

1.07.00 ACRONYMS AND DEFINITIONS

A. Acronyms

<b>ADA</b>	Americans with Disabilities Act
<b>ATM</b>	Automated Teller Machine
<b>CCCL</b>	Coastal Construction Control Line
<b>CRA</b>	Community Redevelopment Area
<b>CUPZ</b>	Coastal Upland Protection Zone
<b>DBH</b>	Diameter at Breast Height
<b>ERU</b>	Equivalent Residential Unit
<b>FAA</b>	Federal Aviation Administration
<b>FAC</b>	Florida Administrative Code
<b>FCC</b>	Federal Communications Commission
<b>FDEP</b>	Florida Department of Environmental Protection
<b>FDOT</b>	Florida Department of Transportation
<b>FEMA</b>	Federal Emergency Management Agency
<b>FIRM</b>	Flood Insurance Rate Map
<b>FLUM</b>	Future Land Use Map
<b>HDC</b>	Historic District Council
<b>HOAA</b>	Home Ownership Affordability Agreement
<b>ISA</b>	International Society of Arboriculture
<b>LDC</b>	Land Development Code
<b>LOMR</b>	Letter of Map Revision
<b>LURA</b>	Land Use Restriction Agreement
<b>OFW</b>	Outstanding Florida Waters
<b>SJRWMD</b>	St. Johns River Water Management District
<b>SHPO</b>	State Historic Preservation Officer
<b>USACOE</b>	United States Army Corps of Engineers
<b>USDA</b>	United States Department of Agriculture

B. Glossary of terms

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

**Accessory use or building** means any building, use, structure, or dwelling unit that is a subordinate use or building customarily incident to and located upon the same lot occupied by the main use or building.

**Accessory Dwelling Unit (ADU)** means a *dwelling unit* that is subordinate to an existing principal structure.

**Adaptive reuse** means the renovation and reuse of pre-existing structures for new purposes.

**Affected Party** for purposes of quasi-judicial hearings an affected party is any property owner, resident, or local government.

**Affordable housing** means housing for which monthly rents or monthly mortgage payments, including taxes, insurance, and utilities, do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for the households or persons indicated in Section 420.0004, F.S.

**Affordable unit** is any housing unit constructed as an affordable housing unit for a very low, low, or moderate-income household as defined herein, and which is the subject of an active land use restriction agreement (LURA) or home ownership affordability agreement (HOAA) as defined herein.

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

**Airport** means Fernandina Beach Municipal Airport.

- **Accident Potential Zone (APZ)** means an area within 5,000 feet of the approach or departure end of a runway or in proximity to an airport in which area aircraft may maneuver after takeoff or before landing and are subject to the greatest potential to crash into a structure or the ground.
- **Aircraft Over-flight Zone** means a specified area underlying the fixed, recurring flight paths for aircraft taking off or landing at a civil airport. Aircraft routinely must operate at low altitude, climb from or descend to the runway along these paths. Should an aircraft accident occur, it is statistically most likely to be located in this area.
- **Airport Noise Zones or Airport Noise Impact Zones** means areas within specific airport generated noise impact day/night average sound level (DNL) contour lines in which land use should be limited to activities that are not noise sensitive.
- **Airport Obstruction** means any structure or object of natural growth or use of land which would exceed the federal obstruction standards as contained in 14 Code of Federal Regulations (CFR) Part 77 or which obstruct the airspace required for the flight of aircraft in taking-off, maneuvering or landing at an airport or may otherwise interfere with the taking-off, maneuvering or landing of aircraft.
- **Airspace Obstruction or Obstruction to Navigable Airspace** means any structure, existing or planned, or any object of natural growth which would exceed federal obstruction standards as contained in 14 CFR Part 77, ss77.21, 77.23, 77.25, 77.28 or 77.29.
- **Decision Height** means the height at which a pilot must decide, during an Instrument Landing System (ILS) approach, to either continue the approach or to execute a missed approach.
- **Minimum Descent Altitude (MDA)** means the lowest altitude, expressed in feet above mean sea level, to which descent is authorized on a final approach or during circling-to-



land maneuvering in execution of a standard instrument approach procedure where no electronic glide slope is provided.

- **Minimum Obstruction Clearance Altitude (MOCA)** means the specified altitude in effect between radio fixes or VHF omnidirectional navigational bearing (VOR) airways, off-airway routes, or route segments which meets obstruction clearance requirements for the entire route segment and which ensures acceptable navigational signal coverage only within twenty-two (22) miles of a VOR.
- **Minimum Vectoring Altitude (MVA)** means the lowest Above Mean Sea Level (AMSL) altitude at which aircraft operating on Instrument Flight Rules (IFR) will be vectored by a radar controller, except when otherwise authorized for radar approaches, departures or missed approaches.
- **Non-precision Instrument Runway** means a runway having an instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a non-precision instrument approach procedure has been approved or planned, and for which non-precision instrument approach facilities are planned or indicated on an appropriate civil or military airport planning document.
- **Other than Utility Runway** means a runway designed for and intended to be used by all types of aircraft including those having gross weights greater than 12,500 pounds.
- **Precision Instrument Runway** means a runway having an instrument approach procedure utilizing an Instrument Landing System (ILS), Microwave Landing System (MLS), or a Precision Approach Radar (PAR) including a runway for which such a system is planned and is so indicated on an approved civil or military airport layout plan; other FAA planning documents, or comparable military service planning documents.
- **Runway** means a defined area on an airport prepared for landing and takeoff of aircraft along its length.
- **Runway Protection Zone (RPZ)** means a trapezoidal two-dimensional area off the runway end intended to enhance the protection of people and property on the ground.
- **Utility Runway** means a runway that is constructed for and intended to be used only by aircraft 12,500 pounds maximum gross weight and less.
- **Visual Runway** means a runway intended solely for the operation of aircraft using visual approach procedures with no instrument approach procedure planned or indicated on an approved civil or military airport layout plan, or by any other planning document submitted to the FAA by competent authority.

**Alteration** means any change to the exterior of the property, including the replacement of existing building materials.

**Alternative site** is one (1) or more separate locations within a telecommunications tower service area at which a provider could place its antenna to serve substantially all of the area intended to be served.

**Antenna** means an apparatus designed for the transmitting and/or receiving of electromagnetic waves which includes but is not limited to telephonic, radio or television communications. Types of antennas include, but are not limited to, whip antennas, panel antennas, and dish antennas. As used herein the term "antenna" includes all antennas integrated and used as a complete unit, such as an antenna array. For purposes of this LDC, the following shall not be considered antennas and shall not be regulated by this article: Ham/CB/TV antennas; and, antennas that are designed to receive direct broadcast satellite service, including direct-to-home satellite service, that are one (1) meter or less in diameter, or, antennas that are designed to receive video programming services via multipoint distribution services, instructional television fixed services, and local multipoint distribution services, and that are one (1) meter or less in diameter or diagonal measurement; and, satellite earth station antennas in commercial or industrial areas.

- **Accessory equipment building** is any building, cabinet, or equipment enclosure constructed for the primary purpose of housing the electronics, backup power, power generators and other freestanding equipment associated with the operation of antennas.
- **Antenna support structure.** A facility that is constructed and designed primarily for the support of antennas, which include the following types:
  1. *Lattice tower.* A tower that consists of vertical and horizontal supports and crossed metal braces, which is usually triangular or square in a cross section;
  2. *Monopole.* A tower of a single pole design;
  2. *Self-supporting tower.* A tower that has no structurally supportive attachments other than at its foundation; and
  3. *Camouflaged structure.* A structure designed to support antenna and designed to blend into the existing surroundings.
- **Collocation** is when more than one (1) provider uses an antenna support structure to attach antennas or use of a structure whose primary purpose is other than to support antennas, such as a light or power pole.
- **Ham/CB/TV antenna** is a noncommercial amateur radio or citizens band antenna or antennas that are designed to receive television broadcast signals.

**Apartment house.** See *Dwelling, multi-family*.

**Appeal** means any request for a review of a decision of an administrative determination of an employee or official of the City.

**Arborist** means a person who holds a current certification as an arborist by International Society of Arboriculture (ISA).

**Assisted Living Facility** means any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, regardless of whether operated for profit, which through its ownership or management provides 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.

**Automatic Teller Machine (ATM)** means an unstaffed, mechanized consumer banking device that is generally available at all hours.

**Automobile repair, garage and body shop** means any building or land where automotive vehicles are repaired, rebuilt, reconstructed, or painted, or where tires are recapped, and body work is practiced.

**Awning** means any fixed roof-like structure, cantilevered, or otherwise entirely supported from a building, so constructed and erected as to allow the awning to be:

1. Readily and easily moved to close an opening;
2. Rolled or folded back to a position flat against the building, or cantilevered position thereof; and
3. Detached from its supporting structure.

**Balcony** means a projecting platform that is open and roofless, and which is suspended or cantilevered from, or supported solely by, the principal structure with no additional independent supports. In instances of multi-level balconies, the floor of one balcony does not qualify as the roof of another.

**Balloons, kites and the like** means any free-floating tethered device intended to draw attention to premises.

**Beach** means the zone of unconsolidated material that extends landward from the mean low water line to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves. "Beach" is alternatively termed "shore."

**Bed and breakfast inn** means an owner-occupied residence offering guestrooms and abbreviated breakfast service.

**Breakaway wall** means a partition independent of supporting structural members that will withstand design wind forces, but will fail under hydrostatic, wave, and run-up forces associated with the design storm surge. Under such conditions, the wall shall fail in a manner such that it breaks up into components that will minimize the potential for damage to life or adjacent property.

**Buffer** means a landscaped area which may include walls, fences, berms, trees, shrubs, hedges, ground cover, and other plant materials.

**Building** means any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, chattels, or property of any kind. The term "building" shall include the word "structure."

**Building footprint** means the area of the proposed building including the driveway, sidewalk and road, and five feet around the building but excluding patios, pools, and decks.

**Building, height of** means the vertical distance from the average natural grade to the highest point on the structure unless located within a flood hazard area.

**Bulk Storage Yard – Solids** means the principal use of a portion or entire parcel or lot for the external storage of un-contained or open solid material stored for the purpose of distribution. No bulk storage yard for solids shall be located in the special flood hazard area.

**Bulk Storage Yard – Liquids** means the principal use of a portion or entire parcel or lot for the external storage of flammable or combustible liquids stored for the purpose of distributing the liquids solely by tank truck. No bulk storage yard – liquids shall be located in the special flood hazard area.

**Caliper** means the diameter of a tree measured six (6) inches above the ground level up to and including four (4) inch diameter size and twelve (12) inches above the ground level for larger sizes.

**Capital improvement** includes purchase, construction of, addition, or improvement to a public facility.

**Caretaker Unit** means a single family dwelling unit on non-residential premises, occupied by the person who oversees or maintains the non-residential operation 24 hours per day, and their immediate family.

**Carport** means a roofed space, accessory to, or a portion of, the principal structure, used for the storage of motor vehicles and enclosed on not more than two (2) sides by walls.

**Certificate of approval** means a certificate issued by the City Manager or Historic District Council that indicates the approval of plans for erection, alteration, addition, repair, construction, removal, or demolition of a historic landmark or site, or property in the historic district.

**Certified property appraiser** means a person who develops and communicates real estate appraisal and who holds a current, valid certificate or license issued to him or her for real estate appraisal.

**Chimney** as defined by the Florida Building Code.

**City** means the City of Fernandina Beach, a municipal corporation organized and existing under the laws of the State of Florida.

**City Manager** means the City Manager or his authorized deputy, agent or representative.

**Clinic, Medical or Dental** shall mean an establishment where patients, who may be kept overnight, are admitted for examination and ongoing treatment by one (1) person or a group of persons practicing any form of healing or health services to individuals, whether such persons be medical doctors, chiropractors, osteopaths, chiropodists, naturopaths, optometrists; dentists or any such profession, the practice of which is lawful in the State of Florida and may include surgical centers or outpatient facilities.

**Club** means buildings and facilities owned and operated by a corporation or association of persons for social or recreational purposes, but not operated primarily for profit or to render a service which is customarily carried on as a business.

**Coastal construction** is any work or activity which is likely to have a material effect on existing coastal conditions or natural shore and inlet processes.

**Coastal construction control line** means that portion of the beach-dune system which is subject to severe fluctuations based on a 100-year storm surge, storm waves, or other predictable weather conditions. Such line is determined by FDEP. See F.S. 161.053.

**Coastal High Hazard Area** means that area identified as the Category 1 hurricane evacuation zone as delineated on the Hurricane Evacuation map.

**Commercial building footprint** means the areas of the proposed commercial building and the elements required under the LDC, including such items as parking, ingress and egress, and drainage.

**Community Redevelopment Area** means the CRA Overlay which is intended to provide for and identify priority areas for coordinated redevelopment and revitalization activities. The CRA Overlay encourages improvement of infrastructure and commercial development. The CRA Overlay is applicable to those properties which were included in the CRA Plan established by Resolution 2004-105.

**Concurrency** means a condition where the necessary public facilities and services to maintain the adopted level of service standard occur in accord with the impacts of development.

- **Capacity, reserved** means that portion of the design capacity that has been reserved for valid concurrency certificates and for developments that were issued a development permit.
- **Concurrency certificate** means a certificate that indicates whether the proposed development is exempt from concurrency requirements or whether the proposed development is approved or approved with conditions.

**Condominium** means that form of ownership of real property created pursuant to chapter 718, *Florida Statutes*, which is comprised entirely of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements.

**Construction** means the carrying out of any building, clearing, filling, excavation, or substantial improvement in the size or use of any structure or the appearance of any land. When appropriate to the content, "construction" refers to the act of construction or the result of construction.

**Contributing Property** means a building, site, structure, or object which adds to the historical architectural qualities, historic associations, or archaeological values for which a district is significant because

- a. it was present during the period of significance of the district, and possesses historic integrity reflecting its character at that time,
- b. it is capable of yielding important information about the period, or
- c. it independently meets the National Register of Historic Places criteria for evaluation.

**Commerce Park** means a unified development on a City-owned site with a minimum of 10 acres and 3 or more wholesaling, commercial warehousing or industrial business which are directly served only by internal streets and to which access is gained only at designated entrances.

**Craft Distillery** is a licensed distillery that produces 75,000 or fewer gallons per calendar year of distilled spirits on its premises and has notified the division in writing of its decision to qualify as a craft distillery (pursuant to F.S. 565.03).

**Cupola** means a small decorative structure on top of a roof and not intended for habitation.

**Deck** means a structure, without a roof, either freestanding or directly connected to a primary or accessory structure, generally constructed of wood or a composite material.

**Dedication** means the deliberate appropriation of land by its owner for any general and public use, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

**Demolition** means any act or process that destroys in part or in whole a building or structure.

**Development and development activity** has the meaning in 380.04, F.S.

**Development order.** See “Local development order.”

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

**Diameter at breast high (DBH)** means the diameter of a tree four and one-half (4½) feet above ground level from the base of the tree, provided however, if the tree trunk forks below four and one-half (4½) feet above ground level diameter measurement shall be taken one (1) inch below the fork of the trunk.

**Driveway** means an entry to private property from a public right-of-way.

**Dripline** is an imaginary perpendicular line that extends downward from the outermost tips of the tree branches to the ground.

**Drug store or pharmacy** means retail establishments that offer primarily medical prescriptions, over-the-counter medications, medical equipment, and related supplies.

**Dune** means a mound, bluff, or ridge of loose sediment, usually sand-size sediment, lying upland of the beach and deposited by any natural or artificial mechanism, which may be bare or covered with vegetation and is subject to fluctuations in configuration and location.

**Dwelling unit** means a single housing unit providing complete, independent living facilities, including permanent provisions for living, sleeping, eating, cooking, and sanitation. This definition includes site-built structures and modular structures manufactured under the Florida Manufactured

Building Act (553.35, F.S.) and certified by the State of Florida as complying with the structural requirements of the Florida Building Code. Residents of a dwelling unit may be comprised of:

- an individual;
- two (2) or more persons related by blood, adoption, or marriage, together with any number of offspring, foster, step or adopted children;
- a group of not more than four (4) individuals, not related by blood or marriage, or
- groups licensed by the State of Florida as Group Homes, as defined and regulated by Objective 3.05 of the City of Fernandina Beach Comprehensive Plan.

Types of permissible dwelling units include:

- **Multi-family** means a building designed for or occupied exclusively by four (4) or more dwelling units, living independently of each other.
- **Single-family** means a building designed for or occupied exclusively by one (1) dwelling unit.
- **Townhouse** means a single-family dwelling unit which is constructed in a series or group of attached units with property lines separating such units.
- **Triplex** means a building, on a single lot or parcel, designed for, or occupied exclusively by three (3) dwelling units, living independently of each other.
- **Two-family or duplex** means a building, on a single lot or parcel, designed for, or occupied exclusively by two (2) dwelling units, living independently of each other.

**Easement** means a grant by a property owner for the use of a specified portion of his land to another party for a specific purpose.

**Economic hardship** means facts and circumstances which establish that there are no feasible measures that can be taken which will enable the property owner to make a reasonable beneficial use of the property or derive a reasonable economic return from the property.

**Emergency** means an event which causes sudden damage to one or more buildings or structures within a historic district, and is declared emergent by the Building Official or Fire Marshal, or which results in a condition which renders the building(s) or structure(s) unsafe or dangerous, or involves the safety of the buildings' inhabitants or risk of damage to the architectural elements. Emergencies include situations that result in a condition that is either unsafe or dangerous due to a sudden damage from a declared emergency such as a hurricane, flood, tornado, earthquake, fire, or other unforeseen event.

**Emergency Repair Temporary** means work necessary to ensure safety and/or prevent the destruction or dilapidation of buildings and or structures that are immediately threatened or have been damaged by fire, flood, earthquake or other unforeseen circumstances. Typical emergency repairs: covering windows/doors/holes in the roof with plywood, putting tarpaulins over breaks in a structure, putting up temporary supports; removing, marking and storing dangling or loose elements.

**Endangered species** means any flora or fauna that is so designated in the *Florida Administrative Code*.

**Environmentally Sensitive Lands (ESL)** are defined as estuarine shoreline areas, wetlands, wetland transitional areas, 100-year floodplains, upland wildlife habitats and all lands designated as Conservation on the Future Land Use Map.

**Equivalent Residential Unit (ERU).** The following shall be considered as a single ERU:

1. Each single-family residence served by the City through a single sewer service connection.
2. Multiunit apartments, condominiums, and similar multiunit residential structures or complexes are defined as consisting of multiple single-family residential units, regardless of whether or not a single sewer connection serves the entire complex.
3. Each residential room or combination of rooms designed to be occupied on a permanent or long-term basis and not otherwise defined as lodging accommodations in this section,
4. Each apartment unit, condominium unit, multifamily unit, or prepared manufactured home space that includes connection points for sewer service and that is owner-occupied, offered separately for rent as a rental or lease unit, or vacant.

**Erodible slope** shall mean all slopes with inclines in excess of four percent unless modified by the administrative official based on consideration of specific soil conditions.

**Fertilizer** means any substance or mixture of substances, except pesticide/fertilizer mixtures such as “weed and feed” products, that contains one or more recognized plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides other corrective measures to the soil. [Guidance: Regulation of pest control businesses and applicators, and of pesticide use, is preempted to the Florida Department of Agriculture and Consumer Services (FDACS) by Chapters 482.242, and 487.051 (2), F.S. and suspected pesticide misuse should be reported to FDACS. Weed and feed products are registered pesticides. The Limited Commercial Landscape Maintenance Certification Program does not allow landscape maintenance workers to make any kind of pesticide applications (including weed control and/or weed and feed products) to any turf areas. Per 482.165(3) F.S., a civil penalty for unlicensed application of pesticides, including weed and feed products, may not be less than \$500 or more than \$5,000 for each offense.]

**Final plat** is the final design drawing showing the boundaries and locations of all lots. The final plat is intended to provide a perpetual record of the subdivision.

**Five-year schedule of capital improvements** means that schedule adopted as part of the Comprehensive Plan.

**Flood** is a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the unusual or rapid accumulation of runoff of surface waters from any source.

- **Area of special flood hazard** means the land within the City which is subject to a one (1) percent chance of flooding annually, as determined on the flood hazard boundary map, and designated as zone A on the map. Zone A may be further refined into zones A, AO, AH, A1-A30, A99, V, and V1-V30.



- **Base flood.** The base flood storm event for purposes of this article is the 100-year, twenty-four (24) hour storm event. The rainfall expected for this storm event shall be interpolated or extracted from acceptable hydrological publications from reliable sources such as the St. Johns River Water Management District, Soil Conservation Service, National Oceanic and Atmospheric Administration, etc.
- **Base flood elevation** is the minimum flood elevation established by FEMA on the Flood Insurance Rate Map.
- **Flood hazard boundary map** means the official map on which the Federal Emergency Management Agency has delineated both flood boundaries and regulatory floodways. (See also "Flood insurance rate map")
- **Flood insurance rate map (FIRM)** means an official map of the City, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the City.
- **Floodproofing** means any combination of structural and nonstructural additions, changes, or adjustments to properties and structures which reduce or eliminate flood damage to land, water and sanitary facilities, structures, and contents of buildings.
- **Minimum flood elevation** means the base flood elevation established by the Federal Emergency Management Agency on the Flood Insurance Rate Map.

**Floor Area Ratio** is calculated by dividing the total of all floor areas on the site by the total site area. Floor areas include the gross floor area on each floor or story of the principal building and the floor area of any accessory building, not including parking area.

**Florida-friendly landscaping** means quality landscapes that conserve water, protect the environment, and are adaptable to local conditions and which are drought tolerant. The principles of Xeriscape include planning and design, appropriate choice of plants, soil analysis which may include the use of solid waste compost, efficient irrigation, practical use of turf, appropriate use of mulches, and proper maintenance. (Ref. §373.185 F.S.). See also Xeriscape.

**Florida registered professional engineer** is an engineer registered in the State in good standing with the Florida Board of Engineers as defined by *Florida Statutes*.

**Garage apartment** means an accessory building, not part of, or attached to, the principal structure, containing living facilities for not more than one (1) family, above a garage or carport. No living accommodations shall occupy ground level space.

**Gasoline service station** means any building, structure, or land used for the dispensing, sale or offering for sale at retail of any automobile fuels, oils, or accessories. No major repairs such as body building, welding, tire recapping or painting shall be permitted.

**Grade, finished** means a reference plane representing the average of finished ground level adjoining the building or structure at all exterior walls.

**Grade, natural** means the elevation of the ground level in its natural state, as measured in feet above mean sea level, before construction, filling, or excavation. The natural grade elevation shall be measured as the average elevation from the four (4) corners of the building site, based on a certified survey.

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

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

**Ground cover** means plants of species which normally reach an average height of twenty-four (24) inches upon maturity, installed in such a manner as to form a continuous cover over the ground. Sod shall not be considered ground cover.

**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 facility shall be at least four (4) residents but not more than fifteen (15) residents.

**Group Residential** means a residential facility occupied by five (5) or more unrelated individuals on a monthly or longer basis. Group Residential facilities may be operated by a separate entity (whether for-profit or not-for-profit) or may operate under the control of the individuals who occupy the residence. A Group Residential facility is not a Group Home Facility as defined and regulated in Objective 3.05 of the Comprehensive Plan and does not provide any personal care or supervisory services to its residents.

**Habitable** means suitable to live in or to occupy.

**Hatrack** means to severely prune a tree in order to permanently maintain growth at a reduced height or to flat-cut a tree, severing the leader or leaders, or pruning a tree by stubbing off mature wood larger than three (3) inches in diameter; or reducing the total circumference or canopy spread not in conformance with National Arborists' Society standards.

**Hazardous Material** means any chemical product listed as a hazardous substance, Extremely Hazardous Substance, or any material designated as a hazardous waste according to any of the following Federal or State regulations:

1. Title 40, Code of Federal Regulations, Part 261 (Identification and Listing of Hazardous Wastes).
2. Title 40, Code of Federal Regulations, Part 302.4 (Designation of Hazardous Substances).
3. Title 40, Code of Federal Regulations, Part 355, Appendices A and B (List of Extremely Hazardous Substances).
  - a. 62-150, F.A.C.
  - b. 62-730, F.A.C.
  - c. 27P-14, F.A.C.

**Health care facilities** means any building or buildings, section or distinct part of a building or private home, used for licensed assisted living facilities, nursing home facilities, respite care or other long-term care facilities that provide care for a period exceeding twenty-four (24) hours.

**Health club** means a building or portion of a building designed and equipped for the conduct of sports or exercise activities operated for profit or not-for-profit, and that can be open only to bona fide members and guests of the organization or open to the public for a fee.

**Hedge** means a row of closely planted shrubs or other vegetative screening forming a boundary or restrictive barrier.

**Heritage tree** means any native tree designated as irreplaceable by the City, due to its size, age, historic, aesthetic, or cultural significance.

**Historic district** means a geographically definable area meeting the qualifications of this LDC.

**Historic landmark or site** means a building, structure, object, or other feature, or site, or a site listed in the National Register of Historic Places or listed in the City's inventory of historical sites, deemed to have significance as outlined in this LDC.

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

**Home occupation** means an occupation or business activity carried on within a legally established dwelling unit.

**Home ownership affordability agreement (HOAA)** is an agreement between the City and an owner of an affordable unit including shared equity and appreciation formulae to assure continued funding and replication of home ownership opportunities.

**Hotel or motel** means any public lodging establishment which offers rental units with daily or weekly rates, off street parking for each unit, a central office on the property with specified hours of operation, and which is recognized as a hotel or motel in the community in which it is situated or by the industry. See also *Lodging Accommodations*.

**Hydrozone** means a distinct grouping of plants with similar water needs and climatic requirements.

**Improvement agreement** means a document which indicates that all required infrastructure and other improvements specified on a site plan or subdivision plat shall be satisfactorily constructed within the period stipulated in the local development order.

**Impervious surface** means a surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes but is not limited to semi-impervious surfaces such as compacted clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots and other similar structures.

**Impervious surface ratio** is calculated by dividing the total impervious surface by the gross site area.

**Industrial waste** means the liquid wastes from industrial manufacturing processes, trade, or business, as distinct from sanitary sewage.

**Irrigation system** means a constructed watering system designed to transport and distribute water to plants.

**Irrigated landscape area** means all outdoor areas that require a permanent irrigation system.

**Junkyard** means an open area where waste, used or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, cloth, paper, rags, plumbing fixtures, rubber tires and bottles. The term "junkyard" includes an automobile wrecking yard, salvage yard or a recycle center.

**Kitchenette** means an area within a building containing limited kitchen facilities such as a bar sink, microwave oven, refrigerator/freezer not exceeding 10 cubic feet. Stoves, ranges, and other cook tops are prohibited.

**Land clearing** means any development or other activity which alters the land upon which it is located, except for normal sodding and placement of signs.

**Landscape** means any combination of living plants (such as grass, ground cover, shrubs, vines, hedges, or trees and non-living landscape material such as rocks, pebbles, sand, mulch, walls, fences, or decorative paving materials).

**Landscape Design** means consultation for and preparation of planting plans drawn for compensation, including specifications and installation details for plant materials, soil amendments, mulches, edging, gravel, and other similar materials. Such plans may include only recommendations for the conceptual placement of tangible objects for landscape design projects. Construction documents, details, and specifications for placement of tangible objects and irrigation systems shall be designed or approved by licensed professionals as required by law.

**Land use restriction agreement (LURA)** is an agreement between the City and the owner of rental housing units.

**Large flat surface area (unpaved)** shall mean an area which is flat or whose slope is less than four percent and which consists of more than 1,000 square feet of exposed soil.

**Laundry, self-service and laundromat** mean a business rendering a retail service by renting to the individual customer equipment for washing, drying and otherwise processing laundry, with that equipment to be serviced and its use and operation supervised by the management.

**Liquor store/bar/lounge** means a premise where alcoholic beverages are stored or sold by licensee. This does not include a restaurant whose sales exceed 51% of its gross revenue.

**Local development order** means a written order to approve or approve with conditions, where assigning conditions is permissible, a site plan, subdivision plat, rezoning, variance, administrative waiver, major or minor amendment to a site plan or subdivision plat, or lot line adjustment. A local development order does not include development permits which may be necessary to authorize construction, installation, erection, or modification of buildings and structures or development permits which may be necessary to authorize land clearing, grading and

earthwork, tree removal, temporary use, special events, driveway connections, right-of-way utilization, stormwater facilities, sewer connection, potable water connection, street construction, sidewalk construction, and paving.

**Local governing body** means the City of Fernandina Beach.

**Lodging accommodations** means 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 (3) times in a calendar year for periods of less than thirty (30) days, or one (1) calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests. Lodging Accommodations may not be homesteaded and shall not contain a kitchen but may have a kitchenette as defined in this section. Lodging Accommodations shall not contain laundry facilities in individual units or rooms but may have a central laundry room accessible to all guests. See also *Hotel/motel*.

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

- **Corner lot** means a lot abutting upon two (2) or more streets at their intersection.
- **Double-frontage lot** means a lot having a frontage on two (2) nonintersecting streets, as distinguished from a corner lot.
- **Interior lot** means a lot having street frontage on only one (1) side.
- **Lot depth** means the distance measured in a mean direction of the side lines of the lot from the midpoint of the front line to the midpoint of the opposite rear line of the lot.
- **Lot of record** means a lot which is a part of a subdivision, the map of which has been recorded in the office of the Clerk of the Circuit Court of the County, as of the effective date of this Land Development Code.
- **Lot width** means the mean horizontal distance between the side lot lines, measured at right angles to the depth.

**Lowest floor (including basement)** means any floor used for living, which includes working, sleeping, eating, cooking or recreation facilities, or any combination thereof, but does not include temporary storage or parking garage areas.

**Main** shall refer to a pipe, conduit, or other facility installed to convey water service to individual laterals/services or to other mains.

**Mansard roof** means a sloping structure at or above the roofline of a building and extending beyond the vertical walls of the building.

**Manufactured home** means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities.

**Manufacturing and/or assembly – Artisan** means the shared or individual use of hand-tools, mechanical tools, and electronic tools for the manufacture of finished products or parts, including design, processing, fabrication, assembly, treatment, and packaging of products, as well as the incidental storage, sales and distribution of such products. Typical artisan manufacturing includes, but is not limited to, food and bakery products; printmaking; leather products; jewelry and clothing/apparel; metal work; furniture; cabinet making; glass or ceramic production. Such uses shall not produce noise, vibration, air pollution, fire hazard, or noxious emissions that will disturb or endanger neighboring properties.

**Manufacturing and/or Assembly – Heavy** means uses involving intensive manufacturing and industrial operations, including the manufacturing, assembly, fabrication, compounding, processing and /or treatment of extracted or raw materials or other industrial products; packaging and freight loading/unloading activities; utilization, handling and bulk storage of materials including raw materials, chemicals and hazardous materials associated with manufacturing processes; and all other associated or ancillary activities. Such use does not include heavy metal fabrication, batch plants, salvage yards, chemical or petroleum manufacturing or refining, rubber or plastics manufacturing, or other uses generating potentially harmful environmental or nuisance impacts.

**Manufacturing and/or assembly – Light means** the indoor or sheltered production, manufacturing and assembly, processing, cleaning, testing and distribution of materials, goods, foodstuffs and/or products that, by the nature of the materials, equipment and process utilized, is to a considerable measure clean, quiet, and free of any nuisance impacts or hazardous element.

**Manufacturing and/or assembly – Marine-related** means a facility designed for the construction or repair of waterborne vessels and ancillary items for commercial purposes or processing or for packaging of seafood.

**Mean high water line** means the intersection of the tidal plane with the mean high water with the shore. "Mean high water" is the average height of high waters over a nineteen (19) year period (see 177.27(15), F.S.).

**Mean sea level** means the average height of the sea for all stages of the tide over a nineteen (19) year period.

**Mechanical Equipment** means equipment which provides heating, venting and air conditioning, water tanks, elevator and elevator shafts, and other mechanical systems as defined in the Florida Building Code.

**Media peonia** is one-half (1/2) of a peonia, or lot, within the Old Town Historic District.

**Microirrigation (low volume)** means the application of small quantities of water directly on or below the soil surface, usually as discrete drops, tiny streams, or miniature sprays through emitters placed along the water delivery pipes (laterals). Microirrigation encompasses a number

of methods or concepts including drip, subsurface, bubbler, and spray irrigation, previously referred to as trickle irrigation, low volume, or low flow irrigation.

**Mixed Use Structure** means a single building which contains more than one type of land use.

**Mobile Food Dispensing Vehicles** means any vehicle that is a public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including but not limited to, gas, water, electricity, or liquid waste disposal.

**Mobile Food Dispensing Pad** means an area designated within a food truck park that is designed for food truck use with provision for applicable utilities, including water, sewer, electricity, gas, grease interceptors, and solid waste.

**Mobile Food Dispensing Park** means a parcel(s) of land containing two or more food truck pads where food trucks serve as the principal use of the parcel(s). This definition does not include any parcel(s) where food trucks or vending carts serve as a secondary or accessory use.

**Motor home** means a vehicular unit which does not exceed 40 feet in length and is a self-propelled motor vehicle primarily designed to provide temporary living quarters.

**Motor vehicle** means a vehicle or conveyance which is self-propelled and designed to travel along the ground, and includes, but is not limited to, automobiles, buses, mopeds, motorcycles, trucks, tractors, go-carts, golf carts, campers, motor homes, and trailers.

**Mulch** means Non-living, organic or synthetic materials customarily used in landscape design to retard erosion and retain moisture.

**Native plant material** means any plant material indigenous to northeast Florida or the City of Fernandina Beach.

**Native vegetation** means any plant species with a geographic distribution indigenous to the Amelia Island region.

**Net Density** is determined by multiplying the “maximum allowable units per acre” by the “net buildable land area” expressed in acreage. “Net buildable land area” means those contiguous land areas under common ownership proposed for residential development, minus undevelopable environmentally sensitive areas, wetland and wetlands transitional areas<sup>1</sup>, floodplains and waters of the state. Lots adjoining an existing right-of-way may calculate half of the width of that right-of-way as part of the “net buildable land area” definition.

<sup>1</sup>Properties with cross jurisdictional wetlands pursuant to 373.414(1)(c), Florida Statutes may calculate wetland and wetland transitional areas as part of the net buildable land area.

**Nonconforming use** means any preexisting use of land that was lawfully established and maintained but is inconsistent with the use provisions of this LDC or amendments thereto because of a subsequent change in the zoning designation.

**Nonconforming structure** means a structure that was legally permitted at the time of its construction prior to subsequent changes in the code which changes would no longer permit the re-establishment of such structure, including nonconformity with current density, floor area ratio, parking, structure setback, impervious surface ratio or lot coverage.

**Noncontributing property** means a building, site, structure, or object which does not add to the historic architectural qualities, historic associations, or archaeological values for which a district is significant because

- a. it was not present during the period of significance of the district,
- b. due to alterations, disturbances, additions, or other changes, it no longer possesses historic integrity reflecting its character at that time or is incapable of yielding important information about the period, or
- c. it does not independently meet the National Register of Historic Places criteria for evaluation.

**No net loss of trees** means protected trees removed in excess of those permitted by this LDC.

**Non-residential Structure** means a building or enclosure which does not include one or more residential dwelling units.

**Nursing or convalescent home**, see “Health care facilities.”

**Occupancy** means taking or keeping possession for purposes of residing in a dwelling unit, or the installation, storage, or use of equipment, merchandise, or machinery in any nonresidential building.

**Office, business or professional** shall mean an office for such operations as real estate agencies, advertising agencies (not sign manufacturing), insurance agencies, travel agencies and ticket sales, chamber of commerce, credit bureau, abstract and title insurance companies, management consultants, stockbroker, and the like; or an office for the use of a person or persons generally classified as professionals such as architects, engineers, attorneys, accountants, lawyers, dentists, physicians’ offices (not including surgical centers or outpatient facilities and whose patients are not kept overnight), veterinarians (not including overnight boarding of animals on the premises), psychiatrists, psychologists, and the like.

**Off-site** means a location upon some site, lot, tract, or parcel other than the development site.

**On-site** means located on the same site, lot, tract, or parcel.

**Ornamental feature** means one (1) or more distinctive elements on or part of a building that is provided purely for decoration or as nonfunctional embellishments, such as medallions, scroll work, or trim.

**Parapet** means that portion of wall extending above the roofline.

**Parking area** means all property used for off-street parking vehicular aisles and access ways, loading zones, interior and perimeter landscaping, and other outdoor vehicular use areas.

**Parking lot** means an area or plot of land used for the storage or parking of motor vehicles.



**Pennant** means any streamer designed to be hung from poles, on walls, or any other structure outside the building, and which blows with the wind and is designed to attract attention.

**Peonia** is a lot within the Old Town Historic District, which measures forty-six and one-half (46½) feet by ninety-three (93) feet.

**Pervious Paving Materials** means porous asphaltic, concrete or other surface (pavers or grass pave) and a high-void aggregate base which allows for rapid infiltration and temporary storage of rain on, or runoff delivered to, paved surfaces.

**Planned Unit Development (PUD)** consists of land under unified control for development purposes, planned and developed as a whole, in a single development operation or a programmed series of development operations, including lands, buildings, structures, and uses.

**Plant Bed** means a grouping of trees, shrubs, ground covers, perennials or annuals growing together in a defined area devoid of turfgrass, normally using mulch around the plants.

**Plant material** means any ground covers, shrubs, turf or vines which are commercially propagated or cultivated for the nursery or landscaping industry.

**Porch** means a covered or uncovered but unenclosed projection from the main wall of a building that may or may not use columns or posts for structural purposes.

**Potable water system** shall refer to the City's water distribution systems, and any and all component parts thereof.

**Preservation credits** means a credit for trees preserved on a site. The credit will be based on the inch for inch DBH of protected trees which are preserved on a site and may be transferred only within unified multiple lot developments.

**Principal building or structure** means the primary building on a lot or a structure that houses a principal use.

**Property** shall mean the land, or improvements upon land, of which the person is owner or over which the person has control either by contract or possessory interest sufficient to authorize the person to make any application for the land or site.

**Protected tree** means any existing, healthy tree having a five (5) inch DBH, or greater and not identified on the most recent Florida Exotic Pest Plant Council Invasive Plant list (Category I or II) and any tree that was planted or preserved in compliance with an approved development order or to mitigate removal of a protected tree.

**Protective barrier** means a temporary barricade beneath the drip line of a tree to protect its root system during construction on the site.

**Public Beach Access** shall mean those rights of ways or easements used by members of the public to access the beach. The right of way or easement may be used for vehicle traffic to access available parking, for pedestrian and other non-motorized traffic, and for public parking for

members of the public while using the beach. The City may appropriately sign a beach access to prevent overnight parking or other use except as stated herein.

**Public facilities** mean major capital improvements and include any or all of the following: government buildings, roads, sidewalks, curbs and gutters, sanitary sewer facilities, potable water facilities, drainage facilities, solid waste facilities, and recreation and open space facilities. The term shall include “public improvements.”

**Public property** means any lands and improvements owned by the federal government, the State, County, or municipality, and includes sovereignty submerged lands located adjacent to the County or municipality, buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-way, and other similar property.

**Racetrack** means a facility consisting of a paved or unpaved surface used for any type of racing or driving. A racetrack may or may not include seating, concession areas, suites, and parking facilities. This definition shall also include any facility used for simulated racing or driving conditions (test tracks, “shakedown” tracks, or other similar facilities). Racetracks are prohibited in all zoning districts except as a permitted special event or through an approved facility use agreement.

**Research and development facility** means an establishment that conducts research and/or development and/or creates prototypes of high-technology electronic, industrial, or scientific products. It may include laboratories conducting educational or medical research or testing. Such uses shall not produce noise, vibration, air pollution, fire hazard, or noxious emissions that will disturb or endanger neighboring properties.

**Remove or removal** means actual or effective removal through killing, damaging, or destroying of any trees which are not exempt trees.

**Renovation** means a development which includes:

- (1) Additions to existing buildings or structures totaling thirty (30) percent or more of the total gross floor area of all existing buildings or structures on the site inclusive of any additions made during the previous three (3) years; or
- (2) Improvements to existing buildings and site improvements consisting of any combination of repairs, reconstruction and alteration to a building or site the cumulative costs of which equal or exceed twenty-five (25) percent of the current assessed value of the buildings on the site and site improvements, not including the assessed value of the land, prior to improvement.

**Replacement tree** means a tree from the list of canopy trees contained in this LDC as replacement(s) for any tree(s) removed.

**Residential Structure** means a building or enclosure which includes one or more dwelling units.

**Resort rental residential** means structures containing accommodations made available to persons for temporary occupancy. Each unit of housing is a dwelling unit, whether denominated by an apartment, condominium unit, cooperative unit, time-share unit, single-family unit, or otherwise. Motels, hotels, and bed and breakfasts are excluded from this definition.

**Right-of-way** means land reserved, used or to be used for a street, alley, walkway, drainage facility or other public purpose.

**Roofline** means the highest line of the roof, the mansard, or the facade wall constituting part of the structural building wall.

**Rooftop architectural features** means any space which is uninhabitable and non-conditioned part, portion, projection, or any characteristic which contributes to the beauty or elegance of a building or structure, exclusive of signs. Example features may include, but are not limited to, cupolas, parapet walls, railings, weathervanes, or other similar minor ornamental elements.

**Runoff means** the water that results from and occurs following a rain event, or following an irrigation event, because the water is not absorbed by the soil or landscape and flows from the area.

**Salvage Yard/ Junkyard** means a facility or area for storing, keeping, selling, dismantling, shredding, compressing, or salvaging scrap or discarded material or equipment. Scrap or discarded material includes, but is not limited to, metal, paper, rags, tires, bottles, motor vehicle parts, machinery, structural steel, equipment, and appliances.

**Sanitary sewer** means a sewer which carries sewage and to which stormwaters, groundwaters and surface waters are not intentionally admitted.

- **Sanitary sewer facilities.** A sanitary sewer system includes primary and secondary systems which are necessary to provide service to any given residential and nonresidential unit. This definition will only deal with the primary system and represents an established capacity and an established capital value. The primary systems are:
  1. Effluent disposal facilities;
  2. Treatment plants;
  3. Pump stations;
  4. Force mains; and
  5. Interceptors.
- **Sewage** means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with those groundwaters and stormwaters and surface waters as may be present.

**Secretary of the Interior's Standards** for Rehabilitation and Guidelines for Rehabilitating Historic Buildings means those standards, codified in 36 CFR 67, and those guidelines developed by the Secretary of the Interior, to guide work undertaken on historic resources.

**Sedimentation** shall mean any removal and/or loss of soil by the action of water, gravity, or wind. Erosion includes both the detachment and transport of soil particles.

**Setback line** means the distance between the property line and any structure and may be measured from the front, back or side property line.

**Shade Tree means** any native self-supporting woody plant of a species that is generally well-shaped, well-branched, and well-foliated which normally grows to an overall minimum height of

thirty-five (35) feet with a minimum average mature crown spread of thirty (30) feet, and which is commonly accepted by the local horticultural and arboricultural professionals as a species which can be expected to survive for at least fifteen (15) years in a healthy and vigorous growing condition over a wide range of environmental conditions.

**Shopping center** means a group of retail stores, including strip stores, service establishments and other businesses planned to serve a community or neighborhood, which are adjacent to and utilize a common parking area. The area is usually under single ownership or unified control.

**Shoreline.** See also “Mean high water line.”

**Shrub** means a multi-stemmed plant with a spread and height characteristic of its species and with a minimum of two (2) feet when planted.

**Sign** means any device or display consisting of letters, numbers, symbols, pictures, illustrations, announcements, cutouts, insignia, trademarks or demonstrations, including all trim and borders, designed to advertise, inform or attract the attention of persons not on the premises on which the device or display is located, and visible from the public way. A sign shall be construed to be a single display surface or device containing elements organized, related, and composed to form a single unit.

- **Awning sign** means a sign that is painted on or applied to an awning or canopy. An awning is a metal and/or cloth structure projecting from a wall.
- **Banner sign** means any sign having characters, letters, or illustrations applied to cloth, paper, or fabric of any kind, with only such material as backing, which is mounted to a pole or building by one (1) or more edges. National, state, or municipal flags or the official flag of a business or institution shall not be considered a banner.
- **Barber pole sign** means any traditional cylindrical, striped revolving sign identifying barbers.
- **Bracket sign** means any sign, single- or double-faced, mounted on brackets, poles or beams, projecting at an angle from the front or side of any building and supported solely by brackets or beams attached to the building.
- **Changeable copy sign** means a static, non-electronic sign which allows characters, letters, or illustrations to be manually changed without altering the sign structure.
- **Construction sign** means any sign advertising the construction actually being done on the premises where the sign is located. The sign may also include the contractor's name, the owner's name, the architect's name and the name of the institution providing financial services.
- **Detached sign.** See “Freestanding/ground sign” and “Pole sign.”
- **Directional sign, private** means any sign located on the premises to direct the public to any parking areas, facility, or service located on the premises, or to direct traffic on the

premises. In the Historic District, this shall also include any sign that is provided for and controlled by the City on City property but paid for by the merchant or business owner and used to direct the public to a place of business.

- **Directional sign, public** means any sign permanently or temporarily erected by or with approval of the City or authorized government agency to denote the route to any city, town, village, recreational area, park, historic place, shrine or hospital; signs directing and regulating traffic; notices of any public transportation agency necessary for the direction or safety of the public; and notices or symbols as to the time and place of activities or meetings of civic organizations.
- **Easel sign** means a freestanding sign is mounted on a tripod, often single-sided, is portable and may readily be moved from place to place.
- **Exempt sign** means any sign for which a permit is not required.
- **Freestanding or ground sign** means any detached sign, including any signs supported by uprights or braces placed upon or in or supported by the ground and not attached to any building. Includes the term "monument sign."
- **Garage sale sign** means any sign pertaining to the sale of personal property in, at, or upon any residentially zoned property. Garage sales shall include but are not limited to all such sales and shall include the advertising of the holding of any such sale, whether made under any other name, such as lawn sale, backyard sale, home sale, attic sale, rummage sale, patio sale, flea market sale, marriage sale or any similar designation.
- **Ground sign** means any sign which is supported by structures in or on the ground and independent of support from any building.
- **Identification sign** means any sign which indicates the name, owner or address of a residence, office or business, but bearing no advertising.
- **Illuminated sign** means any sign having characters, letters, figures, design or outlines illuminated by electric lights or luminous tubes designed for that purpose, whether or not the lights or tubes are physically attached to the sign.
- **Incidental sign** means any generally informational sign which has a purpose secondary to the use of the site on which it is located, such as "Open", "Closed", "Welcome", "No Parking", "Entrance", "Loading Only", "Telephone", and similar information and directives. No sign with a commercial message legible from a position off the site on which the sign is located shall be considered incidental.
- **Internally lit sign** means any sign where light shines through a transparent or semi-transparent sign face to illuminate the sign's message.
- **Legacy sign** refers to any signage which has gained historic significance in its own right. The signs do not have to relate to the present occupancy or use. Legacy signage includes extant signage, portions of which may or not be visible but can be documented by

historic photographs and may also include accurately reconstructed or entirely repainted signage based upon such documentation. Legacy signage may be painted or constructed, as in a blade, pylon, or rooftop sign. Painted wall graphics, including accurately replicated/repainted wall graphics related to on or off-site content, are treated as Legacy Signage provided, they exactly duplicate an earlier sign on the subject property.

- **Off-site sign** means any sign which advertises the services or products of a business not on the premises where the sign is erected.
- **Pixelated LED sign** means any sign in which individual light-emitting diode (LED) pixels are individually visible to the naked eye.
- **Pole sign** means any sign erected on a pole which is wholly independent of any building for support. See also ground signs, freestanding signs, and monument signs.
- **Political signs** are those concerning candidacy for public office or urging action on any ballot issue in a forthcoming public election or pertaining to or advocating political views or policies.
- **Portable sign** means any sign, whether on its own trailer, wheels, chassis, or otherwise movable support, which is manifestly designed to be transported from one (1) place to another.
- **Projecting sign** means any sign which is affixed to any building, wall, or structure and which extends beyond the building, wall, and structure, building line or property line (see "bracket sign").
- **Real estate sign** means any on-premises structure showing that the premises upon which it is located is either for sale, for lease or for rent, or open for inspection.
- **Sandwich or sidewalk sign** means any sign, double- or single-faced, which is portable and may readily be moved from place to place.
- **Snipe sign** means any sign which is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, fences or other objects.
- **Street number sign** means any sign displaying a street number on a structure, wherever located.
- **Time and temperature sign** means any sign displaying time and temperature or date information in a variable manner.
- **Trailer/mobile sign** is defined under "Portable signs."
- **Wall graphic** means material painted directly on a building exterior. Wall graphics include all types of painted materials including signs, murals, artwork, commercial and non-commercial speech.

- **Wall sign.** Any sign that shall be affixed parallel to the wall or painted on the wall of any building in such a manner as to read parallel to the wall on which it is mounted, in such a way that the wall becomes the supporting structure for, or forms the background surface of the sign; provided, however, said wall sign shall not project more than 12 inches from the face of the building; shall not project above the top of the wall or beyond the end of the building.
- **Yard sale sign.** See "Garage sale sign."

**Site plan** is the development plan for one (1) or more lots or parcels on which is shown the existing and proposed conditions of the lot(s) or parcel(s) including all of the requirements set forth in this LDC.

**Small-Scale Winery or Brewery** is a licensed vendor engaged in brewing malt beverages at a single location which does not exceed 10,000 kegs (15.5 gallons) per year (pursuant to F.S. 561.221).

**Species of special concern** means any flora or fauna designated as such by the State.

**Soil erosion** shall mean any removal and/or loss of soil by the action of water, gravity, or wind. Erosion includes both the detachment and transport of soil particles.

**Street** means a public way for vehicular and pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, boulevard, lane, or place, or however otherwise designated.

- **Alley** means a roadway dedicated to public use which affords only a secondary means of access to abutting property and is not intended for general traffic circulation.
- **Arbor street** means tree-lined streets created through the process outlined herein under the Section "Requirements for street trees."
- **Arterial streets and highways** mean those which are used primarily for fast or heavy traffic.
- **Collector streets** mean those which carry traffic from minor streets to the major system of arterial streets or highways, including the principal entrance streets of residential development and streets for circulation within such a development.
- **Cul-de-sac** means a street having one (1) open end and being permanently terminated by a vehicular turnaround.
- **Local streets** mean those which are used primarily for access to abutting property.

**Structural alterations** mean any change, except for repair or replacement, in the supporting members of a building, such as bearing walls, columns, beams or girders, floor joists or roof joists.

**Structure** means anything constructed, installed or portable, the use of which requires a location on a parcel of land. It includes a movable structure while it is located on land which can be used for housing, business, commercial, agricultural or office purposes either temporarily or permanently. It also includes fences, billboards, swimming pools, poles, pipelines, transmission lines, tracks, and signs.

**Subdivision** means the division of a parcel of land into three (3) or more lots or parcels either by plat into lots and blocks or by metes and bounds description for the purpose of transfer of ownership or development or use.

**Threatened species** means any flora or fauna that is so designated in the *Florida Administrative Code*.

**Telecommunications** is the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

- **Provider** means an individual or entity, licensed to do business in the City, who offers commercial mobile services, unlicensed wireless services, common carrier wireless exchange access services, as defined in Title 47, *United States Code*, Section 332(c)(7)(C), or the holder of a valid FCC broadcast license.
- **Wireless communications facility** means facilities for the provision of a provider's services.

**Tree** means any self-supporting woody plant having at least one well-defined stem and a minimum of two and a half (2.5) in DBH, and which normally grows to a minimum height of 25 feet in an urban area.

**Tree Hazard** means any potential tree failure due to a structural defect that may result in property damage or personal injury.

**Trimming (or Pruning)** means to selectively remove branches without irreversibly altering the natural shape or form of a tree and without irreversibly damaging or destroying the tree.

**Used and occupied** include the words "arranged, designed or intended to be used," and the word "occupied" shall be deemed to include the words "arranged, designed or intended to be occupied."

**Utility building** means a building intended for storage of household equipment, tools, and other items; also called "storage building" or "shed."

**Utilities system**, as used herein, refers to the City's water distribution and wastewater collection systems, and any component parts thereof, which systems are distinguished herein as the context determines.

**Variance** means a grant of relief authorized by the Board of Adjustment or Historic District Council, by an affirmative vote of four (4) members of the HDC or the Board of Adjustment, that relaxes specific provisions of this LDC relating to land use and that will not be contrary to the public interest, when such provisions, if enforced, would result in undue hardship.



**Visibility triangle** means the area of land described as either of the following:

- (1) The triangular area of property on each side of a driveway formed by the intersection of the driveway and the public right-of-way line and the third side being a line connecting the ends of the two (2) other sides; or
- (2) The triangular area of property located at a corner formed by the intersection of two (2) or more public rights-of-way with two (2) sides of the triangular area along the abutting public right-of-way lines, measured from their point of intersection, and the third side being a line connecting the ends of the two (2) other sides.

**Warehouse** means the principal use of an entire parcel or lot for a structure used for the storage of goods and commodities prior to their use, distribution, or sale. A warehouse use specifically excludes bulk storage of materials generating potentially harmful environmental or nuisance impacts. Hazardous materials or hazardous waste shall not be stored within a special flood hazard area.

**Water-dependent Uses** - Activities which must be carried out in or adjacent to water areas because the use requires access to the water body for: waterborne transportation, recreation access, electrical generating facilities, or water supply. These include, but are not limited to, commercial marinas, boat ramps/docks, electrical generation plants, and fishing piers.

**Water-enhanced Uses** – Activities that benefit economically from being located on or near the water but are neither dependent on direct access to water nor provides goods or services directly related to water-depend uses. Water-enhanced uses are specifically excluded from definitions of both water-dependent and water-related uses.

**Water-related Uses** –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. These include, but are not limited to, commercial resorts, campgrounds, fish camps, seafood processing operations, dive shops, and bait and tackle stores.

**Wellfield protection zone** means all land within a 500-foot radius of a public potable water well.

**Wetland and wetland transition area** shall have the meaning set forth in the Fernandina Beach Comprehensive Plan.

**Wetland protection zone** means the jurisdictional wetland and the land area within twenty-five (25) feet of the wetland boundary.

**Wholesale Establishment** means an establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to others acting as wholesalers or acting as agents or brokers and buying merchandize for, or selling merchandise to, such individuals or companies.

**Wrecked or abandoned motor vehicle** means any motor vehicle the condition of which is wrecked, dismantled, partially dismantled, incapable of operation by its own power on a public street, or from which the wheels, engine, transmission or any substantial part thereof has been removed.

**Xeriscape landscaping** means a set of design and maintenance principles which promote good horticultural practice and the economic and efficient use of water. See also Florida-Friendly Landscaping.

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

- **Front yard** means a yard across the full width of the lot, extending from the front line of the building to the front line of the lot.
- **Side yard** means an open unoccupied space on the same lot with the main building, situated between the side line of the building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.
- **Rear yard** means a yard extending across the full width of the lot and measured between the rear line of the lot and rear line of the main building.