

For City Commission First Reading September 14, 2022

# Chapter 1

## GENERAL PROVISIONS

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## ARTICLE I – IN GENERAL

### 1.1.1 INTENT

It is the intent of this chapter to set forth general provisions for the land development regulations for the City of Miami Beach including the meaning of defined terms in the land development regulations and requirements for compliance, interpretation and enforcement.

## ARTICLE II – DEFINITIONS

### 1.2.1 GENERAL DEFINITIONS

**Accessory building** means a detached subordinate building or portion thereof, the use of which is incidental to and customary in connection with the main building or use and which is located on the same lot with such main building or use. Where there is no main building on the lot, an accessory building shall be considered as a main building for the purpose of the height, area, and bulk regulations.

**Accessory use** means a subordinate use which is incidental to and customary in connection with the main building or use and which is located on the same lot with such main building or use.

**Advertising or advertisement** shall mean any form of communication for marketing or used to encourage, persuade, or manipulate viewers, readers or listeners for the purpose of promoting occupancy of a residential property for the purpose of holding commercial parties, events, assemblies, gatherings, or the occupancy of a residence for less than six (6) months and one (1) day, as provided herein, upon the premises, as may be viewed through various media, including, but not limited to, newspaper, magazines, flyers, handbills television commercial, radio advertisement, outdoor advertising, direct mail, blogs, websites or text messages.

**Aggregate area or aggregate width** means the sum of two or more designated areas or widths to be measured, limited, or determined under these regulations.

**Alcoholic beverage** shall be as defined by F.S. § 561.01(4).

**Adult material** means one or more of the following, regardless of whether it is new or used:

- a. Books, magazines, periodicals or other printed matter; photographs, films, motion pictures, videocassettes, slides or other visual representations; recordings, other audio matter; and novelties or devices, including, but not limited to, clothing, food, drinks, materials for preparing food and drinks; which have as their primary or dominant theme subject matter depicting, exhibiting, illustrating, describing or relating to sexual conduct or specified anatomical areas as defined in this section; or
- b. Instruments, novelties, devices or paraphernalia which are designed for use in connection with sexual conduct as defined in this section, except for birth control devices or devices for disease prevention.

**Affordable housing** (See “Non-elderly and elderly low and moderate income housing.”)

**Alley** means a public or private thoroughfare which affords only a secondary means of access to abutting property and which is not otherwise designated as a street.

**Alternative modes of transportation** mean a method of commuting in any way other than driving in single-occupancy vehicles. Examples include biking, walking, carpooling, and taking public transportation.

**Applicant** means any person seeking to undertake any development as defined in this section.

**Archeological site** means a specific location which has yielded or is likely to yield information about local history or prehistory. Archeological sites may be found within archeological zones, historic sites, or historic districts.

**Architectural district** means that area listed on the National Register of Historic Places, as of May 14, 1979, in accordance with the National Preservation Act of 1966 as amended and in the Florida Master Site File under Number 8-DA 1048 as the city architectural district.

**Availability** or **available** mean with regard to the provision of facilities and services concurrent with the impacts of development, means that at a minimum the facilities and services will be provided in accordance with the standards set forth in F.A.C. 9J-5.055(2).

**Awning** means a detachable, roof like cover, supported from the walls of a building for protection from sun or weather.

**Balcony** means a platform, accessed from within a unit, that projects from the wall of a building and has a parapet or railing, the long side of which is open above the guardrail or parapet. The platform may service one unit or it may be a continuous platform serving more than one unit with a wall separating the platform between the units.

**Base flood elevation**, for the City of Miami Beach shall be as defined in section 54-35 in General Ordinances.

**Beachfront park and promenade plan** means a revegetation program including beach recreation structures which are primarily constructed of wood, concrete or other hard surface and located on the dune, for the purpose of permitting the passage of pedestrians along, over and across the dune in such a manner as to protect and stabilize the dune, vegetation, and beach.

**Beds** means one resident or patient, as applicable.

**Beer** means a brewed beverage containing malt.

**Block** means a segment of the city, usually but not always a square area, formed by and lying between intersecting streets or other physical boundaries, unless otherwise defined by an official plat of property in the city. Also, the length of one side of such a square.

**Blue roof** means a non-vegetated source control to detain stormwater. A blue roof slows or stores stormwater runoff by using various kinds of flow controls that regulate, block, or store water instead of vegetation.

**Breezeway** means an open, non-enclosed passage, which may or may not contain a roof, that connects two buildings (such as a house and garage) or halves of a building and is located at the ground level, or rooftop of the pedestal level, when connecting two or more buildings that share a common pedestal.

**Building** means any structure having a roof supported by columns or walls for the shelter or enclosure of persons or property and includes the word structure and includes any part thereof.

**Building card** means a document maintained by the building services department for purposes of recording building permits and other pertinent construction data and zoning related actions that affect the property which document originates at the time a parcel of land is created and is kept as a history of the property.

**Building official** means the individual appointed by the city manager to administer and enforce the South Florida Building Code in the city.

**Building permit** means a permit issued by the designated building official, his designee or authorized agency or department of the city which allows a building or structure to be erected, constructed, demolished, altered, moved, converted, extended, enlarged, or used, for any purpose, in conformity with applicable codes and ordinances.

**Building site** means any improved lot, plot, or parcel of land where there may exist a main permitted structure and any accessory/auxiliary building or structure including, but not limited to, swimming pools, tennis courts, walls, fences, or any other improvement which was heretofore constructed on property containing one or more platted lots or portions thereof shall constitute one building site.

**Bulkhead line** means an official line designated by the city commission for properties located along Biscayne Bay, Government Cut or the Atlantic Ocean, as described in chapter 14, article V of the General Ordinances.

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

**Cannabis delivery devices** means a device utilized for the consumption of prescribed medical cannabis or low-THC cannabis. Such devices can only be sold to a qualified patient that has been prescribed medical cannabis or low-THC cannabis or someone authorized by the qualified patient or the qualified patient's legal representative authorized to receive the device on the qualified patient's behalf.

**Cannabis derivative product** means any form of medical cannabis or low-THC cannabis that is suitable for routes of administration.

**Canopy** means a detachable, rooflike cover, supported from the ground, or deck, or floor of a building, and from the walls of a building, for protection from sun or weather.

**Carpools** means a motor vehicle occupied by two to six people traveling together for a commute trip that results in the reduction of a minimum of one motor vehicle commute trip. Persons under 16 years of age commuting in a carpool do not count as a carpool member because they do not eliminate a vehicle trip.

**Carpport/shelter** means a canopy or rooflike structure, open on at least two sides, which may be attached or detached from the main building, for the purpose of providing shelter for one or more motor vehicles.

**Carpport, solar** means a canopy or rooflike structure, the top surface of which is composed of solar panels, open on at least two sides, which structure may be attached to or detached from a building, for the purpose of providing shelter for one or more motor vehicles.

**Certificate of appropriateness** means a certificate issued by the historic preservation board indicating that new construction, alteration or demolition of an historic structure or an improvement within an historic district is in accordance with chapter 2, article VIII of these land development regulations.

**Certificate of compliance** means a document issued by the proper authority certifying that the plans for a proposed use meet all applicable codes, regulations and ordinances.

**Certificate to dig** means a certificate issued by the historic preservation board allowing for the excavation or fill on a site designated as archaeologically significant.

**Certificate of occupancy** means a document issued by the building official allowing the occupancy of a building and certifying that the structure has been constructed in compliance with all applicable codes, regulations and ordinances.

**Certificate of use** means a document issued by the city manager or designee allowing the use of a building and certifying that the use is in compliance with all applicable city codes, regulations and ordinances.

**Cool pavement** means a paving material that has a high albedo surface and reflects more solar energy than standard paving materials, or that has been otherwise modified to remain cooler than conventional pavements.

**Cool roof** (See "white roof.")

**Commercial gain** means operated for pecuniary gain, which shall be presumed for any establishment which has received an occupational license. For the purpose of this division, commercial or pecuniary gain shall not depend on actual profit or loss.

**Commercial vehicle** means any vehicle, including, but not limited to, trucks, trailers, semitrailers, tractors, motor homes, and vehicles for rent or lease utilized in connection with the operation of a commerce, trade, or business, or automobile rental agency as defined in section 102-356 in General Ordinances, and not utilized as a dwelling.

**Commercial vessel** means every vessel which is used or operated for profit or fee on the navigable waters of the city; that is either carrying passengers, carrying freight, towing, or for any other such use.

**Community redevelopment agency** means the redevelopment agency of the city, a public agency created pursuant to F.S. § 163.330 et seq. and section 34-31 et seq.

**Comprehensive plan** means the document adopted by the city commission in accordance with the Local Government Comprehensive Planning and Land Development Regulation Act of 1986, as amended, meeting the requirements of F.S. §§ 163.3177 and 163.3178; principles, guidelines, and standards for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the city.

**Conditional use** means a use that would not be appropriate generally or without restriction throughout a particular zoning district, but would be appropriate if controlled as to number, area, location, or relation to the neighborhood.

**Conditional use permit** means a permit issued by the planning director and recorded in the public records of the county allowing a specific conditional use that was approved for a particular property pursuant to procedures set forth in section 2.5.2.

**Consistency** or **consistent** means compatible with the principles of, and furthering the objectives, policies, land uses, and intensities of the city comprehensive plan.

**Construction vehicle** means any vehicle or motorized equipment utilized for the manufacture of a structure, and not utilized as a dwelling.

**Contributing building, structure, improvement, site, or landscape feature** means one which by location, scale, design, setting, materials, workmanship, feeling or association adds to a local historic district's sense of time and place and historical development. A building, structure, improvement, site or landscape feature may be contributing even if it has been altered if the alterations are reversible and the most significant architectural elements are intact and repairable.

**Court** means an open space which may or may not have direct street access and around which is arranged a single building or a group of related buildings.

**Courtyard, internal** means that portion of a lot whether sodded, landscaped or paved, unoccupied by any part of a structure and open to the sky, which is substantially surrounded by a single building or group of buildings on three or more sides.

**Crown of road** shall be as defined in section 54-35 in General Ordinances.

**Crown of road, future** shall be as defined in section 54-35 in General Ordinances.

**Currently available revenue sources** mean an existing source and amount of revenue presently available to the city. It does not include the city's present intent to increase the future level or amount of a revenue source which is contingent on ratification by public referendum or the present intent to increase revenue sources which may require future action by the city commission.

**Demolition** means the partial, substantial, or complete removal or destruction of any structure, building or improvement.

**Design flood elevation** means the base flood elevation plus freeboard as defined in section 54-35 of General Ordinances. As applicable to existing development where the minimum finished floor elevation is located below the freeboard, the design flood elevation means the minimum finished floor elevation.

**Design review** means the process set forth in section 2.5.3.

**Development** means the undertaking of any building or construction, including new construction, rehabilitation, renovation or redevelopment, the making of any material changes in the use or appearance of property or structures, the subdivision of land, or any other action for which development approval is necessary.

**Development agreement** means an agreement entered into by the city and the property owner with respect to a project, by which the development, use, timing, capital improvements and other elements of the project may be specified.

**Development approval** means any zoning, rezoning, conditional use, variance or subdivision approval, or any other official approval of local government required for the alteration or use of land or improvements.

**Development rights, transfer (TDR)** means the removal of the right to develop or build, expressed in floor area, from land in one zoning district to land in another zoning district where such transfer is permitted.

**Dingbat** means a building type and frontage in which the First Habitable Level (FHL) is supported entirely upon a grid of columns, otherwise known as “pilotis”.

**Dining room, accessory** means a portion of a building devoted exclusively to the serving of food and refreshment for consumption on the premises by occupants.

**Dispensing organization** means an organization approved by the state to cultivate, process, transport, and dispense low-THC cannabis or medical cannabis.

**Drive** means the area which connects a parking aisle in a parking lot or parking garage either to a street, alley or another parking aisle; or which serves as the approach to the off-street parking space(s) or parking garage for a single-family residence or townhome.

**Drive-in** means an establishment or part thereof designed or operated to serve a patron seated in an automobile parked in an off-street parking space.

**Dune** means a mound or ridge of loose usually sand-sized sediments, lying landward of the beach and extending inland to the leeward toe of the mound or ridge which intercepts the 100-year storm surge.

**Electric vehicle** means any motor vehicle registered to operate on public roadways that operates either partially or exclusively on electric energy. Electric vehicles include:

- a. Battery-powered electric vehicles;
- b. Plug-in hybrid electric vehicles;
- c. Electric motorcycles; and
- d. A fuel cell vehicle.

**Electric vehicle charging level** means the standardized indicator of electrical force, or voltage, at which the battery of an electric vehicle is recharged.

- a. Level 1 transfers 120 volts (1.4-1.9 kW) of electricity to an electric vehicle battery.
- b. Level 2 transfers 240 volts (up to 19.2 kW) of electricity to an electric vehicle battery.
- c. DC fast charging transfers a high voltage (typically 400—500 volts or 32—100 kW, depending on the electrical current) of direct current to vehicle batteries.

**Electric vehicle charging station** means battery charging equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.

**Electric vehicle parking space** means an off-street parking space that is equipped with an electric vehicle charging station.

**Erosion control line (ECL)** means the line determined in accordance with the provisions of F.S. §§ 161.041—161.211 and amendments thereto, which represents the landward extent of the claims of the state in its capacity as sovereign titleholder of the submerged bottoms and shores of the Atlantic Ocean, the Gulf of Mexico and the bays, lagoons, and other tidal reaches thereof on the date of the recording of the survey as authorized in F.S. § 161.181.

**Establishment**, as used in the definitions of formula restaurant and formula commercial establishment, means a place of business with a specific store name or specific brand. Establishment refers to the named store or brand and not to the owner or manager of the store or brand. As an example, if a clothing store company owns four brands under its ownership umbrella and each branded store has ten locations, the term "establishment" would refer only to those stores that have the same name or brand.

**Evaluation guidelines** means the standards applicable to alteration, renovation, new construction for a historic site or improvement within a historic district, which standards will be used as criteria by the historic preservation board and its staff in making decisions on applications for certificates of appropriateness.

**Exterior** means all external surfaces of any improvement.

**Eyebrow** means a masonry cantilevered element that shelters an entrance, storefront, window or portions of a wall.

**Family** means an individual or two or more persons related by blood or marriage, or a group of not more than three persons (excluding servants) who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling.

**First Habitable Level (FHL), non-residential** means the first level of a building which use involves human presence with direct view of the enfronting streets or open space above Future Crown of the Road (Short Frontage Standards pursuant to Section 7.1.2.2.e) or Future Crown of the Road plus 14 inches (Long Frontage Standards pursuant to Section 7.1.2.2.e).

**First Habitable Level (FHL), residential** means the first level of a building above Design Flood Elevation (DFE).



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**Illustrations of First Habitable Level (FHL), residential**

**State Law reference**— Local zoning regulations regarding family day care homes are defined in F.S. §§ 402.302(5), 166.0445.

**Fire prevention and safety code** means the code adopted pursuant to chapter 50 in General Ordinances.

**Fixture** means an article in the nature of personal property which has been permanently attached or affixed to a building, structure or land by means of cement, plaster, nails, bolts or screws.

**Floor area** means the sum of the gross horizontal areas of the floors of a building or buildings, measured from the exterior faces of exterior walls or from the exterior face of an architectural projection, from the centerline of walls separating two attached buildings. For the purpose of clarity, floor area includes, but is not limited to, stairwells, stairways, covered steps, elevator shafts at every floor (including mezzanine level elevator shafts), and mechanical chutes and chases at every floor (including mezzanine level).

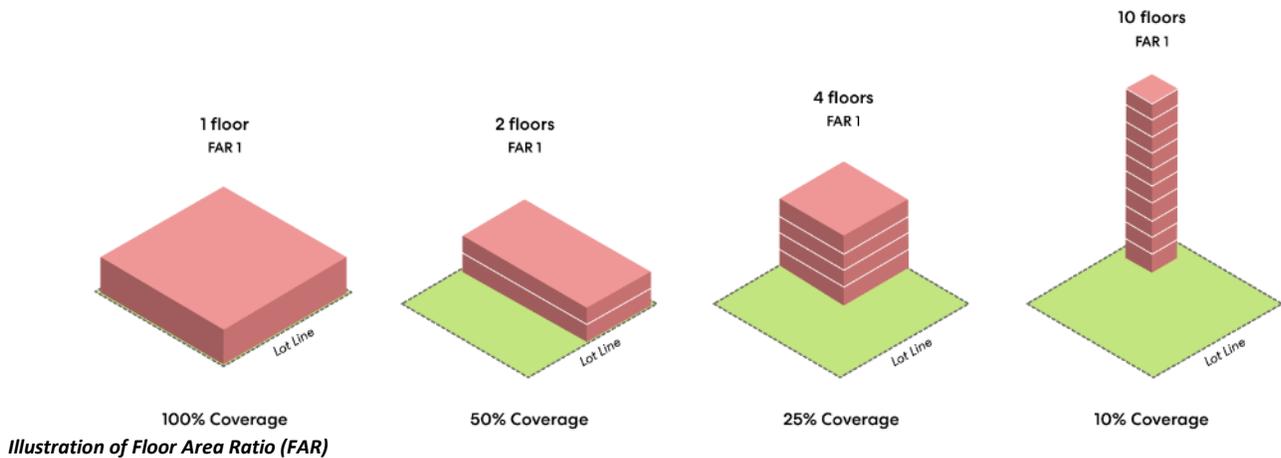
For the avoidance of doubt, unless otherwise provided for in these land development regulations, floor area excludes only the spaces expressly identified below:

- a. Accessory water tanks or cooling towers.
- b. Uncovered steps.
- c. Attic space, whether or not a floor actually has been laid, providing structural headroom of less than seven feet six inches.
- d. Terraces, breezeways, or open porches.
- e. Floor space used for required accessory off-street parking spaces. However, up to a maximum of two spaces per residential unit may be provided without being included in the calculation of the floor area ratio.
- f. Commercial parking garages and noncommercial parking garages when such structures are the main use on a site.
- g. Mechanical equipment rooms located above main roof deck.
- h. Exterior unenclosed private balconies.
- i. Floor area located below grade when the top of the slab of the ceiling is located at or below grade. However, if any portion of the top of the slab of the ceiling is above grade, the floor area that is below grade shall be included in the floor area ratio calculation. Despite the foregoing, for existing contributing structures that are located within a local historic district, national register historic district, or local historic site, when the top of the slab of an existing ceiling of a partial basement is located above grade, one-half of the floor area of the corresponding floor that is located below grade shall be included in the floor area ratio calculation.
- j. Enclosed garbage rooms, enclosed within the building on the ground floor level.
- k. Stairwells and elevators located above the main roof deck.
- l. Electrical transformer vault rooms.
- m. Fire control rooms and related equipment for life-safety purposes.
- n. Secured bicycle parking.

Volumetric buildings, used for storage, where there are no interior floors, the floor area shall be calculated as if there was a floor for every eight feet of height.

When transfer of development rights are involved, see chapter **xxxxxx** for additional regulations that address floor area.

**Floor area ratio** means the floor area of the building or buildings on any lot divided by the area of the lot.



**Freeboard** shall be as defined in section 54-35 in General Ordinances.

**Freeboard, maximum** shall be as defined in section 54-35 in General Ordinances.

**Freeboard, minimum** shall be as defined in section 54-35 in General Ordinances.

**Full building permit** means the full and complete building permit allowing construction of the entire project, and requiring submission of all plans required and approved by the design review board, the historic preservation board, the planning board or the board of adjustment. A full building permit shall not be merely a demolition, electrical, foundation, mechanical or plumbing permit or any other partial permit that does not include all plans for the entire project as submitted, required and approved by the design review board, the historic preservation board, the planning board or the board of adjustment; except that projects that have been approved for phased development by the design review board, the historic preservation board, the planning board or the board of adjustment may obtain a phased development permit instead of a full building permit.

**Garage, accessory** means an accessory building designed or used for parking for the main permitted structure.

**Grade** means the city sidewalk elevation at the centerline of the front of the property. If there is no sidewalk, the elevation of the crown of the road at the centerline of the front of the property shall be used.

**Grade, adjusted** means the midpoint elevation between grade and the minimum required flood elevation for a lot or lots.

**Grade, average existing** means the average grade elevation calculated by averaging spot elevations of the existing topography taken at ten-foot intervals along the property lines.

**Grade, future adjusted** means the midpoint elevation between the future crown of the road as defined in the city's stormwater master plan, as may be amended, and the base flood elevation plus minimum freeboard for a lot or lots.

**Green infrastructure** shall be as defined in section 54-35 in General Ordinances.

**Green roof** means a green space created by layers of growing medium and vegetation added on top of a traditional roofing system. It may also include additional layers such as a root barrier and drainage and irrigation systems.

**Gross floor area (gross square footage)** means the sum of the gross horizontal areas of the floors of a building or buildings, measured from the exterior faces of exterior walls or from the exterior face of an architectural projection, or from the centerline of walls separating two attached buildings, with no exceptions. For the purpose of clarity, gross floor area includes, but is not limited to, stairwells, stairways, covered steps, elevator shafts at every floor (including mezzanine level elevator shafts), mechanical chutes and chases at every floor (including mezzanine level), all levels used for parking and all roof and deck space. Gross floor area shall not be considered or construed as floor area.

**Heavy machinery** means machinery that emits smoke or heavy vibrations.

**Height of building** means the vertical distance from the design flood elevation to the highest point of a roof, as defined below:

The highest point of a roof is as follows:

- a. The highest point of a flat roof;
- b. The deck line of a mansard roof;
- c. The average height between eaves and ridge for gable hip and gambrel roofs; or
- d. The average height between high and low points for a shed roof.

For new, nonresidential development, the height of the ground floor shall comply with the minimum height of nonresidential ground floors, as defined in this section.

**High albedo surface** means a material that has a solar reflectance value of 0.65 or greater on the Solar Reflectance Index ("SRI"), consistent with the Cool Roof Rating Council Standard Product Rating Program Manual ("CRRC-1"), as may be amended from time-to-time.

**Historic building, improvement or structure** means a building, improvement or structure which has been designated as historic pursuant to the procedures in Section 2.13.9 or which is designated as historic in the historic properties database. The public portions of interiors of historic buildings and significant landscape features may also be considered historic if they have been so designated pursuant to Section 2.13.9 or in the historic properties database.

**Historic district** means a geographically definable area which has been designated as an historic district pursuant to Section 2.13.9.

**Historic district suites hotel** means any structure within a local historic district, national register district or any designated historic site, which existed as an apartment building as of March 13, 1999, and is subsequently rehabilitated to operate as a suites hotel pursuant to Section 7.5.4.5 in a district where suite hotels are a main permitted use.

**Historic landscape feature** means vegetation, geological feature, ground elevation, body of water or other natural or environmental feature which has been designated as a historic landscape feature pursuant to Section 2.13.9.

**Historic preservation** and **urban design director** means that individual appointed by the city manager who is the deputy director of the development, design and historic preservation department.

**Historic properties database (database)** means a list maintained by the city containing the names, addresses and relevant historic data regarding the following:

- a. Buildings, structures, improvements, sites, interiors and landscape features designated pursuant to Section 2.13.9 as historic buildings, structures, improvements, sites, interiors and landscape features.
- b. Buildings located in a historic district. Properties located in a historic district shall be classified in the database as historic, contributing or noncontributing. Entries for historic and contributing buildings may include architecturally significant features of the public portions of interiors of the buildings.
- c. Historically significant properties. The database may be updated, amended and revised by the historic preservation board.

**Historic site** means a site which has been designated an historic site pursuant to Section 2.13.9 or which is designated as a historic site in the historic properties database.

**Historically significant property** means a building, structure, improvement or site which has not been designated historic pursuant to Section 2.13.9 and is not located in a historic district, but meets the requirements for historic designation as set forth in Section 2.13.9.b.

**Hospital-based physician** means a physician who is affiliated with a hospital:

- a. As an anesthesiologist, radiologist, pathologist, or emergency room doctor; or
- b. As a full time hospital employee; or
- c. On a full time basis pursuant to a contract.

**Hospital staff** means physicians and other medical staff affiliated with, and having staff privileges at a hospital who are not hospital-based physicians.

**Improvement** means any building, structure, fence, gate, wall, walkway, parking facility, light fixture, bench, fountain, sign, work of art, earthworks or other manmade object constituting a physical betterment of real property.

**Individual** means any person, corporation, firm, partnership, limited partnership, association, joint stock association, estate, trust, or business entity.

**Institution** means a use, building or organization of a public character or providing a public or semipublic service.

**Interior side yard open space** means that open space portion of a lot whether sodded, landscaped or paved, unoccupied by any part of a structure and open to the sky, which is surrounded by a single building or group of buildings on three sides by walls, and extending towards an interior or side facing street yard.

**Land development regulations** means ordinances enacted by the city commission of the city for the regulation of any aspect of development, which includes these land development regulations and any other regulations governing subdivision, building construction, or any other regulations controlling the development of land.

**Landscape feature** means all vegetation, geological features, ground elevation, bodies of water, or other natural or manmade environmental feature.

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

**Liquor** means all distilled or rectified spirits, brandy, whiskey, rum, gin, cordials or similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing.

**Loading space** means space logically and conveniently located for bulk pick-ups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled.

**Long-term bicycle parking** means facilities that provide a high level of security such as bicycle lockers, bicycle cages and bicycle stations. These facilities serve people who frequently leave their bicycles at the same location for the day or overnight with access limited to individuals. These facilities shall be in a highly secure location, sheltered from weather, and should be located within 100 feet of the main entrance. Design of these facilities shall be consistent with the long-term bicycle parking standards of the Miami Beach Street Design Guidelines.

**Lot** means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, minimum width, and area, and to provide such yards and other open spaces as are required in these land development regulations. Such lot shall have frontage on a public street, and may consist of:

- a. A single lot of record;
- b. A portion of a lot of record;
- c. A combination of complete lots of record, and portions of lots of record; or of portions of lots of record;
- d. A parcel of land described by metes and bounds.

"Lot" includes the word "plot" or "parcel" or "tract" or "site."

**Lot area** means the total horizontal area within the lot lines of the lot.

**Lot, corner** means a lot abutting upon two or more streets at their intersection.

**Lot coverage** means the percentage of the lot covered by the ground floor of all principal and accessory buildings, plus all areas covered by the roofs of such buildings including, but not limited to, covered porches, covered terraces, and roof overhangs.

**Lot depth** means the mean horizontal distance between the front and rear lot lines.

**Lot front** means the front of a lot shall be construed to be the portion nearest the street. For corner lots, the lot front shall be the narrowest portion abutting the street unless determined otherwise by the city.

**Lot frontage** means the distance for which the front lot line and the street line are coincident.

**Lot, interior** means a lot, other than a corner lot.

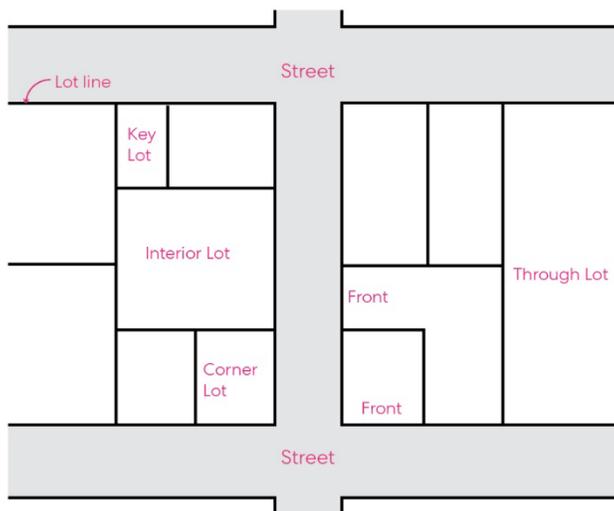
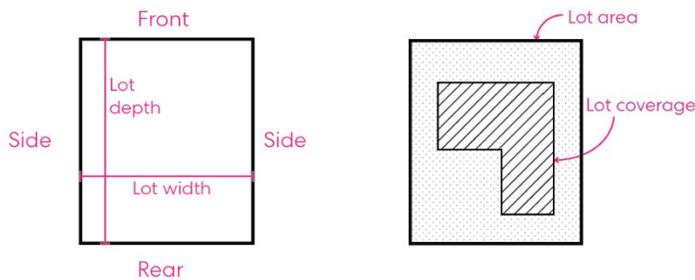
**Lot, key** means an interior lot having its side lot lines coincident on one or both sides with the rear lot lines of adjacent lots.

**Lot line** means the boundary line of a lot.

**Lot, oceanfront** means any lot having the erosion control line (ECL) as a property line. Floor area computations shall include all of lot area measured to the erosion control line.

**Lot of record** means a lot which is part of a subdivision, the map of which has been recorded in the public records of the county, or a lot described by metes and bounds, the description of which has been recorded in the public records of the county. (See "Site.")

**Lot, through (double frontage)** means any lot having frontages on two parallel or approximately parallel streets.

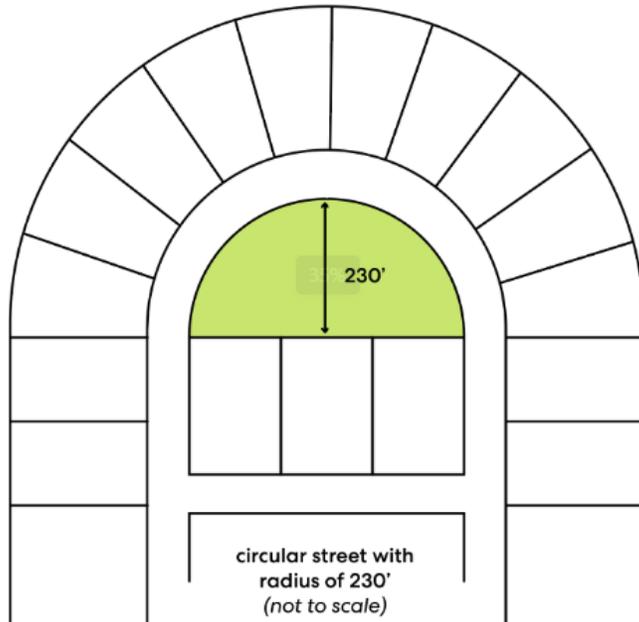


*Illustrations of lot definitions*

**Lot width** means the level distance between the side lot lines measured at the required front yard setback line and parallel to the front street line.

However, in single-family districts, the lot width shall be the average of the front and rear lot widths if a lot meets the following criteria means:

- a. Side lot lines are not parallel.
- b. The front lot line is at least 30 feet wide.
- c. The lot fronts on a turning circle of a cul-de-sac or a circular street with a radius of less than 230 feet.



*Illustration of cul-de-sac*

**Low-tetrahydrocannabinol cannabis** or **low-THC cannabis** means a plant of the genus cannabis, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than ten percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, cannabis derivative product, mixture, or preparation of such plant or its seed or resin that is dispensed only from a dispensing organization approved by the Florida Department of Health pursuant to F.S. § 381.986.

**Mandatory requirements** mean requirements or provisions of these land development regulations not subject to relaxation or waiver by the variance process.

**May** means permissive, not required.

**Mechanical parking** means mechanical parking lifts, robotic parking systems, and/or vehicle elevators.

**Mechanical parking lift** means an automated mechanism that lifts vehicles to make space available to park other vehicles below it in a vertical tandem fashion.

**Medical cannabis** or **medical marijuana** means all parts of any plant of the genus cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, sale,

cannabis derivative product, mixture, or preparation of the plant or its seeds or resin that is dispensed only from a dispensing organization for medical use by an eligible patient.

**Medical use of cannabis** means administration of the ordered amount of low-THC cannabis or medical cannabis. The term does not include the:

- a. Possession, use, or administration of low-THC cannabis or medical cannabis by or for smoking; or
- b. Transfer of low-THC cannabis or medical cannabis to a person other than the qualified patient for whom it was ordered or the qualified patient's legal representative authorized to receive it on the qualified patient's behalf;
- c. Use or administration of low-THC cannabis or medical cannabis:
- d. On any form of public transportation.
- e. In any public place.
- f. In a qualified patient's place of employment, if restricted by their employer.
- g. In a correctional institution.
- h. On the grounds of any child care facility, preschool, or school.
- i. On or in any vehicle, aircraft, or motorboat.

**Mezzanine** means an intermediate floor in any story or room. When the total floor area of any such mezzanine floor exceeds one-third the total floor area in that room or story in which the mezzanine occurs, it shall be considered as constituting an additional story. The clear height above or below the mezzanine floor construction shall be not less than seven feet.

**Miami Beach Property Maintenance Standards** refers to section 58-176 in General Ordinances et seq. and section 58-336 in General Ordinances et seq.

**Micro unit** means a hotel unit smaller than the minimum unit size in Section 7.1.5.2.

**Minimum finished floor elevation** means the lowest enclosed floor above grade and shall not include areas for building access, provided such areas do not exceed a depth of 20 feet from the exterior building face. Interior stairs, ramps and elevators used to transition from grade to the minimum finished floor elevation may be located beyond the 20 feet depth from the exterior building face. However, areas for building access may exceed a depth of 20 feet from the exterior building face if approved by the design review board or historic preservation board, as applicable.

**Minimum height of nonresidential ground floor** means the minimum elevation of the underside of the ceiling of the ground floor of a nonresidential use, which shall be located a minimum of 14 feet above the design flood elevation.

**Must** means a mandatory and not merely directory action or requirement. The term is interchangeable with the word "shall."

**Neighborhood plan** means the neighborhood plan adopted by the city commission which establishes design guidelines, planning concepts and zoning recommendations for a geographical area.

**Nonconforming building or structure** means a building or structure or portion thereof which was designed, erected or structurally altered prior to the effective date of these land development regulations in such a manner that characteristics of the building or structure, other than its use, do not comply with the restrictions of these land development regulations.

**Nonconforming use** means a use which exists lawfully prior to the effective date of these land development regulations and is maintained at the time of and after the effective date of these land development regulations, although it does not conform to the use restrictions of these land development regulations.

**Noncontributing building, structure, improvement, or landscape feature** means a building, structure, improvement, site or landscape feature located in a designated historic district which does not add to the district's

sense of time and place and historical development; or one where the location, design, setting, materials, workmanship, feeling and association have been so altered or have so deteriorated that the overall integrity of the building has been irretrievably lost.

**Occupational license** means the required license to conduct business within the city pursuant to chapter 18 in General Ordinances.

**Ornamental features** means non-structural decorative features including but not limited to light fixtures and water features.

**Overlay district** means a set of regulations which are superimposed upon and supplement, but do not replace, the underlying zoning district and regulations otherwise applicable to the designated areas.

**Parking aisle** means the area to the rear of off-street parking spaces utilized for maneuvering of motor vehicles in a parking lot or parking garage.

**Parking garage** means a substantially enclosed structure used for the parking of motor vehicles.

**Parking lot** means an at-grade, level area used for the parking of motor vehicles.

**Parking lot, commercial** shall be defined in section 1.2.2.

**Parking lot, provisional** means a parking lot designed and authorized to be used for a period of time shorter than that permitted for a temporary parking lot. (See section 5.3.11.)

**Parking lot, temporary** means a parking lot designed to be used for a temporary period of time. (See section 130-68.)

**Parking space, off-street** means an area, not in a street or alley, that is maintained for the parking of one motor vehicle.

**Parking space, tandem** means an area, not in a street or alley, maintained for the stacked parking of two motor vehicles.

**Pawn** means either of the following transactions:

- a. Loan of money. A written or oral bailment of personal property as security for an engagement or debt, redeemable on certain terms and with the implied power of sale on default.
- b. Buy-sell agreement. Any agreement whereby a purchaser agrees to hold property for a specified period of time to allow the seller the exclusive right to repurchase the property. A buy-sell agreement is not a loan of money.

**Pedestal** means that portion of a building or structure which is equal to or less than 50 feet in height above design flood elevation (DFE), except as defined differently in district regulations.

**Performance standard use** means any development in the PS performance standard district for which a building permit or development approval is required, and, which use is permissible as of right or by conditional use in the PS district.

**Personal service** means any services in addition to housing and food service, which include, but are not limited to, personal assistance with bathing, dressing, ambulation, housekeeping, supervision, emotional security, eating, supervision of self-administered medications, and assistance with securing health care from appropriate sources. This definition shall only be applicable to assisted living facilities as defined in Section 1.2.2.9.

**Planned residential development** means a residential development of ten acres or more which has a cohesive site development plan encompassing more than one building, and meeting the requirements of Section 2.2.3.3.

**Planning director** means the individual appointed by the city manager who is the director of the planning department or their designee.

**Porch** means a covered, open and unenclosed area at the entrance to a building.

**Porous pavement** means a pavement material that allows for water to drain through the pavement surface into the ground. Such pavement shall have a minimum of 20 percent of air content, or voids to allow for the water to drain.

**Porte-cochere** means an attached or detached rooflike structure extending from the entrance of a building over an adjacent driveway.

**Premises** means a lot, together with all buildings and structures thereon.

**Promenade linkage** means a structure which functions as a stairway or ramp connecting the upland property to the beachfront park and promenade. Such structure shall conform to the design specifications for the beachfront park and promenade and shall be located at points established by the planning, design and historic preservation division. All such structures shall conform to the requirements of the State of Florida Department of Natural Resources, Division of Beaches.

**Property owner** means the person or persons having a legal or equitable interest in real property, including property that is the subject of a development agreement, and includes the property owner's successor in interest.

**Public facilities and services** means facilities relating to comprehensive plan elements required by F.S. § 163.3177 and for which level of service standards must be adopted under F.A.C. ch. 9J-5. The public facilities and services means roads, sanitary sewer, solid waste, drainage, potable water, recreation, and mass transit.

**Redevelopment area** means that portion of the city designated by the city commission pursuant to F.S. § 163.330 et seq., and amendments thereto.

**Redevelopment plan** means the South Shore Revitalization Strategy prepared pursuant to F.S. § 163.330 et seq. adopted by the city commission on February 15, 1984, and constituting the redevelopment plan for the redevelopment area as well as the redevelopment element of the city comprehensive plan.

**Renewable energy system** means a method of producing electricity derived from resources that are regenerative or for all practical purposes cannot be depleted, including wind, tidal, geothermal; and solar energy and as opposed to fossil fuels.

**Replacement value** means a figure determined by the county tax assessor which is the cost of replacing all or a portion of a building based on new construction.

**Residence** means a dwelling unit utilized for at least six months and a day.

**Residential** means the term "residential" or "residence" is applied herein to any lot, plot, parcel, tract, area or piece of land or any building used exclusively for family dwelling purposes or intended to be used, including concomitant uses specified herein.

**Retail tobacco products dealer permit** means a permit issued by the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation, or successor agency, pursuant to F.S. § 569.003, as amended, that authorizes the sale of tobacco products.

**Robotic parking system** means a mechanical garage using elevator systems to hoist individual vehicles from receiving areas to separate auto storage areas.

**Roof deck** means a structural platform located above the finished main roof line of a building, designed for outdoor occupation.

**Roof overhang** means the portion of a roof which extends from the perimeter wall of a building.

**Roof top farm** means a garden on the roof of a building including roof plantings that may provide food, temperature control, hydrological benefits, architectural enhancement, recreational opportunities, and large-scale ecological benefits.

**Safety barriers** means a screened-in patio, a wooden or wire fence, a stone or concrete block wall, crime prevention fence or other materials constructed or used to separate persons from potential hazards on the premises.

**Scooter, moped and motorcycle parking** means either individual parking spaces or groupings of parking spaces for the exclusive use of scooter, mopeds, or motorcycles. Parking spaces with such designation shall have either poster signs, curb markings, or pavement markings promulgating scooter, moped and motorcycle parking only.

**Sexual conduct** means any sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, any sexual act which is prohibited by law, erotic touching, caressing or fondling of the breasts, buttocks or any portion thereof, anus or genitals or the simulation thereof.

**Shall** means a mandatory and not merely directory action or requirement. The term is used interchangeable with the word “must.”

**Shared parking** means parking space that can be used to serve two or more individual uses without conflict or encroachment.

**Short-term bicycle parking** means facilities, including bicycle racks, to serve people who leave their bicycles for relatively short periods of time, typically for shopping, recreation, eating or errands. Bicycle racks should be located in a highly visible location within 50 feet on the same level of the main entrance to the use. Design of these facilities shall be consistent with the bicycle parking installation standards of the Miami Beach Street Design Guidelines.

**Site** means a parcel of land considered as a unit, capable of being occupied by a use permitted in this subpart, possessing a continuous or unbroken boundary not divided by a public street, alley, right-of-way, private street, or waterway.

**Site plan** means a drawing illustrating a proposed development and prepared in accordance with the specifications and requirements as set forth in Section 2.1.2, Section 2.1.3, Section 2.5.2 and Section 2.5.3.

**Site plan approval** means final approval by the properly designated city agency, department or official pursuant to the procedure set forth in Section 2.1.2, Section 2.1.3, Section 2.5.2 and Section 2.5.3.

**Smoking** means inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, including cigarettes, cigars, pipe tobacco, and any other lighted tobacco product.

**Smoking devices** means any of the following devices:

- a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic smoking pipes, with or without screens, permanent screens, or punctured metal bowls.
- b. Water pipes;
- c. Carburetion tubes and devices;
- d. Chamber pipes;
- e. Carburetor pipes;
- f. Electric pipes;
- g. Air-driven pipes;
- h. Chillums;
- i. Bongs; or
- j. Ice pipes or chillers.

**South Florida Building Code** means the South Florida Building Code adopted pursuant to section 14-31.

**Souvenirs** means items, exclusive of books, magazines or maps, which serve as a token of remembrance of Miami Beach or any geographic areas in Florida and which bear the name of the City or geographic areas or streets thereof or of events associated with Miami Beach or South Florida.

**Specified anatomical areas** shall mean either of the following:

- a. Less than completely opaquely covered human genitals, pubic region, anal cleft, cleft of the buttocks, and all or any part of the areola of the female breast; and
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

The word “used” as utilized in the definitions of “adult booth” and “adult motion picture theater” in this section shall describe a continuing course of conduct of exhibiting sexual conduct or specified anatomical areas as defined in this section.

**Story** means that portion of a building included between the surface of any floor and the surface of the floor next above it; or if there be no floor next above it, then the space between such floor and the ceiling next above it. A basement shall be counted as a story if its ceiling is equal to or greater than four feet above grade.

**Street** means a public or private thoroughfare which affords a means of access to abutting property.

**Street line** means the right-of-way line of a street.

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

**Structure** means anything constructed or erected, the use of which requires permanent location on the ground. Among other things, structures include buildings or any parts thereof, walls, fences, parking garages, parking lots, signs and screen enclosures.

**Substantial rehabilitation** means rehabilitation, the cost of which exceeds 50 percent of the replacement value of the building, structure or improvement, as determined by the county property appraiser’s office, and resulting in a structure which meets all applicable requirements of the city property maintenance standards, the South Florida Building Code, and the fire prevention and safety code.

**Subterranean** means that portion of a building or structure which is equal to or less than Grade. Where a subterranean area abuts a side lot line, open and unencumbered access shall be provided from the front yard area to the roof or deck of such area by means of a ramp or stairs.

**Surface stormwater shallow conveyance** shall be as defined in section 54-35 in General Ordinances.

**Sustainable roof fee** means a fee that is charged for the use of non-sustainable roofing systems. The funds collected shall be deposited in the “sustainability and resiliency fund,” established pursuant to Section 7.1.3.2.b.3.

**Sustainable roofing system** means a solar roof, blue roof, white roof, cool roof, green roof, metal roof, or any other roofing system recognized by a green building certification agency that reduces heat island effect, allows for the reuse or retention of stormwater or reduces greenhouse gases.

**Swimming pool, commercial** means any conventional pool, spa type pool, wading pool, or special purpose pool, constructed and operated pursuant to the standards and regulations of the state department of health and serving any type of structure or group of structures of four or more dwelling units.

**Terrace** means a platform that extends outdoors from a floor of a house or residential unit serving as an outdoor living space, and which may or may not be covered.

**Tobacco products** means loose tobacco leaves, and products made from tobacco leaves, in whole or in part, and cigarette wrappers, which can be used for smoking, sniffing, or chewing.

**Tower** means that portion of a building or structure which exceeds 50 feet in height above design flood elevation (DFE), except as defined differently in district regulations.

**T-shirt** means any garment or article of clothing which has no collar, including, but not limited to, T-shirts, sweat shirts, tank tops, shirts or scrub shirts, which are designed or intended generally to be worn on or over the chest and containing any communicative verbiage, graphics, or images imprinted or to be imprinted on the garment or article of clothing, exclusive of a garment manufacturer's mark or logo, exclusive of decorative words and information woven or dyed in the fabric by the manufacturer of the fabric, exclusive of hand stitched, needle work or embroidery, exclusive of tie-dye garments, and exclusive of hand-painted or air-brushed garments that contain no communicative verbiage, graphics or images.

**Transportation for compensation vehicle** means a vehicle used to transport a person or persons for compensation. These include for-hire vehicles, taxis, transportation network company vehicles, jitneys, limousines, buses, or other form of public transportation.

**Understory** means the non-air-conditioned space(s) located below the first elevated habitable floor. Notwithstanding the foregoing, access to the First Habitable Level (FHL) may be air-conditioned.



**Illustration of Understory**

**Use** means any purpose for which buildings or other structures or land may be arranged, designed, intended, maintained, or occupied; or any occupation, business, activity, or operation carried on or intended to be carried on in a building or other structure or on land.

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

**Value determination** means the method set forth in the South Florida Building Code for determining the estimated cost of new construction or substantial rehabilitation.

**Vanpool** means a motor vehicle occupied by seven to 15 people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle trip. Vanpools may have a destination other than an employee's worksite and may have employees from other agencies.

**Vapor** means aerosolized or vaporized nicotine, or other aerosolized or vaporized substance produced by a vapor generating electronic device or exhaled by the person using such a device.

**Vapor-generating electronic device** means any product that employs an electronic, a chemical, or a mechanical means capable of producing vapor or aerosol from a nicotine or tetrahydrocannabinol (THC) product, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product, any replacement cartridge for such device, and any other container of a solution or other substance intended to be used with or within an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product.

**Variance** means a relaxation of certain regulations contained in these land development regulations as specified in Chapter 2, Article VIII in Land Development Regulations.

**Vehicle elevator** means an elevator used for motor vehicles in lieu of ramps within a parking structure.

**Vendor** means an individual who sells or offers for sale a product.

**Venetian Causeway Historic Site Designation Report** means the document prepared by the city planning, design and historic preservation division, adopted by the city commission on April 15, 1989, containing the review guidelines for the Venetian Causeway Historic Preservation site.

**White roof** means a roof that has been painted white or is surfaced with some other light or reflective material.

**Wine** means all beverages made from fresh fruits, berries or grapes, either by natural fermentation or by natural fermentation with brandy added, in a manner required by the laws and regulations of the United States, and includes all sparkling wines, champagnes, combinations of the aforesaid beverages, vermouths and the like products.

**Waterway** means any body of water, including any creek, canal, river, lake, bay, or ocean, natural or artificial except a swimming pool or ornamental pool located on a single lot.

**Yard** means an open area, other than a court, which is on the same lot as a building and which is unoccupied and unobstructed from the ground upward, except as otherwise provided in these regulations. The words "required yards" or "minimum required yards" and "minimum yards" includes the word "setback."

**Yard, front** means a yard extending the full width of the lot between the main building and the front lot line.

**Yard, rear** means a yard extending the full width of the lot between the main building and the rear lot line.

**Yard, required** means the minimum distance allowed between a lot line and a building or structure excluding allowable encroachments.

**Yard, side** means a yard between the building and the adjacent side of the lot, and extending from the front yard to the rear yard thereof.

**Zoning district map** means the city zoning district map as amended, dated and signed by the mayor and city clerk of the city, upon adoption.

**Zoning ordinance** means the city zoning ordinance printed in subpart B of this Code.

## 1.2.2 USE DEFINITIONS

### 1.2.2.1 Residential

**Apartment building** means a building with or without resident supervision occupied or intended to be occupied by more than two families living separately with separate cooking facilities in each unit.

**Apartment hotel** means a building containing a combination of suite hotel unit, apartment units and hotel units, under resident supervision, and having an inner lobby through which all tenants must pass to gain access. An apartment hotel must contain at least one unit apartment.

**Apartment unit** means a room, or group of rooms, occupied or intended to be occupied as separate living quarters by one family and containing independent cooking and sleeping facilities. (Term includes condominium.)

**Co-living** shall mean a small multi-family residential dwelling unit that includes sanitary facilities and provides access to kitchen facilities; however, such facilities may be shared by multiple units. Additionally, co-living buildings shall contain amenities that are shared by all users.

**Dwelling** means a building or portion thereof, designed or used exclusively for residential occupancy, but not including trailers, mobile homes, hotels, boardinghouses and lodging houses, tourist courts, or tourist homes.

**Dwelling, multiple-family** means a building designed for or occupied by three or more families.

**Dwelling, single-family** means a building designed for or occupied exclusively by one family.

**Dwelling, single-family detached** means a dwelling designed for or occupied, exclusively by one family surrounded by yards or other landscape areas on the same lot.

**Dwelling unit, accessory (ADU)** means an independent living quarter that is accessory to a single-family detached dwelling. The ADU can be in an accessory building or attached to the single-family detached dwelling.

**Dwelling unit, portable** means any vehicle designed for use as a conveyance upon the public streets and highways and for dwelling or sleeping purposes.

**Live-work** shall mean residential dwelling unit that contains a commercial or office component which is limited to a maximum of 70 percent of the dwelling unit area.

**Non-elderly and elderly low and moderate income housing** shall be defined in chapter 58, article V in General Ordinances.

**Rooming house** means a building other than an apartment, apartment hotel, hotel, where, for compensation and by pre-arrangement for definite periods, lodging, meals, or lodging and meals are provided for three or more persons but not for more than 20 persons.

**Townhome or townhome development** means a grouping of single-family attached or detached units on one site arranged so that no unit is above another with each unit having separate ingress and egress.

**Workforce housing** shall be defined in chapter 58, article VI in General Ordinances.

### 1.2.2.2 Lodging

**Bed and breakfast inn** means a historic structure originally built as a single-family residence which is owner occupied and operated to provide guest rooms with breakfast and/or dinner included as part of the room rate.

**Dormitory** means an accessory use located in a building which provides sleeping accommodations for students enrolled in a religious, educational, or business program who occupy rooms on a contractual basis generally for a period of time corresponding to the length of the program.

**Hostel** means a building occupied or intended to be occupied by transient residents, where ingress or egress may or may not be through a common lobby of office that is supervised by a person in charge at all times. A hostel provides communal or dormitory-style accommodations where transient residents can rent a bed, usually a bunk bed (as opposed to renting an entire unit, as in a hotel or suite hotel), and share a bathroom, lounge, and sometimes a kitchen. Rooms can be mixed or single-sex, although private rooms may also be available.

**Hotel** means a building occupied or intended to be occupied by transient residents, with all residents occupying hotel units and where ingress or egress may or may not be through a common lobby or office that is supervised by a person in charge at all times.

**Hotel, convention** means a newly constructed or substantially rehabilitated hotel located within 2,500 feet of the city convention center.

**Hotel unit** means a room, or group of rooms, each unit containing a separate bathroom facility, with ingress or egress which may or may not be through a common lobby, intended for rental to transients on a day-to-day, week-to-week, or month-to-month basis, not intended for use or used as a permanent dwelling and without cooking facilities.

**Major cultural dormitory facility** means a building which is occupied by members, and their authorized guests, of a sponsoring major cultural institution with all residents occupying major cultural dormitory facility units and where ingress or egress may be through a common lobby or office that is supervised at all times for security purposes.

**Major cultural dormitory facility unit** means a room, or group of rooms with one main entrance with ingress or egress through a common lobby or office, occupied or intended to be occupied by members, and their authorized guests, of a sponsoring major cultural facility; not leased or subleased to the general public and without cooking facilities.

**Suite hotel unit** and **suite hotel** means a room, or group of rooms, each containing separate bathroom and full cooking facilities, with ingress and egress which may or may not be through a common lobby, intended for rental to transients on a day-to-day, week-to-week, or month-to-month basis, not intended for use or used as a permanent dwelling.

### 1.2.2.3 Office

**Chiropractor's office** (See "medical office.")

**Dentist's office** (See "medical office.")

**Dietician** (See "medical office.")

**Doctor's office** (See "medical office.")

**Home based business office** means an accessory business office in a single family residence or apartment unit which is incidental to the primary residential use and which satisfies the criteria prescribed in Section 7.5.5.6.

**Homeopathic physician's office** (See "medical office.")

**Medical office** means a small-scale office providing medical or dental treatment. This includes chiropractor's office, dentist's office, dietician, doctor's office, homeopathic physician's office, pathologist, physiotherapist's office, phlebotomist's office, podiatrist's office, optometrist's office, optician's office, ophthalmologist's office, psychiatrist's office. A small-scale office shall mean a maximum floor area of 5,000 square feet. This shall not include Class III to X medical sub-uses.

**Office use** means a use for conducting business, profession, service, or government. This may include but is not limited to, offices of attorneys, engineers and architects. Office use does not include retail sales or manufacturing activities.

**Optician** means a professional that provides eye exams for the purposes of the retail sale of glasses or contact lenses. (See "medical office.")

**Optometrist's office** (See "medical office.")

### 1.2.2.4 Commercial

**Adult bookstore** means an establishment which sells, offers for sale or rents adult material for commercial gain. This definition includes establishments selling or renting adult videos when applicable under the above-stated conditions.

**Adult motion picture theater** means an enclosed building used for presenting for observation by patrons motion pictures, films, or video media, distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual conduct or specified anatomical areas as defined in this section.

**After-hours dance hall** means a commercial establishment where dancing by patrons is allowed, including, but not limited to, restaurants and entertainment establishments, which by its nature as an establishment not licensed or operating as an alcoholic beverage establishment, is not subject to the regulations on hours of sale for alcoholic beverage establishments contained in section 6-3 of General Ordinances.

**Alcoholic beverage establishment** means any commercial establishment located in the city which allows for alcoholic beverages (liquor, beer or wine) to be consumed by patrons on the premises.

**Animal hospital** shall mean the same as veterinarian.

**Artisanal retail for on-site sales only** shall mean a retail establishment where consumer-oriented goods, services, or foodstuffs are produced; including, but not limited to, works of art, clothing, personal care items, dry-cleaning, walk-in repairs, and alcoholic beverages production, for sale to a consumer for their personal use or for consumption on the premises only. Such facilities use moderate amounts of partially processed materials and generate minimal noise and pollution.

**Artisanal retail with off-site sales** shall mean a retail establishment where consumer-oriented goods, services, or foodstuffs are produced; including, but not limited to, works of art, clothing, personal care items, dry-cleaning, walk-in repairs, and alcoholic beverages production, for sale to a consumer for their personal use or for consumption on the premises and concurrently for sale to vendors and retailers off the premises. Such facilities use moderate amounts of partially processed materials and generate minimal noise and pollution.

**Ballroom** means a large room inside a building, the primary purpose of which is holding large formal events. This includes but is not limited to accessory banquet facilities and meeting rooms.

**Bar** means an alcoholic beverage establishment which is not also licensed as a restaurant, dance hall or entertainment establishment.

**Bar counter, accessory outdoor** means an accessory freestanding or substantially unenclosed counter, fixture or similar device, either stationary or mobile, including any such counter, fixture or similar device located within ten (10') of operable doors or windows, at or behind which alcoholic beverages may be prepared and served.

**Cabana** means an accessory structure used as a bathhouse or a shelter directly associated with a swimming pool or deck.

**Café, beachfront** means a permanent structure located on the beach in the dune overlay district where food and beverages are served.

**Café, outdoor** means a use characterized by outdoor table service of food and beverages prepared for service in an adjacent or attached main structure for consumption on the premises. This definition does not include an accessory outdoor bar counter, which is considered to be a separate accessory use to an outdoor cafe or a hotel pool deck, as described in Section 7.5.4.9.

**Café, sidewalk** shall be defined in chapter 82 of General Ordinances.

**Cigar/hookah bar** means an alcoholic beverage establishment which is combined with a retail tobacco products dealer, and where smoking of the tobacco products sold at the establishment is permitted on the premises. Such an establishment must comply with all of the requirements for an alcoholic beverage establishment.

**Check cashing store** means a business which cashes checks on a regular basis for a fee. This definition does not include banks, which may cash checks in addition to providing other financial services such as, but not limited to, money savings accounts, loan services and checking accounts.

**Club, private** means building and facilities or premises used or operated by an organization or association for some common purpose, such as, but not limited to, a fraternal, social, educational or recreational purpose, but not including, clubs organized primarily for profit or to render a service which is customarily carried on as a business and are incorporated under the Laws of Florida as a nonprofit corporation and their purpose shall not be the serving of alcoholic beverages.

**Convenience store** means a retail store with direct access from the street or sidewalk, containing a publicly accessible sales area that comprises at least 70% of the floor area of the store, and= that is designed and stocked to sell a mixture of goods such as non-prescription medications, beverages, magazines, food (packaged and/or prepared), school/office supplies, cosmetics, and other household supplies. A store that markets itself as a "pharmacy store" or "pharmacy" in addition to selling the goods described above, but that does not provide pharmacy services, including the dispensing of medicinal drugs by a pharmacist, shall be considered a convenience store and not a pharmacy or pharmacy store.

**Commercial establishment** means an establishment operated for profit, whether or not a profit is actually made.

**Commercial uses** mean any activity where there is an exchange of goods or services for monetary gain. Such activities include, but are not limited to, retail sales, offices, eating and drinking establishments, theaters and similar uses.

**Dance hall** means a commercial establishment where dancing by patrons is allowed, including, but not limited to, restaurants, alcoholic beverage establishments and entertainment establishments.

**Entertainment establishment** means a commercial establishment with any live or recorded, amplified or nonamplified performance, (excepting television, radio and/or recorded background music, played at a volume that does not interfere with normal conversation, and indoor movie theater operations). Entertainment establishments may not operate between the hours of 5:00 a.m. and 10:00 a.m., except as provided for under subsection 6-3(3)(b) in General Ordinances.

**Experiential retail** means a retail establishment that engages the public through the use of performing arts (including, but not limited to, music, dance and theater), visual arts (including, but not limited to, painting, sculpture, video and photography), culinary education, cultural education, or other cultural offerings. Such facilities shall not include dance halls and may only serve alcohol while cultural offerings are taking place.

**Formula commercial establishment** means a commercial use, excluding office, restaurant and hotel use, that has ten or more retail sales establishments in operation or with approved development orders in the United States of America; provided, however, for those businesses located in a building that is two stories or less with frontage on Ocean Drive, formula commercial establishment means a commercial use, excluding office, restaurant and hotel, which has five or more other establishments in operation or with approved development orders in Miami Beach. In addition to meeting or exceeding the numerical thresholds in the preceding sentence, the definition of formula commercial establishment also means an establishment that maintains two or more of the following features: a standardized (formula) array of merchandise: a standardized facade: a standardized decor or color scheme: uniform apparel: standardized signs, logos, trademarks or service marks. For the purpose of this definition, the following shall apply:

- a. **Standardized (formula) array of merchandise** means that 50 percent or more of in-stock merchandise is from a single distributor and bears uniform markings.
- b. **Trademark** means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the goods of such person, including a unique product, from those manufactured or sold by others, and to indicate the source of the goods, even if the source is unknown. A trademark may be registered with the U.S. Patent and Trademark Office and/or the Florida Department of State. However, an unregistered trademark may also be protected under common law.
- c. **Service mark** means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the services of such person, including a unique service, from the services of others, and to indicate the source of the services, even if that source is unknown. Titles, character names, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that the person or the programs may advertise the goods of the sponsor. A service mark may be registered with the U.S. Patent and Trademark Office and/or the Florida Department of State. However, an unregistered service mark may also be protected under common law.
- d. **Decor** means the style of interior or exterior furnishings, which may include, but is not limited to, style of furniture, wall coverings or permanent fixtures.
- e. **Color scheme** means the selection of colors used throughout, such as on the furnishings, permanent fixtures, and wall coverings, or as used on the façade.
- f. **Façade** means a face (usually the front) of a building, including awnings, that looks onto a street or an open space.
- g. **Uniform apparel** means standardized items of clothing including, but not limited to, standardized aprons, pants, shirts, smocks or dresses, hats, and pins (other than name tags) as well as standardized colors of clothing.

**Formula restaurant** means a restaurant with 75 or more establishments in operation or with approved development orders in the United States or a restaurant with more than five establishments in operation or with approved development orders in Miami Beach. With respect to the preceding sentence, in addition to the numerical thresholds the establishments maintain two or more of the following features: A standardized (formula) array of merchandise; a standardized façade; a standardized decor or color scheme; uniform apparel for service providers, food, beverages or uniforms; standardized signs, logos, trademarks or service marks. For the purpose of this definition, the following shall apply;

- a. **Standardized (formula) array of merchandise or food** means that 50 percent or more of in-stock merchandise or food is from a single distributor and bears uniform markings.
- b. **Trademark** means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the goods of such person, including a unique product, from those manufactured or sold by others, and to indicate the source of the goods, even if the source is unknown. A trademark may be registered with the U.S. Patent and Trademark Office and/or the Florida Department of State. However, an unregistered trademark may also be protected under common law.
- c. **Service mark** means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the services of such person, including a unique service, from the services of others, and to indicate the source of the services, even if that source is unknown, titles, character names, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that the person or the programs may advertise the goods of the sponsor. A service mark may be registered with the U.S. Patent and Trademark Office and/or the Florida Department of State. However, an unregistered service mark may also be protected under common law.

- d. **Decor** means the style of interior or exterior furnishings, which may include, but is not limited to, style of furniture, wall coverings or permanent fixtures.
- e. **Color scheme** means the selection of colors used throughout, such as on the furnishings, permanent fixtures, and wall coverings, or as used on the facade.
- f. **Facade** means a face (usually the front) of a building, including awnings, that looks onto a street or an open space.
- g. **Uniform food, beverages or apparel/uniforms** means standardized items of clothing including, but not limited to, standardized aprons, pants, shirts, smocks or dresses, hats, and pins (other than name tags) as well as standardized colors of clothing, food or beverages listed on the menus of such establishments or standardized uniforms worn by employees.

**Funeral Home** means a facility licensed by the state and containing suitable storage room for the diseased including embalming facilities, and may also provide rooms for the display of the diseased or ceremonies connected with burial or cremation.

**Garage, commercial** means a building or a portion thereof, used primarily for indoor parking of vehicles for compensation.

**Grocery store** means a retail store with direct access from the street or sidewalk that primarily sells food, including canned and frozen foods, fresh fruits and vegetables, and fresh (raw) and prepared meats, fish, and poultry.

**Hall For Hire** means a stand alone facility that is used to host events. This includes but is not limited to stand alone ballrooms and meeting rooms.

**Health club** means establishments with equipment and facilities for exercising and improving physical fitness. This includes but is not limited to gyms, fitness centers and exercise studios.

**Kennel** means a facility that provides boarding animals.

**Liquor store** means any store primarily engaged in the business of selling alcoholic beverages for off-premises consumption and that has a license for liquor sales from the State Division of Beverages and Tobacco in the classification of 1-APS, 2-APS, or PS.

**Marijuana dispensary or cannabis dispensary** means a building, structure, or other facility where marijuana or cannabis, inclusive of medical cannabis, and cannabis delivery devices, are dispensed at retail.

**Marina** means a place for docking pleasure boats or commercial vessels and providing services to the occupants thereof, including minor servicing and minor repair to boats, sale of fuel and supplies, and provision of lodging, food, beverages, commercial offices, and entertainment as accessory uses.

**Marine dockage** means accessory use only, a place for docking of pleasure boats.

**Massage therapy center** means an establishment that offers, sells, or provides manipulations of the tissues or other tactile stimulation of the human body with the hand, foot, arm, leg, elbow, or part of the torso, whether or not aided by any electrical or mechanical device: and may include bathing, hydrotherapy, thermal therapy, or application of chemicals, oils, lotions, or similar preparations to the human body.

**Medical cannabis treatment center or dispensing facility** means an establishment where medical cannabis, low-THC cannabis, as well as cannabis delivery devices, is dispensed at retail that is operated by a dispensing organization.

**Motion picture theater** means a building or part of a building used solely for the purpose of showing movies, motion pictures, and projections of events and performances conducted elsewhere, including permitted accessory uses such as eating and drinking concessions; and provided such theater, or any part thereof, is not an adult entertainment establishment (Section 1.2.2.9), dance hall, nor entertainment establishment (Section 1.2.2).

**Neighborhood fulfillment center** shall mean a retail establishment where clients collect goods that are sold off-site, such as with an internet retailer. Additionally, the establishment provides a hub where goods can be collected and delivered to clients' homes or places of business by delivery persons that do not use cars, vans, or trucks. Such facilities are limited to 35,000 square feet.

**Neighborhood impact establishment** means:

- a. An alcoholic beverage establishment or restaurant, not also operating as an entertainment establishment or dance hall (as defined in Section 1.2.2), with an occupant content of 300 or more persons as determined by the chief fire marshal; or
- b. An alcoholic beverage establishment or restaurant, which is also operating as an entertainment establishment or dance hall (as defined in Section 1.2.2), with an occupant content of 200 or more persons as determined by the chief fire marshal.

**Nude dancing establishment** means an establishment operated for commercial gain wherein performers or employees of the establishment display or expose to others specified anatomical areas as defined in this section, regardless of whether the performer or employee so exposed is actually engaging in dancing.

**Occult science establishment** shall mean an establishment engaged in the occupation of a fortune teller, palmist, astrologist, numerologist, clairvoyant, craniologist, phrenologist, card reader, spiritual reader, tea leaf reader, prophet, psychic or advisor or who in any other manner claims or pretends to tell fortunes, or claims or pretends to disclose mental faculties of individuals for any form of compensation. Nothing contained herein shall be construed to apply to a person pretending to act as a fortune teller in a properly licensed theater as part of any show or exhibition presented therein or as part of any play, exhibition, fair or show presented or offered in aid of any benevolent, charitable or educational purpose.

**Open air entertainment establishment** means a commercial establishment which provides entertainment, as defined in this section, indoors or in an enclosed courtyard or area which by its design is open to the outside, thereby enabling the entertainment to be audible outdoors.

**Optical establishment** means the retail sale of glasses and contact lenses.

**Outdoor entertainment establishment** means a commercial establishment which provides outdoor entertainment as defined in this section.

**Package store** (See "Liquor Store.")

**Parking lot, commercial** means a parking lot where parking is offered to the general public for compensation.

**Pawnbroker** means Any person, corporation, partnership, or other business organization or entity which is not solely a secondary metals recycler subject to F.S. ch. 538, pt. II, which is regularly engaged in the business of making pawns. The term does not include a financial institution as defined in F.S. § 655.005 or any person who regularly loans money or any other thing of value on stocks, bonds or other securities.

**Pawnshop** means a place or premise at which a pawnbroker is registered to conduct business as a pawnbroker, or conducts such business.

**Personal service establishment** means a licensed establishment providing non-medical services for persons, such as pedicures, manicures, hair styling, barber services, massages, facials, tailoring services, and similar person-oriented services, as determined by the planning director.

**Pharmacy store** means a pharmacy as defined in F.S. § 465.003.

**Place of Assembly** means a commercial facility for public assembly including, but not limited to: auditoriums, theaters, convention halls and the like.

**Production studio** shall mean a facility that provides the physical basis for works in the fields of performing arts, new media art, film, television, radio, comics, interactive arts, photography, video games, websites, and video.

**Quality restaurant** means full service eating establishment with a typical duration or stay of at least one hour, at which patrons wait to be seated, are served by a waiter/waitress, order from menus, and pay for meals after they eat.

**Recreational Establishment** means a place of business providing group leisure activities, often requiring equipment and open to the public with or without entry or activity fees. This may include but is not limited to bowling alleys and pool rooms.

**Restaurant** means a commercial establishment where refreshments or meals may be purchased by the public and which conducts the business of serving of food to be consumed on or off the premises, whose principal business is the preparation, serving, and selling of food, to the customer for consumed [consuming] on or off the premises. Food shall be continuously ready to be prepared, served, and sold during all business operational hours for a restaurant use. All restaurants shall be appropriately licensed as a restaurant or similar food service-type use by all applicable agencies.

**Retail use** means the use of a building or a structure for the sale of merchandise to the consumer of the merchandise. This excludes retail sub-categories also defined in this section.

**Retail fulfillment center** means a retail establishment, not licensed as an adult bookstore or adult entertainment establishment, where goods are primarily sold online and/or delivered off premises. Such goods shall not include the sale of any type of alcoholic beverage, nor the sale of cannabis (or marijuana), cannabis derivative products, or cannabis delivery devices, nor the sale of any type of tobacco product, vaping, vapor-generating electronic device, or smoking device. Such establishment must also have an active storefront, along all sidewalk facing portions of the building, that is open to the general public at least eight hours per day. The active storefront must have a minimum depth of 15 feet and a minimum area of 700 square feet. Retail fulfillment centers shall be limited to no more than 7,000 square feet. Goods sold by a retail fulfillment center may include goods similar to those that are sold in a convenience store, except for those products identified in this paragraph.

**Retail tobacco products dealer** means the holder of a retail tobacco products dealer permit that is authorized to sell tobacco products.

**Retail smoking devices dealer** means any retail establishment that sells smoking devices.

**Retail vape products dealer** means any retail establishment that sells vapor-generating electronic devices and components, parts, and accessories for such products.

**Self-service laundry** means a business establishment equipped with customer operated automatic washing machines having a capacity per unit not exceeding 25 pounds of dry clothing.

**Service station** (See "Filling station.")

**Souvenir and t-shirt shop** means any business with direct access from the street or sidewalk in which the retail sale of T-shirts or souvenirs (as defined in section 1.2.1) or both is conducted as a principal use of the business, or together with some other business activity, but which constitutes the primary, or is the major attraction to the business.

**State qualified dispensing organization** means a qualified dispensing organization or medical marijuana treatment center or other organization qualified to cultivate, process, transport, and dispense low-THC cannabis or medical cannabis by the Florida Department of Health, or successor agency, pursuant to F.S. ch. 381.

**Supermarket** (See "grocery store.")

**Tattoo studio** means any establishment, place of business, or location, other than a licensed medical facility, an office or clinic of a licensed medical professional, or a duly licensed beauty shop or barber shop, wherein adornment of any part of the human body or head, whether artistic, cosmetic or otherwise, is practiced through the use of needles, scalpels, or any other instruments designed to touch, penetrate or puncture the skin for purposes of:

- a. Inserting, attaching or suspending jewelry, decorations or other foreign objects;
- b. Producing an indelible mark or figure on the human body or face by scarring skin or flesh;
- c. Producing an indelible mark or figure on the human body or face by inserting a pigment under or upon the skin; or
- d. Permanently changing the color or other appearance of the skin.
- e. This term shall not, however, include piercing an ear with a disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear.

**Tobacco/vape dealer** means a commercial establishment that is a retail tobacco products dealer, retail vape products dealer, or retail smoking device dealer. This definition shall exclude a cigar/hookah bar.

**Vapor lounge** means a commercial establishment at which individuals consume cannabis, medical cannabis, or low-THC cannabis.

**Veterinary clinic** means a facility that provides medical and surgical care for animals under the laws of the state.

### 1.2.2.5 Civic

**Cultural use** means a use that engages in the performing arts (including, but not limited to, music, dance and theater), or visual arts (including, but not limited to, painting, sculpture, and photography), or engages in cultural activities, serves the general public and has a permanent presence in the city.

**Cultural institution** means an institution that engages in the performing arts (including, but not limited to, music, dance and theater), or visual arts (including, but not limited to, painting, sculpture, and photography), or engages in cultural activities, serves the general public, has a permanent presence in the city, and is designated by the Internal Revenue Service as tax exempt pursuant to section 501(c)(3) or (4) of the Internal Revenue Code.

**Major cultural institution** shall be one that engages in the performing arts (including, but not limited to, music, dance and theater) or visual arts (including, but not limited to, painting, sculpture, and photography) and serves the general public. Major cultural institution shall meet the mandatory requirements as set forth in Section 7.5.5.3.

**Recreational Facility** means non-commercial facility, primarily an open space, serving the recreation needs of the general public. This may include but not limited to swimming pools and aquatic facilities, tennis courts, golf courses, parks and playgrounds.

**Religious institution** means a use where an establishment, organization or association conducts religious prayer or activity that is open to members and/or the general public, and may be accompanied by accessory uses customarily associated with religious institutions such as, but not limited to, education classes, youth centers, day care, offices, and rooms for licensed catering of life cycle or other gatherings or celebrations (e.g., weddings, confirmations, and coming-of-age events). A group privately assembling for worship, prayer or religious service in a private home or dwelling in which at least one member of the group resides, is not a religious institution, even if life cycle rituals are included in the service, including weddings, confirmations, and coming-of-age (such as bar or bat-mitzvah) observances and meals accompany the service. This may include but is not limited to houses of worship and Mikvehs.

**Public Facilities** means facilities owned by a governmental agency.

### 1.2.2.6 Civil Support

**Hospital** means an institution licensed by the State of Florida as a hospital, having facilities for in-patients, providing medical or surgical care for humans requiring such treatment, and which may include accessory uses, related facilities such as nursing homes, convalescent homes, home health agencies, hospice facilities and other accessory hospital facilities as described in Section 7.2.19.2.a.

**Nursing home** means a facility that provides nursing, personal, custodial, and rehabilitative care. Nursing homes, sometimes called skilled nursing facilities, are freestanding, which means they are not part of a hospital. They provide long-term care of the chronically ill, the physically disabled, and the aged who are unable to move about without the aid of another person or device. Nursing homes are licensed and surveyed by the State of Florida.

### 1.2.2.7 Educational

**College** (See applicable definition in State Statutes.)

**Day care facility** means any establishment other than a family day care facility providing care during the day, but not at night, of children under the age of six who are not attending a school in grade kindergarten or higher, and who are not related to the resident family.

**Elementary school** (See applicable definition in State Statutes.)

**Family day care facility** means an occupied residence in which child care is regularly provided for children and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. A family day care facility shall be allowed to provide care for one of the groups of children as defined in Section 7.5.4.13.d.ii.1 and in F.S. § 402.302(5).

**Gymnasiums** (See applicable definition in State Statutes.)

**High school** (See applicable definition in State Statutes.)

**Kindergarten school** (See applicable definition in State Statutes.)

**Middle school** (See applicable definition in State Statutes.)

**Nursery school** (See applicable definition in State Statutes.)

**Pre-school** (See applicable definition in State Statutes.)

**School** (See applicable definition in State Statutes.)

**University** (See applicable definition in State Statutes.)

### 1.2.2.8 Industrial

**Auto repair** means a facility engaging in the repair, alteration and inspection of motor vehicles, including but not limited to mechanical, interior and exterior components of the vehicle.

**Artisan studios** means a building or portion thereof used for the creation of original handmade works of art or craft items. This includes but is not limited to furniture, cabinet and wood working shops and glass blowing shops.

**Filling station** means any establishment that sells, distributes or pumps fuels for motor vehicles.

**Garage, mechanical** means any premise where vehicles are mechanically repaired, rebuilt or constructed for compensation.

**Heavy manufacturing** means a facility primarily engaged in the manufacturing, processing, repair or assembly of goods involving heavy machinery.

**Manufacturing and processing** means a facility primarily engaged in the manufacturing, processing, repair or assembly of goods not involving heavy machinery. This includes but is not limited to printing, engraving, lithographing, media services and publishing, plumbing, electrical air conditioning, landscaping services, and textile services.

**Towing services** means an establishment which provides for the removal and temporary storage of vehicles.

**Recycling receiving station** means a building or a portion thereof, where, for compensation certain types of recyclable materials including, but not limited to aluminum, plastic, paper and scrap metal could be rendered for its wrapping, packing and shipping to another environmentally approved location where the actual recycling of the materials will take place. The term does not include a motor vehicle junkyard.

**Self-storage warehouse** means a building or group of buildings having spaces that are individually leased or rented by customers for the storage of personal property. A self-storage warehouse is not a warehouse as defined in this section.

**Warehouse** means the use of a building or structure, or portion thereof, for storage.

### 1.2.2.9 Specialized Uses

**Addictions receiving facility** means a secure, acute-care, facility operated 24 hours-per-day, seven days-per-week, designated by the department of children and families, or applicable agency to serve persons found to be substance abuse impaired as described in F.S. § 397.675, as may be amended.

**Adult booth** means a small enclosed or partitioned area inside an establishment operated for commercial gain which is designed or used for the viewing of adult material by one or more persons and is accessible to any person, regardless of whether a fee is charged for access. The term "adult booth" includes, but is not limited to, a "peep show" booth, or other booth used to view adult material. The term "adult booth" does not include a foyer through which any person can enter or exit the establishment, or a restroom.

**Adult day care center** means a facility that provides programs and services for adults who need a protective setting during the day. An adult day care center can be a freestanding program or services can be offered through a nursing home, assisted living facility, or hospital. The basic services include, but are not limited to: social activities, self-care training, nutritional meals, a place to rest, and respite care. Adult day care centers are licensed and surveyed by the State of Florida.

**Adult entertainment establishment** means any adult bookstore, adult booth, adult motion picture theater or nude dancing establishment as defined in this section.

**Adult family care home** means a dwelling unit that provides full-time, family-type living in a private home for up to five elderly persons or adults with a disability, who are not related to the owner. The owner lives in the same house as the residents. The basic services include, but are not limited to: Housing and nutritional meals; help with the activities of daily living, like bathing, dressing, eating, walking, physical transfer, giving medications or helping residents give themselves medications; supervision of residents: arrange for health care services; provide or arrange for transportation to health care services; health monitoring; and social activities. Adult family care homes are licensed and surveyed by the State of Florida.

**Ambulatory surgical center (ASC)** means a facility that is not part of a hospital and provides elective surgical care where the patient is admitted to and discharged from the facility within the same working day. The patient does not stay overnight. Hospitals can have outpatient surgical units, but these units would be a part of the hospital license and would not require a separate ASC license. Ambulatory surgical centers are licensed and surveyed by the State of Florida.

**Assisted living facility** means a facility that provides full-time living arrangements in the least restrictive and most home-like setting where personal services are provided. Intense medical services are to be obtained off-site. The basic services include, but are not limited to: Housing and nutritional meals; help with the activities of daily living, like bathing, dressing, eating, walking, physical transfer, giving medications or helping residents give themselves medications; arrange for health care services; provide or arrange for transportation to health care services; health monitoring; respite care; and social activities. Assisted living facilities are licensed and surveyed by the State of Florida. These facilities are intended for residency of six months and a day or more.

**Birth center** means a facility in which births are planned to occur away from the mother's place of residence following a normal, uncomplicated, low-risk pregnancy. It is not an ambulatory surgery center, a hospital, or located within a hospital. Birth centers are licensed and surveyed by the State of Florida.

**Brain and spinal cord injury** (See "transitional living facility.")

**Community residential home** as defined by F.S. § 419.001, as may be amended. These facilities are intended for residency of six months and a day or more.

**Comprehensive outpatient rehabilitation facility** means a nonresidential facility that provides diagnostic, therapeutic, and restorative services for the rehabilitation of injured, disabled, or sick persons, by or under the supervision of a physician.

**Crisis stabilization unit** means a facility where the purpose is to examine, stabilize, and redirect people to the most appropriate and least restrictive treatment settings for their psychiatric needs. Crisis stabilization units include:

Crisis stabilization units (adult and children) provide brief psychiatric intervention, primarily for low-income individuals with acute psychiatric conditions. Inpatient stays average three to 14 days, resulting in return to the patient's own home or placement in a long-term mental health facility or other living arrangements. Intervention means activities and strategies that are used to prevent or impede the development or progression of substance abuse problems.

Short-term residential treatment facilities provide a step-down service for adult residents (ages 18 and over) of crisis stabilization units needing a more extended, but less intensive level of active treatment for psychiatric conditions, usually with a stay of 90 days or less.

Both of these facility types are licensed by the State of Florida. It is not intended to be a residential use (not intended as a dwelling unit).

**Day/night treatment** means treatment provided on a nonresidential basis at least three hours per day and at least 12 hours each week and is intended for clients who meet the placement criteria for this component.

**Day/night treatment with community housing** means treatment that is provided on a nonresidential basis at least five hours each day and at least 25 hours each week and is intended for clients who can benefit from living independently in peer community housing while undergoing treatment.

**Day/night treatment with host home** means treatment that is provided on a nonresidential basis at least three hours per day and at least 12 hours each week and is intended for clients who meet the placement criteria for this level of care. This component also requires that each client reside with a host family as part of the treatment protocol.

**Detoxification** means a process involving sub-acute care that is provided to assist clients who meet the placement criteria for this component to withdraw from the physiological and psychological effects of substance abuse. The use is short term, four to 14 days and is not residential in nature. Twenty-four-hour medical supervision is required.

**Electrology facility** means a facility where electrologists are allowed to perform laser and light-based hair removal.

**End-stage renal disease center** means is a facility programs that that offer dialysis services. When patients are diagnosed with end-stage renal disease, they may receive dialysis which replaces kidney function by filtering blood to remove waste and extra fluids. The program can either be a freestanding facility or offered as an outpatient service through a hospital.

**Entertainment** means any live show or live performance or music amplified or nonamplified. Exceptions: Indoor movie theater; big screen television or background music, amplified or nonamplified, played at a volume that does not interfere with normal conversation.

**Health care clinic** means a facility that provides health care services to individuals for a fee. Such facilities do not allow for overnight stays. Health care clinics are licensed and surveyed by the State of Florida.

**Health care clinic exemption** means businesses that have gotten an exemption to the health care clinic license requirement. However, businesses that meet the exemption criteria are not required to have an official exemption, so there may be clinics that are exempt that are not listed here. The exemption criteria are listed in F.S. § 400.9905(4), as may be amended.

**Laboratory** means a facility that performs one or more of the following services to provide information or materials for use in the diagnosis, prevention, or treatment of a disease or the identification or assessment of a medical or physical condition. Services include examination of fluids, tissue, cells, or other materials taken from the human body.

**Health care services pool** means a health care services pool provides temporary employment of licensed, certified, or trained health care personnel to health care facilities, residential facilities, and agencies. Health care services pools are registered by the State of Florida.

**Home health agency** means an agency that provides services to patients in private homes, assisted living facilities, and adult family care homes. Some of the services include nursing care; physical, occupational, respiratory, and speech therapy; home health aides; homemaker and companions; and medical equipment and supplies. Along with services in the home, an agency can also provide staffing services in nursing homes and hospitals. Home health agencies are licensed and surveyed by the State of Florida.

**Home medical equipment provider** means a service that sells or rents medical equipment and services for use in the home. Home medical equipment includes any product as defined by the Federal Drug Administration's Drugs, Devices and Cosmetics Act; any products reimbursed under the Medicare Part B Durable Medical Equipment benefits; or any products reimbursed under the Florida Medicaid durable medical equipment program. Service includes managing the equipment and teaching consumers in its use. Home medical equipment providers are licensed and surveyed by the State of Florida.

**Homemaker and companion services** means a company that provides housekeeping, prepare and serve meals, help with shopping, routine household chores, companionship in the client's home, and can take the client to appointments and other outings. By law, homemakers and companions may not provide hands-on personal care, such as help with bathing, and cannot give medications. Homemaker and companion agencies are registered by the State of Florida. However, individuals who work on their own, with no other workers helping them are not required to be registered.

**Homes for special services** means a residential facility where specialized health care services are provided, including personal and custodial care, but not full-time nursing services. Home for special services are licensed by the State of Florida.

**Home hospice service** means services provided in a patient's residence for patients with a diagnosis of a terminal illness. They provide a coordinated program of professional services, including pain management and counseling for patients; nursing, physician, therapy, and social work services; counseling and support for family members and friends of the patient; and other support services. Hospices are licensed and surveyed by the State of Florida.

**Hospice facility** means a facility that provides services in a facility for patients with a diagnosis of a terminal illness. They provide a coordinated program of professional services, including pain management and counseling for patients; nursing, physician, therapy, and social work services: counseling and support for family members and friends of the patient; and other support services. Hospices are licensed and surveyed by the State of Florida.

**Hospital** in the Hospital District (HD) means a facility that provides range of health care services more extensive than those required for room, board, personal services, and general nursing care, and offers facilities and beds for use beyond 24 hours by individuals requiring medical, surgical, psychiatric, testing, and diagnostic services; and treatment for illness, injury, disease, pregnancy, etc. Also available are laboratory and x-ray services, and treatment facilities for surgery or obstetrical care, or special services like burn treatment centers. Hospitals are licensed and surveyed by the State of Florida. Hospitals include any medical sub-use identified within this division.

**Intensive inpatient treatment** means includes a planned regimen of evaluation, observation, medical monitoring, and clinical protocols delivered through an interdisciplinary team approach provided 24 hours-per-day, seven days per week in a highly structured, live-in environment.

**Intensive outpatient treatment** means a facility that provides services on a nonresidential basis and is intended for clients who meet the placement criteria for this component. This component provides structured services each day that may include ancillary psychiatric and medical services.

**Intermediate care facility for the developmentally disabled** means a residential facility that provides services by an interdisciplinary team to increase a client's independence and prevent loss of abilities. They are licensed and surveyed by the State of Florida.

**Low-THC cannabis treatment center** means an establishment where low-THC cannabis is dispensed at retail.

**Medical cannabis dispensary** (See Section 7.5.5.8 and chapter 6, division 3 of the General Ordinances.)

**Medication and methadone maintenance treatment facility** means a facility that provides outpatient treatment on a nonresidential basis which utilizes methadone or other approved medication in combination with clinical services to treat persons who are dependent upon opioid drugs.

**Organ and tissue procurement facility** means one of three types of organ and tissue procurement organizations: Organ procurement organizations (OPOs), eye banks and tissue banks. OPOs must also be federally designated by the Secretary of the United States Department of Health and Human Services and are responsible for using the national United Network of Organ Sharing's (UNOS) registry to medically and physically match organs, such as the heart, lungs, kidneys, or liver, from a patient who has died with an individual awaiting a life-saving transplant. An eye bank is an entity involved in the recovery, processing, storage or distribution of eye tissue that will be used for transplantation. A tissue bank is an entity that is involved in the recovery, processing, storage, or distribution of human tissue, such as bone, skin, or cartilage, which will be used for transplantation. Organ and tissue procurement organizations, including those located outside of Florida that provide eye and other tissue types to Florida's transplanting physicians, are certified by the State of Florida.

**Outpatient treatment** means a facility that provides services on a nonresidential basis and is intended for clients who meet the placement criteria for this component.

**Pain management clinics** means the definition provided in F.S. § 458.3265, as may be amended.

**Portable x-ray provider** means a provider that gives diagnostic x-ray tests in a patient's own home, a nursing home, or a hospital that does not provide x-ray services for its patients directly but arranges for services with a portable x-ray provider. Some portable x-ray providers may need a health care clinic license.

**Prescribed pediatric extended care center** means a facility that provides a basic nonresidential services to three or more medically dependent or technologically dependent children with complex medical conditions that require continual care. The comprehensive care includes medical, nursing, psychosocial, and developmental therapies. These centers are licensed and surveyed by the State of Florida.

**Rehabilitation agency** means a facility that provides a multidisciplinary program to help improve the physical function of disabled individuals by creating a team of specialized rehabilitation staff. The rehabilitation agency provides at least physical therapy or speech-language pathology services and social or vocational adjustment services. Rehabilitation agencies are not required to be licensed by the state if they are Medicare certified. Rehabilitation agencies that are not certified under the Medicare program may require licensure as a health care clinic.

**Residential treatment center for children and adolescents** means a facility with 24-hour residential programs, including therapeutic group homes that provide mental health treatment and services to children under the age of 18 who have been diagnosed as having mental, emotional, or behavioral disorders. Residential treatment centers are licensed by the State of Florida. This facility is also a Level II, facility.

**Residential treatment facility** means a facility that provides long-term residential care with coordinated mental health services for adults (18 years or older) diagnosed with a serious and persistent major mental illness. A state license covers five levels of care that range from having full-time nurses on staff to independent apartments that receive only weekly staff contact. Residential treatment facilities are licensed and surveyed by the State of Florida.

**Level I** facilities provide the highest level of care with a structured group treatment setting with 24 hours per day, seven days per week supervision for residents who have major skill deficits in activities of daily living and independent living, and need intensive staff supervision, support and assistance. Nursing supervision is provided 24 hours per day, seven days per week, however, nursing services are limited to medication administration, monitoring vital signs, first aid and individual assistance with ambulation, bathing, dressing, eating and grooming. The minimum staffing is 1:10 staff to resident ratio with never less than two staff on site at all times. This is a residential use intended for stays of over six months and a day.

**Level II** facilities provide a structured group treatment setting with 24 hour per day, seven days per week supervision for seven or more residents who range from those who have significant deficits in independent living skills and need extensive supervision, support, and assistance, to those who have achieved a limited capacity for independent living, but who require frequent supervision, support and assistance. Level II facilities maintain a minimum of 1:15 staff to resident ratio with never less than one staff person on site when residents are present during normal waking hours. During sleeping hours, a minimum of 1:22 staff to resident ratio is required. This is a residential use intended for stays of over six months and a day.

**Level III** facilities consist of collocated apartment units with an apartment or office for staff who provided on-site assistance 24 hours per day, seven days per week. The residents have a moderate capacity for independent living. Level III facilities maintain a minimum 1:20 staff to resident ratio with never less than one staff on site when residents are present during normal waking hours. During normal sleeping hours, a minimum of 1:40 staff to resident ratio is required. This is a residential use intended for stays of over six months and a day.

**Level IV** facilities provide a semi-independent, minimally structured group setting for four or more residents who have most of the skills required for independent living and require minimal staff support. Level IV facilities may have less than 24 hours per day, seven days per week on site supervision: however, on-call staff must be available at all times. Staff is required to have a minimum of weekly on site contact with residents. This is a residential use intended for stays of over six months and a day.

**Level V** facilities provide the least amount of care and supervision. Level V facilities provide a semi-independent, minimally structured apartment setting for up to six residents who have adequate independent living skills and require minimal staff support. Level V facilities may have less than 24 hours per day, seven days per week on site supervision: however, on-call staff must be available at all times. Staff is required to have a minimum of weekly on site contact with residents. This is a residential use intended for stays of over six months and a day.

**Skilled nursing unit** means skilled nursing units are based in hospitals, either housed inside the hospital or in a separate building. They typically provide only short-term care and rehabilitation services. The skilled nursing unit does not have a separate license because it is part of the hospital license. See the hospital definition for further information.

**Social worker** (See "medical office.")

**Sociologist** (See "medical office.")

**Therapist** (See "medical office.")

**Transitional living facility** means a facility that provides services to persons with a spinal cord-injury or head-injury. Specialized health care services include rehabilitative services, community reentry training, aids for independent living, counseling, and other services. This term does not include a hospital licensed under F.S. ch. 395, or any federally operated hospital or facility. A transitional living facility is licensed by the State of Florida.

**Urgent care center** means a facility which holds itself out to the general public as a walk-in facility, where immediate, but not emergent, care is provided. Patients shall be served solely on an outpatient basis and such services shall not include overnight stays.

**Women's health clinic** means a facility that primarily provides obstetrics and gynecology service or other services related to women's healthcare. This definition includes abortion clinics, which are licensed and surveyed by the State of Florida, but does not include a hospital or a doctor's office where abortions might be performed, but where this is not the primary purpose.

### 1.2.2.10 Other

**Clubhouse** shall mean one or more buildings owned and operated by a private golf club that house administrative offices, fitness rooms, locker rooms, lounges, restaurants, banquet facilities, pro shops and/or other facilities designed for the use of the club's members and their guests. A clubhouse building shall be utilized primarily for the benefit of the private golf club's members and its facilities shall not be rented, leased or made available to the general public.

**Neighborhood Impact Structure** means new construction of structures of 50,000 square feet and over, which review shall be the first step in the process before the evaluation by any of the other land development boards.

**Neighborhood Impact Lot** means developments on properties greater than 20,000 square feet of lot area.

## 1.2.3 CONCURRENCY MANAGEMENT AND MOBILITY FEES DEFINITIONS

**Active use** means a use for which a business tax receipt, certificate of occupancy, or certificate of use has been issued. This term "active use" shall not include a use that is authorized pursuant to a special event permit.

**Applicable review department** means the department or agency that is charged with reviewing a particular level of service for the purposes of concurrency review and mitigation calculation or the calculation and collection of mobility fees.

**Available capacity** means public facility capacity less capacity used by existing development, final reservations of capacity made in connection with the payment of applicable fees, and issuance of certificates of occupancy and short-term reservations of capacity made in connection with the issuance of approved development orders.

**Capacity credit** means a credit for certain existing or demolished improvements toward concurrency requirements for future development.

**Concurrency** means a condition where the necessary public facilities and services to maintain the adopted level of service standards are available when the impacts of development occur.

**Concurrency management system** means the procedures and/or process that the city will utilize to assure that development orders and permits when issued will not result in a reduction of the adopted level of service standards at the time that the impact of development occurs, as specified in Chapter 3 of these Land Development Regulations.

**Densities and intensities of development** means a numerical measurement of the size and scope of a proposed development based on the following units of measurement:

- a. **Nonresidential developments:** The number of square feet of gross floor area or seats, as applicable;
- b. **Residential developments:** The number of dwelling units, or the number of square feet of floor area, as applicable;
- c. **Hospitals and clinics:** The number of beds, and/or the number of square feet of gross floor area, as applicable;
- d. **Educational facilities:** The number of students, or floor area, as applicable;
- e. **Hotels and motels:** The number of rooms; and
- f. **Service stations:** The number of gasoline dispensing pumps and size of mini-mart.

**Development order** means any order, unless otherwise exempt from the provisions of this chapter, granting, denying, or granting with conditions an application for zoning approval, building permit, division of land/lot split, rezoning, conditional use, design review, certificate of appropriateness, variance, sidewalk café permit, certificate of use, business tax receipt, other design approval, or any other official action having the effect of permitting the development of land which exceeds the density and/or intensity of development which exists on the subject property at the time of application.

**Estimate of concurrency mitigation and mobility fee** means an estimate of required concurrency mitigation or payment of mobility fees that is required prior to the approval of a development order.

**Legally established use** means the following, for purposes of calculating capacity credits under article II of chapter 3, and for purposes of calculating mobility fees under article III chapter 3:

- a. For existing structures that have an active use, the current use shall be used as the basis for calculating capacity credits or mobility fees.
- b. For vacant structures or structures undergoing construction, the most recent active use shall be used as the basis for calculating capacity credits or mobility fees.
- c. For vacant land, the most recent active use, within the preceding ten years, shall be used as the basis for calculating capacity credits or mobility fees.
- d. For restaurant and sidewalk café uses that previously reduced the total number of seats, subsequent to the initial mobility fee and/ or concurrency determination for the use, the greatest number of legally established seats during the two (2) years prior to a re- introduction of seats shall be used as the basis for calculating capacity credits or mobility fees, provided no intervening change of use or change of ownership has occurred.

**Mitigation program** means an undertaking to provide, or cause to be provided, required public improvements, which undertaking is legally enforceable by the city and which ensures that needed public improvements will be timely constructed or that the adverse impacts of a diminution in level of service are substantially mitigated.

**Mobility fee** means an impact fee on new development and increases in density and/or intensity, based on the calculation of predicted vehicles miles traveled (VMT).

**Multimodal transportation** means surface transportation system that includes all motorized and non-motorized manners of travel.

**Origin and destination adjustment factor** means a factor of 0.5. Trip generation rates represent trip-ends at the site of a land use. Thus, a single-origin trip from a residence to a workplace counts as one trip-end for the residence and one trip-end for the workplace, for a total of two trip-ends. To avoid double-counting of trips, the PMT for each land use shall be multiplied by 0.5. This distributes the impact of travel equally between the origin and destination of the trip, and eliminates double charging for trips.

**Person miles of travel (PMT)** means the number of miles traveled by each person on a trip.

**Person miles of travel rate** means the unit cost per additional person-mile of travel used in developing the mobility fee schedule.

**Person trips** means a calculation of vehicle trips, as multiplied by an average vehicle occupancy.

**Public facilities** means the facilities for which the city has adopted levels of service, including potable water, sanitary sewer, solid waste, flood protection, stormwater management, and parks and recreational facilities.

**Trip generation** means the maximum number of daily trips generated for an applicable land use type.

**Vehicle miles of travel (VMT)** means the movement of one privately operated vehicle for one mile, regardless of the number of people in the vehicle.

## 1.2.4 LANDSCAPE DEFINITIONS

The definitions section within [chapter 46](#), environment, of the General Ordinances, forms part of this regulation. For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

**American National Standards Institute A-300 Tree Care Standards Manual ("ANSI A-300 Standards")** means tree manual which establishes performance standards for the care and maintenance of trees, shrubs, and other woody plants.

**Applicant** means a person who is the owner, authorized agent of the owner, or lessee of a property under a written lease authorized to apply for a building permit.

**Base plan** means plan of the project site, drawn to scale that shows all proposed ground floor improvements and clearly defines all landscape areas. This plan is used as a base for the required plans in this Chapter 4 in the Land Development Regulations.

**Buildable area** means the portion of the site exclusive of the required yard areas as defined by the zoning ordinance of the city and its successors.

**Clear wood/clear trunk** means a measurement of the woody trunk taken from grade to the beginning of the fronds or branches used to determine the sizes of certain palms and trees.

**Controlled tree species** are those tree species listed in the Miami-Dade County Landscape Manual and included within subsection 24-49(f) I and II of the Miami-Dade County Code which tend to become nuisances because of their ability to invade proximal native plant communities or native habitats, but which, if located and cultivated properly may be useful or functional as elements of landscape design.

**Crown or canopy** means the upper part of a tree, measured from the lowest branch, including all branches and foliage.

**Energy conservation zone** means the areas close to buildings that are planted with trees, palms, and shrubs, in order to provide optimal shading patterns on absorbing surfaces within 20 feet of the building, walls, windows, and the immediately adjacent ground.

**Environment and sustainability department** means the agency of the city charged with implementing specific tree protection standards, or a successor division or department as determined by the city manager or his/her designee.

**Exotic tree species** means a plant species that has been introduced from other regions, and is not native to the region to which it is introduced.

**Forbs** means a broad-leaved herb other than a grass, especially one growing in a field or meadow.

**Grass, artificial** means a grass mat manufactured with manmade materials such as polypropylene, polyethylene and installed as a pervious system on a finely graded sand layer over filter fabric on gravel, drainfield rock and on a compacted subgrade.

**Grass** means any natural variation of grasses (such as St. Augustine, Zoysia, Bermuda) grown to form a dense surface layer. This definition shall also apply to sod.

**Grey wood** means a measurement used to determine the sizes of Royal Palms taken from grade to the smooth green five-foot-high region above the trunk called the "crownshaft."

**Landscape manual** means The Miami-Dade County Landscape Manual, latest edition, which is the official landscape manual issued by Miami-Dade County, Florida, and incorporated herein by reference. The landscape manual, as amended from time to time, is adopted by reference by the city and deemed incorporated by reference as if set forth herein. If a conflict arises between the landscape manual and this chapter, the latter shall prevail.

**Large shrubs or small trees** means mid-level woody plants, trees, and palms, that comply with the minimum size requirements described in this chapter, planted as an understory to large canopy trees, palms, and planted with smaller shrubs and groundcover plantings, in order to achieve a layering of plants.

**Native tree species** means plant species with geographic distribution indigenous to all or part of Miami-Dade County. Plants which are described as being native to Miami-Dade County in botanical manuals such as, the Miami-Dade County Landscape Manual, are considered native plant species within the meaning of this definition.

**Net lot area** means the total horizontal area within the lot lines of the lot.

**Owner** means any person, entity, corporation, partnership, trust, holding company, limited liability company or any other legally recognized entity that is the legal, beneficial or equitable owner of any interest whatsoever in the property. Owner shall include any purchaser, assignee, successor, or transferee of any interest whatsoever in the property regarding any provisions of this chapter.

**Roots/root systems** means the tree part containing the organs used for extracting water, gases and nutrients from the soil and atmosphere.

**Shrub** means a self-supporting woody perennial plant normally growing to a height of twenty-four (24) inches or greater, characterized by multiple stems and branches continuous from the base. Non-traditional 'shrub' plant material that can be used for screening, such as Monstera, Silver Saw Palmetto or similar may count as a shrub. Ornamental grasses shall not count as a shrub. Shrub plant material shall be subject to the review and approval of the planning department

**Site plan** means a drawing illustrating a proposed development drawn to scale indicating site elevations, roadways and location of all relevant site improvements including structures, parking, other paved areas, ingress and egress drives, landscaped open space and signage.

**Sound nursery practices** means the procedures of landscape nursery work that comply with the standards set by the state department of agriculture and consumer services.

**Spread** means the average diameter of the crown of a tree.

**Substantial rehabilitation** means buildings which are repaired or rehabilitated by more than 50 percent of the value of the building as determined by the building official.

**Tree** means any self-supporting woody plant or palm which usually has a single main axis or trunk, that comply with the minimum size requirements described in this chapter. This definition excludes plants which are defined as shrubs, hedges, vines, or ground covers.

**Tree trust fund** means The City of Miami Beach Tree Preservation Trust Fund established in chapter 46, section 46-65 of General Ordinances.

**Viable tree** means a tree, which in the judgment of the City of Miami Beach Urban Forester is capable of sustaining its own life processes, unaided by man for a reasonable period of time.

## 1.2.5 SIGNS DEFINITIONS

**Artistic mural** means a two-dimensional work of art commissioned or approved prior to its creation by a property owner or occupant which has no commercial connotation.

**Sign** means an identification, description, illustration, or device which is affixed to or represented directly or indirectly upon land or a building or structure or object and which directs attention to a place, activity, product, person, institution, or business.

**Sign area** means that area within a line including the outer extremities of all letters, figures, characters, and delineations, or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for the sign background, whether it be columns, a pylon, or a building or part thereof, shall not be included in the sign area. Only one side of a double-faced sign shall be included in a computation of sign area. The area of a cylindrical sign shall be computed by multiplying one-half of the circumference by the height of the sign.

**Sign, awning** means any sign painted, stamped, perforated or stitched on an awning, canopy or roller curtain.

**Sign, balloon** means hot or cold air balloons or other gas filled figures or similar type sign.

**Sign, banner** means a sign made of cloth, fabric, paper, plastic or other flexible material. Banners may contain text, numbers, graphic images or symbols. Pennants and flags are not considered banners.

**Sign, building identification** means a sign identifying the name of the building, institution or the activity carried on in the building.

**Sign, business identification** means a sign used to identify an establishment within a structure or its premises.

**Sign, construction** means a temporary sign which is located at a construction-site and which lists the name of the project, developer, architect, contractor, subcontractor and sales information.

**Sign, detached** means a sign not attached to or painted on a building but which is affixed to the ground. A sign attached to a flat surface such as a fence or wall not a part of the building, shall be considered a detached sign.

**Sign, directory** means a sign identifying the names of all the licensed uses in a building.

**Sign, double-faced** means a sign with two parallel, or nearly parallel, faces, back to back and located not more than 24 inches from each other.

**Sign, election/free speech** means a temporary sign in support of a political candidate or expressing a political opinion.

**Sign, establishment service-identification** means a sign which pertains only to the use of a premises and which contains any or all of the following information:

- a. The name of the owner, operator, and/or management of the use.
- b. Information identifying the types of services or products provided by the establishment.

**Sign, flashing** means an illuminated sign on which the artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use. Any revolving illuminated sign shall be considered a flashing sign.

**Sign, garage sale** means a sign advertising a garage sale.

**Sign, general advertising** means any sign which is not an accessory sign or which is not specifically limited to a special purpose by these regulations.

**Sign, hanging** means a sign hanging from the underside of an awning or canopy.

**Sign, illuminated** means any sign designed to give forth artificial light or designed to reflect light from one or more sources of artificial light erected for the purpose of providing light for the sign.

**Sign, marquee** means any sign attached to or hung from a marquee for a theatre. For the purpose of these land development regulations, a marquee is a nondetachable roof-like structure supported from the walls of a building and projecting over the main entrance for protection from sun and weather.

**Sign, monument** means a freestanding sign permanently affixed to a monument or other similar detached architectural feature without the need of posts and/or poles. A monument sign may be a double-faced sign.

**Sign, pennant** means a sign made of cloth, fabric, paper, plastic or other flexible material that does not contain text, numbers, images or symbols.

**Sign, pole** means a detached sign erected on a metal pole or poles and attached to the ground by a permanent foundation.

**Sign, projecting** means a sign which is attached to and projects more than 12 inches from the face of a wall of a building. The term projecting sign includes a marquee sign. A projecting sign which extends more than 36 inches above a roof line or parapet wall shall be designated as a roof sign.

**Sign, real estate** means a temporary sign erected on a property to advertise the sale of that property.

**Sign, roof** means a sign which is fastened to and supported by or on the roof of a building or which extends over the roof of a building or a projecting sign which extends more than 36 inches over or above the roof line or parapet wall of a building. A sign attached to an allowable height exception is not a roof sign.

**Sign, temporary** means a sign identifying a particular activity, service, product, sale, or lease, of limited duration, or announcing political candidates seeking public office, or advocating positions related to ballot issues, or exercising freedom of speech.

**Sign, wall** means a sign attached to, and erected parallel to, the face of, or erected on the outside wall of a building and supported throughout its length by such wall or building and not extending more than 12 inches from the building wall.

**Sign, painted** means a sign painted directly onto an exterior surface such as the face of the outside wall of a building.

**Streamer** means a piece of cloth, fabric, paper or other flexible plastic or material designed to draw attention by fluttering in the wind.

**Vertical retail center** means a commercial building with a minimum of 50,000 square feet of floor area for retail, restaurant, food market, or personal fitness center uses, exclusive of parking. This definition shall not include buildings that are predominantly office or nonretail uses.



## 1.2.6 RESILIENCE AND ADAPTATION DEFINITIONS

**Construction** means any project associated with the creation, development, or erection of any structure required to comply with this chapter.

**Enhanced stormwater quality and quantity improvements** means projects that augment water quality and quantity by: Reducing polluted runoff; advancing groundwater recharge, soil infiltration and erosion control; and restoring habitat.

**Environmental monitoring** means periodic or continuous surveillance or testing to determine the level of compliance required by the Environmental Protection Agency (EPA), Florida Department of Environmental Protection (DEP), or Miami-Dade County Department of Regulatory and Environmental Resources (RER) and/or pollutant levels in various media (air, soil, water) or biota, as well as to derive knowledge from this process. Examples of environmental monitoring include, but are not limited to: Water quality sampling and monitoring, groundwater testing and monitoring, and habitat monitoring.

**Environmental remediation** means clean-up of, or mitigation for, air, soil or water contamination for which the city is legally responsible for environmental clean-up or mitigation.

**Environmental restoration** means the return of an ecosystem to a close approximation of its condition prior to disturbance.

**Green infrastructure** means both the natural environment and engineered systems to provide clean water, conserve ecosystem values and functions, and provide a wide array of benefits to people and wildlife. Green infrastructure uses vegetation, soils, and natural processes to manage natural resources and create healthier urban environments. Examples of green infrastructure practices include, but are not limited to: Right-of-way bio-swales, green roofs, blue roofs, rain gardens, permeable pavements, infiltration planters, trees and tree boxes, rainwater harvesting systems.

**Green building** means generally the resource efficient design, construction, and operation of buildings by employing environmentally sensible construction practices, systems and materials.

**Green building certification agency** means the United States Green Building Code (USGBC) or the International Living Future Institute, as may be selected by the eligible participants.

**International Living Future Institute** means a non-profit organization that created an international sustainable building certification program called The Living Building Challenge. Certification types include living building certification, petals certification and net zero energy building certification.

**LEED** means an effective edition of the Leadership in Energy and Environmental Design (LEED) Green Building Rating System for Building Design and Construction or Homes, as applicable, of the United States Green Building Council (USGBC).

**Project** means any construction associated with the creation, development or erection of any building required to comply with this chapter.

**Scorecard** means a guide provided by the green building certification agency to assist in determining the total project score and achievable credits and level of certification at the inception of a green building, as provided under this chapter.

**USGBC** means the United States Green Building Council.

## ARTICLE III – INTERPRETATION AND ENFORCEMENT

### 1.3.1 INTERPRETATION, PURPOSE AND CONFLICT

- a. Words and terms not defined in Chapter 1, Article II shall be interpreted in accord with their normal dictionary meaning and customary usage, except for technical standards or words of art used by a particular profession, which shall be interpreted by the planning director as provided in section 1.3.6 of these land development regulations.
- b. In interpreting and applying the provisions of the land development regulations, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by these land development regulations to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, or to repeal any provisions of the City Code. Where the regulations imposed by these land development regulations are more restrictive than those imposed by any other ordinances, rules, regulations, easements, covenants or agreements, then these land development regulations shall supersede them; however, when any of the above are more restrictive than this subpart, then the more restrictive provision shall govern to the extent necessary to give effect to its provisions. When there are different regulations, one general and one more specific, both of which may apply to a given subject, the more specific one shall govern, regardless of whether it be part of the City Code or this subpart and regardless of the date of enactment.
- c. If, because of error or omission in the zoning district map, any property in the city is not shown as being in a zoning district, the classification of such property shall be classified RS-1 single-family residential district, until changed by amendment.

### 1.3.2 RELATIONSHIP TO THE COMPREHENSIVE PLAN

All regulations contained in these land development regulations and the maps attached thereto, which are on file in the city clerk's office, shall be amended, supplemented or changed only in compliance with F.S. ch. 163 as pertains to comprehensive planning activities. Neighborhood plans shall not be considered as part of the comprehensive plan unless the city commission adopts the neighborhood plan as part of the comprehensive plan.

### 1.3.3 COMPLIANCE WITH REGULATIONS REQUIRED

- a. Except as provided in these land development regulations:
- b. No land or water area may be used except for a purpose permitted in the district in which it is located.
- c. No land or water area may be used without an approved certificate of use.
- d. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, nor shall any building or part thereof, be used except for a use permitted in the district in which the building is located.
- e. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with all applicable regulations established for the district in which the building is located.
- f. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the area regulations of the district in which the building is located.
- g. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, except in conformity with the off-street parking and loading regulations of the district in which the building is located.
- h. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the floor area ratio regulations of the district in which it is located. However, in accordance with Section 2.2.3.4, the maximum floor area ratio (FAR), inclusive of bonus FAR, for a unified development site may be located over multiple zoning districts.
- i. No building shall be erected or moved except in conformity with the established flood criteria applicable to the site on which the building is to be located.
- j. A building containing hotel suite units as specified in Section 7.5.4.5 shall not be converted to apartment units unless the minimum unit size requirements are met.
- k. No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered without obtaining a building permit.
- l. No building permit shall be issued for any lot or site that does not meet the requirements of the definition of lot as stated in this subpart.
- m. No building permit or board order shall be issued for any lot or site with a building permit valued at \$250,000.00 or more without a Construction Management Plan approved by the Parking Director pursuant to Chapter 106, Article II, Division 3, entitled "Construction Parking and Traffic Management Plan" in General Ordinances.

### 1.3.4 PERMITS AND PLOT PLANS

- a. A building permit shall not be issued for any building or structure to be erected, constructed, altered, moved, converted, extended, enlarged or used, or for any land or water to be used, except in conformity with the provisions of these land development regulations.
- b. A license or permit shall not be issued by any department, agency or official of the city for the use of any premises or the operation of any business, enterprise, occupation, trade, profession or activity which would be in violation of any of the provisions of these land development regulations.

### 1.3.5 OUTSTANDING BUILDING PERMITS AND PROJECTS WHICH HAVE RECEIVED ZONING APPROVAL

Any building or structure for which a building permit has been issued or for which the planning director has approved plans for zoning compliance with the land development regulations in effect as of the adoption of Ordinance No. xxx, may be built or processed to obtain a building permit in accordance with the zoning regulations in effect at the time of the adoption of Ordinance No. xxx. However, the building permit shall be valid for the period of time as specified in the Florida Building Code. The plans approved by the planning director shall be valid for a period of time specified in an applicable land use board order or for the period in which the corresponding building permit remains active. If a building permit should expire or become inactive, as determined by the

Building Official, any future permit related to the development shall conform to the regulations as contained in these land development regulations. All work not associated with that which was allowed on the building permit or on plans approved by the planning director shall be in accordance with these land development regulations.

### 1.3.6 ADMINISTRATION OF REGULATIONS

- a. It shall be the duty of the planning director to interpret all provisions of these land development regulations. Where a question arises as to the meaning or intent of a section or subsection of these land development regulations, the director may render written decisions of an administrative nature concerning items such as, but not limited to:
  - b. The proper zoning classification for a use not specifically addressed;
  - c. The interpretation of zoning district boundaries;
  - d. The manner in which the particular land development regulation is to be applied; and
  - e. The procedure to be followed in unusual circumstances.
- f. Standards for Administrative Interpretation
- g. The planning director shall interpret these land development regulations based on the plain meaning of the regulation, or if the director determines that there is ambiguity regarding the regulatory provision, then the history and intent of the City Commission in enacting the provision shall be considered. If the regulatory provision refers to or is based on text that requires reference to technical standards or words of art used by a particular profession, then the director shall consult with those knowledgeable in the applicable profession.
- h. In the event an applicable party disagrees with a decision of the planning director regarding any provisions of the land development regulations, such party may file an appeal of the planning director's decision to the Board of Adjustment, in accordance with the provisions set forth in Chapter 2. Any decision of the planning director pertaining to the interpretation of the land development regulations may only be reversed or modified by the board of adjustment.

### 1.3.7 ENFORCEMENT

- a. It shall be the duty of the planning director and the department of code compliance to enforce the provisions of these land development regulations and to refuse to approve any permit for any building or for the use of any premises, which would violate any of the provisions of these land development regulations. The building official shall enforce those provisions of the land development regulations which delegate specific powers and duties to that individual. It shall also be the duty of all officers and employees of the city to assist these departments by reporting to them any seeming violation in new construction, reconstruction or land uses.
- b. The city's planning director, building official, and director of the department of code compliance are authorized, where deemed necessary for enforcement of these regulations, to request the execution of an agreement for recording.
- c. In case any building is erected, constructed, reconstructed, altered, repaired, or converted, or any building or land is used in violation of these land development regulations, the city's planning director, building official, and director of the department of code compliance, or the city in their behalf is authorized and directed to institute any appropriate action to put an end to such violation.
- d. For purposes of inspection and upon presentation of proper credentials, the city's planning director, building official, and director of the department of code compliance or their authorized representatives, may enter at any reasonable time, any building, structure or premises, for the purpose of determining whether these land development regulations are being violated. In the event violations of these land development regulations are found on a given premises, the building official and the director of the department of code compliance, historic preservation and urban design director or their authorized representative, are empowered to issue notices of violation to the owner of such premises and to any persons responsible for creating or maintaining the violations. Additionally, the building official may stop work on projects which violate these land

development regulations with respect to materials, work, grades, use or other regulations or provisions thereof.

### **1.3.8 VIOLATIONS AND PENALTIES**

- a. Any person, firm or corporation who shall violate or fail to comply with any of the provisions of these land development regulations or with any of the requirements thereof, or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder, shall be subject to enforcement procedures as set forth in the City Code. The special magistrate may assess fines and impose liens as provided in chapter 30 and F.S. ch. 162. The owner or owners of any building or premises, or part thereof, where anything in violation of these regulations shall be placed or shall exist, and any agent, person, or corporation employed in connection therewith and who has assisted in the commission of any such violation may be guilty of a separate offense and may be fined as hereinbefore provided.