

Chapter 101 GENERAL PROVISIONS

Sec. 101-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned means the voluntary discontinuation of a use. When the use of a property has ceased and the property has been vacant for 18 months, abandonment of use will be presumed unless the owner can show that a diligent effort has been made to sell, rent, or use the property for a legally permissible use. This excludes temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

Access means ingress or egress to a parcel of land.

Accessory use or accessory structure means a use or structure that:

- (1) Is subordinate to and serves an existing principal use or principal structure; and
- (2) Each individual accessory use or accessory structure as well as in total/combined, is subordinate in area (for this definition docks, pools, pool decks, driveways are excluded from the total area), extent and purpose to an existing principal use or principal structure served; and
- (3) Contributes to the comfort, convenience or necessity of occupants of the principal use or principal structure served; and
- (4) Is located on the same lot/parcel or on a lot/parcel that is under the same ownership as the lot/parcel on which the principal use or principal structure is located; and
- (5) Is located on the same lot/parcel or on a contiguous lot/parcel as an existing principal use or principal structure, excluding accessory docking facilities that may be permitted on adjacent lots/parcels pursuant to section 118-12; and
- (6) Is located in the same land use (zoning) district as the principal use or principal structure, excluding off-site parking facilities pursuant to section 114-67.

Accessory uses include the utilization of yards for home gardens, provided that the produce of the garden is for a non-commercial purpose. In no event shall an accessory use or structure be established prior to the principal use to which it is accessory. With approval from the Planning Director, an accessory use or structure may continue if its principal use or structure is discontinued or removed for redevelopment, provided that the owner is moving forward with continual development and with active concurrent permits for redevelopment of a principal use or structure. Accessory uses shall not include second dwelling units or any other habitable structures that are occupied by a separate and independent resident.

Adjacent parcel means a parcel of land sharing a boundary with another parcel of land at one or more points of intersection. For purposes of this land development code, an intervening road,

right-of-way or easement shall not eliminate nor destroy the adjacency of the two parcels, except for U.S.1.

Administrative relief means actions taken by the County granting the owner of real property relief from the continued application of the rate of growth ordinance restrictions provided they meet the criteria established in the Land Development Code.

Adverse impacts, stormwater management, means modifications, alterations, or effects on groundwaters, surface waters or wetlands, including quality, quantity, hydrodynamics, i.e., currents, flow patterns, surface area, species composition, living resources, or usefulness which are or may be potentially harmful to human health and safety, to biological productivity or stability, or which interfere with lawful enjoyment of life or property, including secondary, cumulative, and direct impacts.

Affordable housing.

- (1) *Affordable housing* means residential dwelling units that meet the following requirements:
 - a. Meet all applicable requirements of the United States Department of Housing and Urban Development minimum property standards as to room sizes, fixtures, landscaping and building materials, when not in conflict with applicable laws of the county; and
 - b. A dwelling unit whose monthly rent, not including utilities, does not exceed 30 percent of that amount which represents either 50 percent (very low income) or 80 percent (low income) or 100 percent (median income) or 120 percent (moderate income) of the monthly median adjusted household income for the county.
- (2) *Affordable housing owner occupied, low income*, means a dwelling unit occupied only by a household whose total household income does not exceed 80 percent of the median monthly household income for the county.
- (3) *Affordable housing owner occupied, median income*, means a dwelling unit occupied only by a household whose total household income does not exceed 100 percent of the median monthly household income for the county.
- (4) *Affordable housing owner occupied, moderate income*, means a dwelling unit occupied only by a household whose total household income does not exceed 160 percent of the median monthly household income for the county.
- (5) *Affordable housing owner occupied, very low income*, means a dwelling unit occupied only by a household whose total household income does not exceed 50 percent of the median monthly household income for the county.
- (6) *Affordable housing trust fund* means a trust fund established and maintained by the county for the purpose of preserving existing and promoting creation of new affordable and employee housing. Funds collected for and deposited in the trust fund shall be used

- exclusively for purposes of creating, preserving or maintaining affordable and employee housing in the Florida Keys.
- (7) *Affordable rental housing, low income*, means a dwelling unit whose monthly rent, not including utilities, does not exceed 30 percent of the amount that represents up to 80 percent of the monthly median adjusted household income for the county.
 - (8) *Affordable rental housing, median income*, means a dwelling unit whose monthly rent, not including utilities, does not exceed 30 percent of the amount that represents up to 100 percent of the monthly adjusted median household income for the county.
 - (9) *Affordable rental housing, moderate income*, means a dwelling unit whose monthly rent, not including utilities, does not exceed 30 percent of the amount that represents up to 120 percent of the monthly median adjusted household income for the county.
 - (10) *Affordable rental housing, very low income*, means a rental dwelling unit whose monthly rent, not including utilities, does not exceed 30 percent of the amount that represents up to 50 percent of the monthly median adjusted household income for the county.
 - (11) *Employee housing* means an attached or detached dwelling unit that is intended to serve as affordable, permanent housing for working households, which derive at least 70 percent of their household income from gainful employment in the county and meet the requirements for affordable housing as defined in this section and as per section 139-1.
 - (12) *Employer-owned rental housing* means an attached or detached dwelling unit owned by a firm, business, educational institution, non-governmental or governmental agency, corporation or other entity that is intended to serve as affordable, permanent housing for its employees. This category of employee housing shall be located on the same parcel of land as the nonresidential use.
 - (13) *Inclusionary housing* means the resulting affordable and/or employee housing created or preserved with the development and/or redevelopment of a parcel where provisions of approved development agreements or orders implement and promote affordable and/or employee housing goals, objectives and policies contained in the plan by requiring set-asides for affordable and/or employee housing units.
 - (14) *Median income, rental rates and qualifying incomes table*, means eligibility requirements compiled each year by the planning department based upon the median annual household income published for the county on an annual basis by the U.S. Department of Housing and Urban Development and similar information for median and moderate income levels from the Florida Housing Finance Corporation. Affordable housing eligibility requirements for each household will be based upon median annual household income adjusted by family size, as set forth by the U.S. Department of Housing and Urban Development and the Florida Housing Finance Corporation. The county shall rely upon this information to determine maximum rental rates and maximum household incomes eligible for affordable housing rental or purchase.
 - (15) *Monthly median household income* means the median annual household income for the county divided by 12.
 - (16) *Deed restriction, affordable housing* means a recorded restriction on a residential dwelling unit for a period of 99 years restricting occupancy and/or purchase to households that meet the requirements of the income categories listed above.

Agricultural use means agriculture, horticulture, floriculture, viticulture, mariculture/aquaculture, forestry, groves, nurseries, dairy, livestock, poultry, and any and all forms of farm products and farm production.

Aircraft means any motor vehicle or contrivance which is used or designed for navigation of or flight in the air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment.

Airport means any area of land or water, or any manmade object or facility located thereon, which is used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas that are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon. There are both public and private airports, which are differentiated as follows:

- (1) A public airport is publicly or privately owned, meets minimum safety and service standards, and is open for use by the public; and
- (2) A private airport is publicly or privately owned, and is available for use by invitation of the licensee. Services may be provided if authorized by the Florida Department of Transportation.

Airport use means fixed- and rotary-wing aircraft operations, which may include retail sales and service operations related to public or general aviation, including aircraft sales, repair and storage, commercial shipping and storage, and restaurants designed to serve aviation passengers, and other airport-related public uses. However, the use of a site by any ultra-light aircraft that meets the criteria for maximum weight, fuel capacity and airspeed established for such aircraft by the U.S. Federal Aviation Administration shall be considered an airport use if the site is within five nautical miles of either a public or military airport or 3,000 feet from the boundaries of a private airport.

Airspace obstruction height means the maximum vertical elevation of the highest part of any object or structure, including trees or landscaping, with respect to the nearest airport runway threshold elevation.

Alley means a right-of-way providing a secondary means of access and service to abutting property.

Allocated density. See "*Density, allocated.*"

Amendment means any action of the County which has the effect of amending, adding to, deleting from or changing the adopted comprehensive plan, land development code, or map or map series.

Application means a written request, in such form, and containing all necessary information, as established by the County

Aquifer means an underground formation permeable enough to transmit, store or yield quantities of salt or fresh water.

Area of special flood hazard means the land subject to a one percent or greater chance of flooding in any given year.

Artificial light or *artificial lighting* means the light emanating from any manmade or man-controlled device.

Available (as applied to a publically-owned or investor-owned sewerage system) means that the sewerage system is capable of being connected to the plumbing of an establishment or residence, is not under a Department of Environmental Protection moratorium, and has adequate permitted capacity to accept the sewage to be generated by the establishment or residence.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement means that portion of a building between floor and ceiling that may be partly below and partly above grade.

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

Beach berm means a bare, sandy shoreline with a mound or ridge of unconsolidated sand that is immediately landward of, and usually parallel to, the shoreline and beach. The sand is calcareous material that is the remains of marine organisms such as corals, algae and mollusks. The berm may include forested, coastal ridges and may be colonized by hammock vegetation.

Beekeeping use means the raising, caring for, and breeding of honeybees at an apiary site.

Beneficial use means the use of property that allows an owner to derive a benefit or profit in the exercise of a basic property right.

Best management practices, stormwater management, means those methods of stormwater management recognized by experts in the field as the most effective for treating or managing stormwater runoff.

Bird rookery means a communal nesting ground for gregarious birds.

Board of County Commissioners means the county commission, also known as the BOCC, of the county.

Breakaway walls means walls of any construction intended to collapse under stress without jeopardizing the structural support of the structure so that the impact on the structure by abnormally high tides or wind-driven water is minimized.

Buffer/Bufferyard means a land area of specified minimum width, together with required planting and landscaping consisting of native vegetation or other species included on an approved species list used to visibly separate one use from another, or to shield or block noise, lights, or other nuisances. A bufferyard may also contain a barrier such as a berm, wall, or fence, designed to provide screening.

Bug type bulb means any yellow colored incandescent light bulb, not to exceed 25 watts, that is marketed as being specifically treated in such a way so as to reduce the attraction of bugs to the light.

Buildable acre means the upland portion of a parcel that is not required open space required by section 130-157. *Also see "net buildable area."*

Buildable lot means a duly recorded lot as shown on a plat approved by the county that complies with each and every requirement of the Land Development Code.

Buildable parcel means a parcel of land, including but not limited to a buildable lot, that complies with each and every requirement of this Land Development Code.

Building means a structure that is located on land or water and which can be used for housing, business, commercial, agricultural, storage or office purposes, either temporarily or permanently. Buildings are used or intended for supporting or sheltering any use or occupancy.

Building code means the Florida Building Code as applied to the county.

Building permit means a development permit pursuant to this Land Development Code, Chapter 6 of the Code of Ordinances and/or the Florida Building Code.

Buttonwood association. See "Salt marsh and buttonwood associations."

Cactus hammock means a low hammock with understories and/or ground covers with an abundance of cacti of the genera *Opuntia*, *Acanthocereus*, *Pilosocereus* and *Harrisia*. Common species in cactus hammocks include Barbed Wire Cactus (*Acanthocereus tetragonus*), Prickly Pear Cactus (*Opuntia stricta*). Rare species include Tree Cactus (*Pilosocereus robinii*) and Prickly Apple Cactus (*Harrisia fragrans*).

Campground space means a space, whether improved or unimproved, used for tent camping, including pop-ups, for tenancies of less than six months.

Canal means a manmade trench, the bottom of which is normally covered by water with the upper edges of its sides normally above water.

Canopy trees means tall trees that form the uppermost leaves or needles in a hammock or pineland area as may be required in landscaping by this land development code.

Capacity means the capability of a facility to serve the needs of a user such as the number of vehicles a road can safely and efficiently carry.

Capital improvements means the planning of, engineering for, acquisition of land or equipment for, and the construction of improvements, including, but not limited to, road, park, solid waste, water, wastewater treatment facilities and systems, library, public buildings and emergency services, and police facilities, but does not include routine maintenance.

Channel means a trench, the bottom of which is normally covered entirely by water, with the upper edges of its sides normally below water.

Clearing means the clearing of land, including clearing or removal of vegetation, and including any significant disturbances of vegetation or substrate (soil) manipulation. Clearing is defined as a development activity.

Coastal Barrier Resources System (CBRS) means those 15 CBRS system units, designated under the federal Coastal Barrier Resources Act (CBRA) of 1982, excluding otherwise protected areas (OPAs), in the county, , comprising relatively undeveloped coastal barriers and all associated aquatic habitats including wetlands, marshes, estuaries, inlets and near shore waters. System units are generally comprised of lands that were relatively undeveloped at the time of their designation within the CBRS. The boundaries of these units are designated by the U.S. Department of the Interior and the boundaries are generally intended to follow geomorphic, development, or cultural features. Most new federal expenditures and financial assistance, including flood insurance, are restricted within system units. System units are identified and depicted on the current flood insurance rate maps approved by the Federal Emergency Management Agency. Only the United States Congress can revise CBRS boundaries. (Federal law limits new federal expenditures but does not control State, local or private expenditures.)

Coastal high-hazard area (CHHA) means the area below the elevation of the Category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model.

Commencement of construction means the first placement of permanent evidence of a structure on a site pursuant to a duly issued building permit, such as the pouring of slabs or footings or any work beyond the state of excavation, including the relocation of the structure. Permanent construction does not include the installation of streets or sidewalks within the right of way.

Commercial apartment means an attached or detached residential dwelling unit located on the same parcel of land as a nonresidential use that is intended to serve as permanent housing for the owner or employees of that nonresidential use. The term does not include a tourist housing use or vacation rental use.

Commercial fishing use means the catching, landing, processing and/or packaging of seafood for commercial purposes; the storage, mooring and docking of commercial fishing vessels; and/or the manufacture, assembly, repair, maintenance and storage of traps and other commercial fishing equipment; and the term includes charter boat uses and sport diving uses.

Commercial recreation use, indoors, means a use designed and equipped for the conduct of sports and leisure-time activities operated as a business and providing completely enclosed recreation activities. This definition includes, but is not limited to, indoor activities including and related to bowling, athletic courts, miniature golf, theaters, firearm and archery shooting ranges, health and fitness clubs and swimming pools.

Commercial recreation use, outdoors, means a use designed and equipped for the conduct of sports and leisure-time activities operated as a business in outdoor areas. This definition includes, but is not limited to, outdoor activities including and related to athletic courts, miniature golf, golf courses and driving ranges, firearm and archery shooting ranges and swimming pools.

Commercial retail use means a use providing primarily for the sale of consumer goods, products, merchandise or services at retail. Commercial retail uses are subdivided into the following intensity classifications:

- (1) *Commercial retail low-intensity* means commercial retail uses that generate less than 50 average daily trips per 1,000 square feet of floor area.
- (2) *Commercial retail medium-intensity* means retail uses that generate between 50 and 100 average daily trips per 1,000 square feet of floor area.
- (3) *Commercial retail high-intensity* means retail uses that generate above 100 average daily trips per 1,000 square feet of floor area.

Commercially exploited means native plants so designated by the Florida Department of Agriculture as listed in the Preservation of Native Flora of Florida Act, F.S. sections 581.185-581.187.

Community center means a defined geographic development focal area as identified within each of the Livable CommuniKeys Plans.

Community character means the image and perception of a community as defined by the recognizable natural and built landmarks, boundaries and features that provide a sense of place and orientation and the interrelationship of all these characteristics.

Community Impact Statement. See Chapter 110, Article III. Conditional Uses for requirements.

Comprehensive Plan means the compilation of goals, objectives, policies, and maps for the physical, social, and economic development within the County, adopted by ordinance pursuant to Chapter 163, Part II, Florida Statutes, as amended and containing all statutorily-required elements.

Concept Meeting means a meeting a private applicant must attend with the Planning and Environmental Resources Department with the submission of an application for amendment to the text of the Land Development Code and/or Comprehensive Plan to explain and identify county-wide policy impacts for the Board of County Commissioners and the public.

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

Conditional Use Permit (major or minor) means a development approval as defined in Chapter 110, Article III. Conditional Uses.

Connection means a driveway, turnout or other means of providing movement of vehicles to or from roads.

Conservation land protection area means areas that have been identified by the county in management plans for resource protection that are inside or adjacent to existing state and federal park and conservation land boundaries.

Construction impact zone means the area to be deducted from the buildable area of a parcel in order to allow for clear working area during construction activities and which shall include a perimeter of at least five feet around the proposed structure as measured from the drip line or the outermost point of the structure.

Construction, relative to stormwater management, means any on-site activity that will result in the change of natural drainage patterns and will require the creation of a new stormwater management system.

Contiguous parcels means parcels of land sharing of a common border at more than a single point of intersection. Contiguity is not interrupted by utility easements.

Control elevation means the lowest point above sea level at which water can be released through the control structure.

Corner lot means a parcel of land where the frontages are intersecting at an angle created by two or more roads resulting in a Double Frontage parcel as set forth in Section 131-3(c)(2).

County means unincorporated Monroe County, Florida.

Cumulatively illuminated means illuminated by numerous artificial light sources that as a group illuminate any portion of the beach.

Decision height means the height at which a decision must be made, during ILS instrument approach, to either continue the approach or to execute a missed approach.

Density, allocated means the number of dwelling units or rooms/spaces which may be permitted to be developed per gross acre of upland without the use of Transferable Development Rights (TDRs).

Density, maximum net means the maximum number of dwelling units or rooms/spaces which may be permitted to be developed per buildable acre, with the use of Transferable Development Rights (TDRs) or for affordable housing.

Detention means the temporary delay of stormwater runoff by a structure, for water quantity and quality improvements, prior to discharge into receiving waters.

Developed Area means an area where significant site improvements, such as utility installations, paving, and/or the construction of one or more structures, have occurred.

Developer means any person, including a governmental agency, undertaking any development.

Development means the carrying out of any building activity, the making of any material change in the use or appearance of any structure on land or water, or the subdividing of land into two or more parcels.

- (1) Except as provided in subsection (3) of this definition, for the purposes of this chapter, the following activities or uses shall be taken to involve "development":
 - a. A reconstruction, alteration of the size, or material change in the external appearance of a structure on land or water;
 - b. A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices or dwelling units in a structure or on land;
 - c. Alteration of a shore or bank of a seacoast, lake, pond or canal, including any work or activity which is likely to have a material physical effect on existing coastal conditions or natural shore and inlet processes;
 - d. Commencement of drilling (except to obtain soil samples), mining or excavation on a parcel of land;
 - e. Demolition of a structure;
 - f. Clearing of land, including clearing or removal of vegetation and, including significant disturbance of vegetation or substrate (soil) manipulation, including the trimming of mangroves to the extent allowed by law; and
 - g. Deposit of refuse, solid or liquid waste, or fill on a parcel of land.
- (2) The term "development" includes all other activity customarily associated with it. When appropriate to the context, "development" refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development.

Reference to particular operations is not intended to limit the generality of this definition.

- (3) For the purpose of this chapter, the following operations or uses shall not be taken to involve "development":
 - a. Work involving the maintenance, renewal, improvement or alteration of any structure, if the work affects only the color or decoration of the exterior of the structure or interior alterations that do not change the use for which the structure was constructed;
 - b. Work involving the maintenance of existing landscaped areas and existing rights-of-way such as yards and other nonnatural planting areas;
 - c. A change in use of land or structure from a use within a specified category of use to another use in the same category unless the change involves a change from a use permitted as of right to one permitted as a minor or major conditional use or from a minor to a major conditional use;
 - d. A change in the ownership or form of ownership of any parcel or structure;
 - e. The creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land unless otherwise specifically required by law; or
 - f. The clearing of survey cuts or other paths of less than four feet in width and the mowing of vacant lots in improved subdivisions and areas that have been continuously maintained in a mowed state prior to the effective date of the plan, the trimming of trees and shrubs and gardening in areas of developed parcels that are not required open space and the maintenance of public rights-of-way and private accessways existing on the effective date of the ordinance from which this chapter is derived or approved private rights-of-way.
- (4) The term "development" also means the tourist housing use or vacation rental use of a dwelling unit, or a change to such a use (i.e., conversion of existing dwelling units to vacation rental use). Vacation rental use of a dwelling unit requires building permits, inspections and a certificate of occupancy.

Development, utility work means work by any utility and other persons engaged in the distribution or transmission of gas, electricity, or water, for the purpose of inspecting, repairing, renewing, or constructing on established rights-of-way any sewers, mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks, or the like. This provision conveys no property interest and does not eliminate any applicable notice requirements to affected land owners. The listed operations or uses shall not be taken for the purpose of this section to involve "development."

Development order means any order granting, denying, or granting with conditions an application for a development permit.

Development permit means any building permit, plat approval, conditional use permit, subdivision approval, rezoning, variance, special exception, or any other official action of Monroe County having the effect of permitting the development of land.

Diameter at breast height (DBH) means tree trunk diameter measured at approximately four and one half (4.5) feet above the surrounding grade.

Discharge, direct, means the release of stormwater through a control structure to the receiving water body.

Discharge structure means a device through or over which water is released from a stormwater management structure.

Disturbed land means land that manifests signs of environmental disturbance that has had an observable effect on the structure and function of the natural community.

Disturbed salt marsh and buttonwood wetlands means salt marsh or buttonwood wetland habitat with environmental disturbance that has had an observable effect on the structure and function of the natural community.

Dock means a fixed or floating structure built and used for the landing, berthing, and/or securing of vessels or watercraft either temporarily or indefinitely. For the purposes of this land development code, docks shall not include "water access walkways".

Docking facilities means structures used for the landing, berthing, and/or securing of vessels including, but are not limited to, docks, wharves, piers, quays, slips, basins, posts, cleats, davits, piles or any other appurtenances or attachment thereto.

Double frontage means a parcel of land having frontage on two or more roads, including, but not limited to through lots and corner lots.

Drain means a channel, pipe or duct for conveying water.

Drainage means removal of water from an area to lower the water level of that area.

Drainage basin means a catchment area that is otherwise draining to a watercourse or contributing flow to a body of water.

Drainage facilities means a system of man-made structures designed to collect, convey, hold, divert, or discharge stormwater, and includes stormwater sewer, canals, detention structures, and retention structures.

Dredging means excavation below water level or in wetlands.

Dry detention means the delay of stormwater runoff prior to discharge into receiving waters in a structure with a bottom elevation above the water table or control elevation.

Dry retention means the prevention of stormwater runoff from direct discharge into receiving waters in a structure with a bottom elevation above the water table or control elevation.

Ductless air conditioning means a system used to cool a structure that does not require duct work and consists of two separate components: an outdoor condenser, and an indoor evaporator (does not include a window air conditioner which is self-contained, or one piece).

Dune means a mound, bluff, or ridge of loose sediment, usually sand-sized sediment, lying landward of the beach and deposited by any wind or ocean current or artificial mechanism.

Dwelling, attached, means a dwelling unit developed without open yards on all sides of the dwelling unit

Dwelling, commercial apartment, means a dwelling unit located on the same parcel of land as a nonresidential use that is intended to serve as permanent housing for the owner or employees of that nonresidential use, such as apartments that are built as a part of a commercial or office use.

Dwelling, detached, means an individual dwelling unit that is developed with open yards on all sides of the dwelling unit. The term includes single family residences but does not include mobile homes or recreational vehicles.

Dwelling, single-family, or *single-family residence* means a one-family dwelling unit that is developed with open yards on all sides of the building.

Dwelling unit means one or more rooms physically arranged for occupancy by one residential household sharing common living, cooking, and toilet facilities.

Easement means a grant of one or more of the property rights by the property owner to and/or for the use by the public, the County, a public or private utility, a corporation, or another person or entity.

Element means a major division or chapter of the comprehensive plan.

Employee housing. See "Affordable housing."

Employer-owned rental housing. See "Affordable housing."

Environmentally sensitive lands means areas of native habitat requiring special management attention to protect important fish and wildlife resources and other natural systems or processes. Environmentally sensitive lands typically include wetlands and other surface waters, tropical hardwood hammocks and pinelands.

Erosion means the washing away or scouring of soil by water or wind action.

Exceptional hardship means a burden on a property owner that substantially differs in kind or magnitude from the burden imposed on other similarly situated property owners. Financial difficulty/hardship does not qualify as exceptional hardship.

Existing means the condition immediately before development or redevelopment occurs.

Existing conditions map means the official map of existing conditions as adopted pursuant to section 130-4 of these regulations which reflect vegetation, natural features and developed lands in the county as modified by development authorized by section 101-4(b).

Expansion of Nonconforming Use means extending a nonconforming use to occupy a greater amount of area beyond that which it occupied on the date the use became nonconforming.

Family means a person living alone, or people living together as a single household and sharing common living, cooking, and toilet facilities:

- (1) Any number of people related by blood, marriage, adoption, guardianship, domestic partnership or duly-authorized custodial relationship;
- (2) Three unrelated people;
- (3) Two unrelated people and any children related to either of them.

Fence means a barrier made of rocks, logs, posts, boards, wire, stakes, rails, masonry components, or similar material or combination of materials.

Fill means material, consolidated or unconsolidated deposited on land or in water.

Fish house means a commercial retail establishment that buys and sells, at wholesale and/or retail, seafood products, bait, ice, fuel, and other products and services required by the commercial fishing industry.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of tidal waters or the unusual and rapid accumulation of stormwater runoff of waters from any surface.

Flood insurance rate map or *FIRM* means the official map of the county on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the county.

Floodplain means any land area susceptible to being inundated by flood waters from any source. (FEMA definition)

Floor means the top surface of an enclosed area in a building (including basement), i.e., the top of the slab in concrete slab construction or the top of the wood flooring in wood frame construction. The term does not include the floor of an area used exclusively for parking of

vehicles (i.e., garage), limited storage, or building access (i.e., stairs, elevator shafts, maintenance crawl space).

Floor area means the sum of the gross covered and enclosed habitable areas of a building or any other covered and enclosed structure, measured from the exterior walls or from the centerline of party walls.

Floor area ratio (FAR) means the total floor area of the building(s) and/or any other covered and enclosed structure(s) on a site divided by the gross area of the site. FAR is the measurement of the intensity of building development on a site.

Frequency means the anticipated cyclic return period of a storm event, e.g., 25-year storm.

Freshwater lens means a freshwater aquifer at the top of the water table overlying a saline aquifer.

Freshwater wetlands means wetland areas with either standing water or saturated soil, or both, where the water is fresh or brackish. The vegetation common in freshwater wetlands in the Florida Keys may include the following species:

Common Name	Scientific Name/Species
Saw grass	<i>Cladium jamaicensis</i>
Buttonwood	<i>Conocarpus erectus</i>
Spike rush	<i>Eleocharis celluosa</i>
White mangrove	<i>Laguncularia racemosa</i>
Red mangrove	<i>Rhizophora mangle</i>
Cattail	<i>Typha spp.</i>

Frontage means that part of a parcel of land abutting on a road.

Functional integrity means the completeness and natural stability of an assemblage of native plants and animals as indicated by measures of continuity, species diversity, species interdependence and biomass.

Future Land Use Map (FLUM) means a graphic representation of the land use categories used in the County and their placement on the land adopted as part of the comprehensive plan and used as the regulatory map for implementation of the comprehensive plan and land development regulations.

Governmental agency means:

- (1) The United States or any department, commission, agency or other instrumentality thereof;
- (2) The state or any department, commission, agency or other instrumentality thereof;

- (3) Any local government or any department, commission, agency or other instrumentality thereof; or
- (4) Any school board or other special district, authority or governmental entity.

Grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure, or the crown or curb of the nearest road directly adjacent to the structure, whichever is higher. To confirm the natural elevation of the ground surface, prior to construction, the county shall utilize the Light Detection and Ranging (LiDAR) dataset for Monroe County prepared in 2007 and other best available data, including, but not limited to, pre-construction boundary surveys with elevations, pre-construction topographic surveys, elevation certificates and/or other optical remote sensing data.

Gray water reuse mean reusing wastewater from residential, commercial and industrial bathroom sinks, bath tub shower drains, and clothes washing equipment drains for reuse onsite, typically for toilet flushing.

Gross acre means the total area of a site excluding submerged lands, tidally inundated mangroves below the mean high water line, and any dedicated public rights-of-way.

Gross area means the total gross acres of a site, less submerged lands, tidally inundated mangroves below the mean high water line, and any dedicated public rights-of-way.

Groundwater means water beneath the surface of the ground.

Habitable floor area means any floor area for occupancy and equipped for uses including, but not limited to, kitchen, dining, living, family or recreation room, laundry, bedroom, bathroom, office, workshop, professional studio or commercial occupancy.

Habitable space means any structure equipped for human habitation such as, but not limited to, office, workshop, kitchen, dining, living, laundry, bathroom, bedroom, den, family or recreational room; professional studio or commercial occupancy including all interior hallways, corridors, stairways and foyers connecting these areas. Garages, exterior stairs and open decks and patios are not considered habitable structures.

Heavy industrial use. See “*Industrial use, heavy.*”

Height means "the vertical distance between grade and the highest part of any structure, including mechanical equipment, but excluding the following: chimneys; spires and/or steeples on structures used for institutional and/or public uses only; radio and/or television antenna, flagpoles; solar apparatus; utility poles and/or transmission towers; and certain antenna supporting structures with attached antenna and/or collocations as permitted in Chapter 146. However, in no event shall any of the exclusions enumerated in this definition be construed to permit any habitable or usable space to exceed the applicable height limitations. In the case of

airport districts, the height limitations therein shall be absolute and the exclusions enumerated in this definition shall not apply.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

High hammock means an upland, hardwood forest community in which the following species of plants represent a component of the flora:

Common Name	Scientific Name/Species
Crabwood	<i>Gymnanthes lucida</i>
Gumbo limbo	<i>Bursera simaruba</i>
Pale lidflower	<i>Calyptanthes pallens</i>
Soldierwood	<i>Colubrina elliptica</i>
Guiana plum	<i>Drypetes lateriflora</i>
Redberry stopper	<i>Eugenia confuse</i>
Red stopper	<i>Eugenia rhombea</i>
Princewood	<i>Exostema caribaeum</i>
Inkwood	<i>Exothea paniculata</i>
Strangler fig	<i>Ficus aurea</i>
Short-leaf fig	<i>Ficus citrifolia</i>
Everglades velvetseed	<i>Guettarda elliptica</i>
Rough velvetseed	<i>Guettarda scabra</i>
Scarletbush	<i>Hamelia patens</i>
White ironwood	<i>Hypelate trifoliata</i>
Black ironwood	<i>Krugiodendron ferreum</i>
Wild bamboo, smallcane	<i>Lasiacis divaricata</i>
Wild tamarind	<i>Lysiloma latisiliquum</i>
Mastic	<i>Sideroxylon foetidissimum</i>
Lancewood	<i>Ocotea coriacea</i>
Bahama Wild coffee	<i>Psychotria ligustrifolia</i>
Wild coffee	<i>Psychotria nervosa</i>
Paradise tree	<i>Simarouba glauca</i>
West Indies trema	<i>Trema lamarckiana</i>
Florida trema	<i>Trema micrantha</i>

Historic, cultural or archaeological landmark means a structure, district, or site designated by BOCC Resolution as a historically, architecturally, or archaeologically significant landmark on the Florida Keys Historic Register.

Home occupation means a business, profession, occupation or trade operated from and/or conducted within a dwelling unit (or within an accessory structure thereto) for gain or support by a resident of the dwelling unit.

Hotel means a building containing individual units for the purpose of providing overnight lodging facilities for periods not exceeding 30 days to the general public for compensation with or without meals, and which has common facilities for reservations and cleaning services, combined utilities and on-site management and reception.

Household means all the people who occupy a housing unit. A household includes the related family members and all the unrelated people, if any, such as lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers, is also counted as a household.

Hydrograph means a graph of flow rate of discharge.

Immediate Vicinity means a distance of less than 5 miles.

Impact fee means charges assessed against new development or redevelopment which partially or wholly cover the cost of providing capital facilities needed to serve the development.

Impervious surface means a surface that does not allow, or minimally allows, the penetration of water; examples include building roofs, concrete and asphalt pavements, set pavers, and some fine-grained soils, such as clays.

Indirect discharge means release of stormwater from a system by means other than a control structure, e.g. spreader swale, sheet flow.

Indirectly illuminated means illuminated as a result of the glowing elements, lamps, globes, or reflectors of an artificial light source, which source is not directly visible to an observer on the beach.

Industrial use, heavy means an industrial use with greater than average impacts on the environment and community and that is characterized by significant impacts on adjacent uses in terms of noise, hazards, emissions and/or odors, including but not limited to junkyards, salvage yards, solid waste disposal facilities/waste transfer stations, bulk petroleum storage, permanent concrete manufacturing facilities/concrete batch plants and resource extraction.

Industrial use, light means a use devoted to the manufacture, warehousing, assembly, packaging, processing, fabrication, indoor and outdoor storage, or distribution of goods and materials whether new or used and/or the substantial refinishing, repair and/or rebuilding of vehicles or vessels.

Institutional-residential use means temporary or permanent housing associated with an institutional organization, such as a group home, foster care facility, convent, nursing facility, student housing, life care/elderly housing, or educational and/or scientific research facility.

Institutional use means a use that serves the religious, educational, cultural, scientific, research, social service, or health needs of the community, including but not limited to, educational and scientific research facilities that serve the region and day care and preschool facilities.

Intensity means an objective measurement of the magnitude of nonresidential use on a site. Intensity is measured and expressed as a floor area ratio (FAR) (see definition of *Floor Area Ratio*).

Invasive exotic plant species means any plant species on the most recent Florida Exotic Pest Plant Council's list of category I or II invasive exotic plant species and/or the Florida Keys Invasive Exotics Task Force lists of invasive exotic plant species, as determined and interpreted by the County Biologist.

Jurisdictional boundaries, sea turtle protection, means the area on contiguous land within 300 feet of an identified or potential nesting area.

Keys Wetland Evaluation Procedure (KEYWEP) means a specific wetlands evaluation procedure developed for wetlands in the Florida Keys, developed as part of the Advanced Identification of Wetlands Program.

Land means the earth, at or below the surface that lies above high tide for lands subject to tidal inundation and mean high water for freshwater bodies of water.

Land Development Code (LDC) means ordinances enacted by the County for the regulation of any aspect of development as defined herein.

Land use means any use associated with development on land.

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

Light industrial use. See "*Industrial use, light*."

Live-aboard vessel, as defined in F.S. section 327.02, means a) any vessel used solely as a residence and not for navigation; b) any vessel represented as a place of business or a professional or other commercial enterprise; or c) any vessel for which a declaration of domicile has been filed pursuant to F.S. section 222.17. A commercial fishing boat is expressly excluded from the term *live-aboard vessel*.

Local planning agency means the agency designated to prepare and review the comprehensive plan. In the county, the local planning agency is the planning commission.

Local road means a road designated and maintained primarily to provide access to abutting property. A local road is of limited continuity and is not for through traffic. A local road is not considered as part of the major road network system.

Lot means a duly recorded lot as shown on a plat approved by the County. (Also described as platted lot.)

Lowest floor means the lowest enclosed area (including basement) of a structure. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered the building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of chapter 122.

Low hammock means an upland hardwood forest community in which the following species of plants represent a major component of the flora:

Common Name	Scientific Name/Species
Chaff flower	<i>Alternanthera ramosissima</i>
Saffron plum	<i>Sideroxylon celastrinum</i>
Limber caper	<i>Capparis flexuosa</i>
Seven-year apple	<i>Genipa clusiifolia</i>
Seagrape	<i>Coccoloba uvifera</i>
Buttonwood	<i>Conocarpus erectus</i>
Rhacoma	<i>Crossopetalum rhacoma</i>
Black torch	<i>Erithalis fruticosa</i>
Golden creeper	<i>Ernodea littoralis</i>
Spanish stopper	<i>Eugenia foetida</i>
Blolly	<i>Guapira discolor</i>
Joewood	<i>Jacquinia keyensis</i>
Wild dilly	<i>Manilkara jaimiqui sub. emarginata</i>
Cactus	<i>Opuntia spp.</i>
Darling plum	<i>Reynosa septentrionalis</i>
Keys thatch palm	<i>Leucothrinax morrisii</i>
Florida thatch palm	<i>Thrinax radiata</i>
Hog plum	<i>Ximenia americana</i>

Maintenance means that action taken to restore or preserve the functional intent of any facility or system.

Maintenance dredging means the removal of shoaling and/or sedimentation in channels, basins, canals, and harbors necessary to return such areas to their previous configurations, dimensions and depths. Maintenance dredging is subject to specific conditions and limitations (e.g., natural resource restrictions and dredged spoil disposal methods).

Major street means U.S. 1, 905, and 940 (Key Deer Boulevard) for the purposes of chapter 114, article V.

Mangrove community means a wetland plant association subject to tidal influence where the vegetation is dominated by one more of the following three species of mangroves:

Common Name	Scientific Name/Species
Black mangrove	<i>Avicennia germitiatis</i>
White mangrove	<i>Laguncularia racemosa</i>
Red mangrove	<i>Rhizophora mangle</i>

Manmade water body means a water body that was created by excavation by mechanical means under human control and shall include a canal, cut basin or channel where its edges or margins have subsequently been modified by natural forces.

Mariculture means a specialized branch of aquaculture involving the cultivation of marine organisms for food and other products.

Marina means a facility for the storage, launching and securing of vessels and/or live-aboard vessels, together with accessory retail and/or service uses, including but not limited to commercial retail, restaurants, vessel rentals, charter vessels, vessel repair, sport diving operations and the provision of fuel, The term marina does not include docks accessory to a land-based dwelling unit limited to the use of owners or occupants of the dwelling unit.

Marine facility means a docking facility with ten slips or more, or one live-aboard slip.

Market rate housing means an attached or detached dwelling unit that is intended to serve as permanent housing for households not eligible for affordable or employee housing under this Land Development Code.

Master planned community means any master planned community subject to a master plan or other development order approved by the county where public access is restricted and the community is operated and maintained by the community including the provision of comprehensive, private utilities and transportation facilities and services within its boundaries and a homeowners association or similar entity which regulates development standards and monitors development requests by its members.

Maximum sales price, owner occupied affordable housing unit, means a price not exceeding 3.75 times the annual median household income for the county for a one bedroom or efficiency unit, 4.25 times the annual median household income for the county for a two bedroom unit, and 4.75 times the annual median household income for the county for a three or more bedroom unit.

Maximum net density. See "Density, maximum net."

Mean high water line or mean high tide (MHW) means the point to which water extends onto the shoreline at average daily high tide as indicated by physical evidence on site such as discoloration, vegetative indicators or wrack lines pursuant to F.S. Chapter 177 Part II, Coastal Mapping Act.

Mean low water line or mean low tide (MLW) means the point to which water extends onto a shoreline at average daily low tide as indicated by physical evidence on site such as discoloration, or vegetative indicators pursuant to F.S. Chapter 177 Part II, Coastal Mapping Act.

Mean sea level (MSL) means the average height of the sea for all stages of the tide. For the purposes of this Land Development Code, the term is synonymous with National Geodetic Vertical Datum (NGVD).

Median annual household income means the median of annual household income (per household size) as published for the county on an annual basis by the U.S. Department of Housing and Urban Development.

Military facility means a use devoted to one of the armed services of the United States.

Minimum descent altitude means the lowest altitude, expressed in feet above mean sea level (MSL), to which descent is authorized on final approach or during circle-to-land maneuvering in execution of a standard instrument approach procedure, where no electronic glide slope is provided.

Mitigation (as related to natural resources) means enhancement, restoration, creation and/or preservation that serves to offset unavoidable impacts associated with development. As specified in Section 118-8, mitigation shall require payment to the Monroe County Environmental Land Management and Restoration Fund.

Mobile Vendor Food Unit means a non-motorized food vendor cart, which is small, lightweight, and often mounted on a single-axle (two-wheeled) chassis; or a vehicle-mounted food service establishment which is either self-propelled and licensed to travel on public streets, or not self-propelled but is a licensed trailer which can be moved from place to place.

Mobile home means a structure transportable in one or more sections which structure is eight body feet or more in width and over 35 feet in length, which structure is built on an integral chassis and designed to be used as a dwelling when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein, including expandable recreational vehicles, known as "park models" designed and built as a permanent residence, the structure for which is 35 feet or less in length and in excess of eight feet in width.

Mobile home park means a place set aside and offered by a person or public body for either direct or indirect remuneration of the owner, lessor or operator of such place for the parking or accommodation of six or more mobile homes.

Modular home means a structure intended for residential use that is manufactured off-site in accordance with state standards.

Monroe County Comprehensive Plan means the Monroe County Comprehensive Plan adopted and amended pursuant to the Community Planning Act, F.S. § 163.3161 et seq.

Monument means an object recognizing persons or points of historic, educational or archaeological interest, owned and operated by a nonprofit, publicly supported organization.

Mooring Facilities means a structure built and used for the mooring of vessels or watercraft.

Mooring field. See “*Mooring Field*” in Section 26-1, of the Monroe County Code of Ordinances.

Multifamily residential development means a type of residential housing where multiple separate dwelling units for residential inhabitants are contained within one building or several buildings within one complex.

National Geodetic Vertical Datum (NGVD) is a vertical control, as corrected in 1929, used as a reference for establishing varying elevations within the floodplain.

Native Upland Vegetation/Habitat (also *Upland Native Vegetation/Habitat*) means native plant species, either new growth or mature, occurring within native upland plant communities including pinelands, cactus hammocks, palm hammocks or tropical hardwood hammocks. Within pineland habitats, the dominant canopy consists of slash pines (*Pinus elliottii* var. *densa*). Many of the species include:

Common Name	Scientific Name/Species	Habitat
Bahama Nightshade	<i>Solanum bahamense</i>	Hardwood Hammock
Big Pine partridge pea; Florida Keys senna; key cassia	<i>Cassia keyensis</i>	Pinelands
Black Bead	<i>Pithecellobium guadalupense</i>	Hardwood Hammock
Black Ironwood	<i>Krugiodendron ferreum</i>	Hardwood Hammock
Black Torch	<i>Erithalis fruticosa</i>	Hardwood Hammock

Common Name	Scientific Name/Species	Habitat
Blodgett's silverbush	<i>Argythamnia blodgettii</i>	Pinelands
Buttonwood	<i>Conocarpus erectus</i>	Hardwood Hammock
Cockspur	<i>Pisonia rotundata</i>	Hardwood Hammock
Crabwood	<i>Ateramnus lucidus</i>	Hardwood Hammock
Darling Plum	<i>Reynosa septentrionalis</i>	Hardwood Hammock
Everglades Velvetseed	<i>Guettarda elliptica</i>	Hardwood Hammock
Florida five-petalled leafflower	<i>Phyllanthus pentaphyllys</i> var. <i>floridanus</i>	Pinelands
Florida Keys noseburn	<i>Tragia saxicola</i>	Pinelands
Florida Keys wedge sandmat	<i>Chamaesyce deltoidea</i> var. <i>serpyllum</i>	Pinelands
Garber's spurge; Garber's sandmat	<i>Chamaesyce garberi</i>	Pinelands, hammocks, sand dunes
Gumbo Limbo	<i>Bursera simaruba</i>	Hardwood Hammock
Indigo Berry	<i>Randia aculeata</i>	Hardwood Hammock
Jamaican Dogwood	<i>Piscidia piscipula</i>	Hardwood Hammock
Keys hairy-podded spurge	<i>Chamaesyce porteriana</i> var. <i>keyensis</i>	Pinelands, sand dunes
Lancewood	<i>Nectandra coriacea</i>	Hardwood Hammock
Limber Caper	<i>Capparis flexuosa</i>	Hardwood Hammock
Locustberry	<i>Brysonima cuneata</i>	Hardwood Hammock
Long Stalked Stopper	<i>Psidium longipes</i>	Hardwood Hammock
Mahogany	<i>Swietenia mahogoni</i>	Hardwood Hammock

Common Name	Scientific Name/Species	Habitat
Maidenbush	<i>Savia bahamensis</i>	Hardwood Hammock
Marlberry	<i>Ardisia escallanioides</i>	Hardwood Hammock
Milkbark	<i>Drypetes diversifolia</i>	Hardwood Hammock
Myrsine	<i>Myrsine floridana</i>	Hardwood Hammock
Pigeon Plum	<i>Coccoloba diversifolia</i>	Hardwood Hammock
Poisonwood	<i>Metopium toxiferum</i>	Hardwood Hammock
Porter's spurge	<i>Chamaesyce porteriana</i> var. <i>scoparia</i>	Pinelands
Saffron Plum	<i>Bumelia celastrina</i>	Hardwood Hammock
Sand croton	<i>Croton arenicola</i>	Pinelands, sand dunes
Sand flax	<i>Linum arenicola</i>	Pinelands
Silky bluestem	<i>Schizachyrium sericatum</i>	Pinelands
Silver dwarf morning-glory	<i>Evolvulus sericeus</i> var. <i>averyi</i>	Pinelands
Small-leaf squarestem	<i>Melanthera parvifolia</i>	Pinelands
Snowberry	<i>Chiococca alba</i>	Hardwood Hammock
Spanish Stopper	<i>Eugenia foetida</i>	Hardwood Hammock
Spicewood	<i>Calypttranthes pallens</i>	Hardwood Hammock
Tallowwood	<i>Ximenia americana</i>	Hardwood Hammock
Tenlobe false foxglove	<i>Gerardia keyensis</i> (<i>Agalinis</i>)	Pinelands
Torchwood	<i>Amyris elemifera</i>	Hardwood Hammock
White Stopper	<i>Eugenia axillaris</i>	Hardwood Hammock
Wild Cinnamon	<i>Canella winterana</i>	Hardwood Hammock

Common Name	Scientific Name/Species	Habitat
Wild Coffee	<i>Psychotria nervosa</i>	Hardwood Hammock
Wild Dilly	<i>Manilkara bahamensis</i>	Hardwood Hammock
Wild Lantana	<i>Lantana involucrata</i>	Hardwood Hammock
Wild Lime	<i>Zanthoxylum fagara</i>	Hardwood Hammock
Wild Tamarind	<i>Lysiloma latisiliquum</i>	Hardwood Hammock
Willow Busic	<i>Bumelia salicifolia</i>	Hardwood Hammock

Natural resources means the air, water, water recharge areas, wetlands, waterwells, estuarine marshes, soils, beaches, shores, flood plains, rivers, bays, lakes, harbors, forests, fisheries and wildlife, marine habitat, minerals, and other environmental resources.

Net buildable area means that portion of a parcel of land that is developable and is not required open space. .

Nesting Areas (for birds) means those areas that birds use for nesting.

Nesting area (for sea turtles) means both identified nesting areas and potential nesting areas.

Nesting area, identified, (for sea turtles) means any area where sea turtles have been or are currently nesting, and the adjacent beach or other intertidal areas used for access by the turtles.

Nesting area, potential, (for sea turtles) means any area where sea turtle crawls have been observed and documented.

Nesting season (for sea turtles) means the period from April 15 through October 31 of each year.

Newspaper of general circulation means a newspaper of local origin published at least on a weekly basis, but does not include a newspaper intended primarily for members of a particular professional or occupational group, a newspaper whose primary function is to carry legal notices, or newspaper that is given away primarily to distribute advertising.

Non-commencement means the cancellation of construction activity, making a material change in a structure, or the cancellation of any other land development activity making a material change in the use or appearance of land.

Nonconforming sign means a lawfully permitted sign (including a sign for which a variance has been granted) existing as of September 15, 1986, but which does not comply with the requirements of Chapter 142 or any amendments thereto.

Nonconforming structure means a structure which does not conform to a current provision or regulation provided in the Comprehensive Plan and/or this LDC.

Nonconforming structure, lawful means a structure which does not conform to a current provision or regulation provided in the Comprehensive Plan and/or this LDC, but was permitted, or otherwise in existence lawfully, prior to the effective date of the ordinance adopting the current provision or regulation that rendered the structure nonconforming.

Nonconforming use means a use which does not conform to a current provision or regulation provided in the Comprehensive Plan and/or LDC.

Nonconforming use, lawful means a use which does not conform to a current provision or regulation provided in the Comprehensive Plan and/or LDC, but was permitted, or otherwise in existence lawfully, prior to the effective date of the ordinance adopting the current provision or regulation that rendered the use nonconforming.

Non-waterfront lot or parcel means a lot or parcel of land that does not contain a shoreline.

Office use means a use where business, professional or governmental services are made available to the public. The term excludes an office(s) ancillary to the operation of another defined land use (i.e. commercial retail) on the site.

Open Space means (in relation to open space ratio calculations) that portion of any parcel or area of land or water that is required to be maintained such that the area within its boundaries is open and unobstructed from the ground to the sky (This definition is not intended to exclude vegetation from required open space).

Open space ratio (OSR) means the percentage of the total gross area of a parcel that is open space.

Operational entity means an acceptable, legally bound, responsible organization that agrees to operate and maintain the surface water management system.

Ordinance means any ordinance of the county and all amendments thereto.

Outdoor lighting means any light source that is installed or mounted outside of a building, including street lights.

Outdoor retail sales means a type of commercial retail use, as defined in this section, that involves the display and sale of vehicles, recreational vehicles, boats, equipment, goods, and/or materials outside of a building.

Owner means any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety with legal or beneficial title to the whole or to part of a building or land.

Palm hammock means a low hammock where one out of every five of the dominant canopy plants is a native palm characterized by the state thatch palm, *Thrinax radiata*.

Parcel means any quantity of land and water capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit, or which has been used or developed as a unit.

Park means an active or passive recreational facility operated for the benefit of the general public by a public or quasi-public agency.

Permanent residential unit means a dwelling unit that is designed for, and capable of, serving as a residence for a household for non-transient occupancy, excluding hotel, motel, and recreational vehicle.

Permeable (pervious) paving means a range of sustainable materials and techniques with a base and subbase that allow the movement of stormwater through the surface.

Pineland means an upland forest community with an open canopy dominated by the native slash pine, *Pinus elliottii* var. *densa*. Plant species that are commonly present include, but are not limited to:

Common Name	Scientific Name/Species
Christmas berry	<i>Crossopetalum ilicifolium</i>
Indian grass	<i>Sorghastrum secundum</i>
Keys thatch palm	<i>Leucothrinax morrisii</i>
Locust berry	<i>Byrsonima cuneata</i>
Love vine	<i>Cassytha filiformis</i>
Pineland croton	<i>Croton linearis</i>
Saw palmetto	<i>Serenoa repens</i>
Silver palm	<i>Coccothrinax argentata</i>
Slash pine	<i>Pinus elliottii</i>
White indigo berry	<i>Randia aculeata</i>
Yellow root	<i>Morinda royoc</i>

Planning area means the planning areas described in the Comprehensive Plan.

Plat means an official subdivision approved by the County and in compliance with Chapter 177, F.S.

Platted lot means a lot that is identified on a plat that was approved by the board of county commissioners and duly recorded.

Predevelopment condition for stormwater runoff means topography, vegetation, rate, volume, direction and pollution load of surface water or groundwater flow existing immediately prior to development.

Principal use means the primary land use established on a parcel.

Private airport means an area used for landing and takeoff of aircraft that is either publicly or privately owned, and which is used primarily by the licensee but which is available for use by invitation of the licensee. Services may be provided if authorized by the Florida Department of Transportation. The term includes Sugarloaf Airport, Tavernaero Airport Park, Summerland Key Airport, Ocean Reef Airport, and any other airport or airfield to be constructed in the county that meets these requirements.

Project means improvements to a site proposed on a particular land area that may be part of a common plan of development. Improvements shall include the subdivision of land.

Project initiation means all acts antecedent to actual construction activities and includes permit applications and development.

Public access means the ability for everyone to approach, enter, exit, communicate with, or make use of a community interest.

Public airport means an area used for landing and takeoff of aircraft; is either publicly or privately owned; and which meets minimum safety and service standards and is open for use by the public. The term includes Key West International Airport, Florida Keys Marathon Airport and any other public airport or airfield to be constructed in the county that meets these requirements.

Public assembly means a type of temporary use that is attended by members of the general public, with or without an admission charge, when the duration of the event is less than seven consecutive days and/or the anticipated daily attendance is expected to exceed 250 persons.

Public uses means uses or facilities operated by a governmental agency, including publicly and privately owned utilities, that provide services to the immediate vicinity in which the use is located.

Public facilities means major capital improvements, including transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational facilities.

Public interest means demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action.

Public navigation channel means a channel that was constructed or is maintained by a public entity, such as a federal or State agency, Monroe County or other local government for the purpose of transporting people or goods for commerce, recreation or other purposes.

Rate means volume per unit of time.

Reclamation means the filling, backfilling, restructuring, reshaping, and/or revegetation within and around a land excavation or filling area to a safe and aesthetic condition.

Record drawing, stormwater management, means the system plans specifying the locations, dimensions, elevations, capacities, and capabilities of structures or facilities for controlling runoff as they have been constructed as submitted by the project contractor or engineer, as appropriate.

Recreational and Commercial Working Waterfront means a parcel or parcels of real property that provide access for water-dependent commercial activities, including hotels and motels as defined in the Florida Statutes, or provide access for the public to the navigable waters of the state. Recreational and commercial working waterfronts require direct access to or a location on, over, or adjacent to a navigable body of water. The term includes water-dependent facilities that are open to the public and offer public access by vessels to the waters of the state or that are support facilities for recreational, commercial, research, or governmental vessels. These facilities include public lodging establishments, docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over the water. As used in this definition, the term “vessel” has the same meaning as in the Florida Statutes. Seaports are excluded from the definition.

Recreational vehicle means the same as that term is defined in Section 320.01, F.S. The following applies to recreational vehicles in the county:

- (1) Excluding temporary housing as set forth in Section 103-1, the tenancy of an occupied recreational vehicle upon a lawful recreational vehicle space shall be less than six months; and
- (2) The recreational vehicle has been placed on a lawful recreational vehicle space within a recreational vehicle park, campground, or otherwise approved area, or within a storage area.
- (3) The recreational vehicle has current licenses required for highway travel; and
- (4) The recreational vehicle is highway ready. This means that the recreational vehicle, including any travel trailer or park trailer, is on its wheels or internal jacking system and attached to this site only by the quick disconnect-type utilities commonly used in

recreational vehicle parks and campgrounds or by security devices. No permanent additions such as state rooms shall be permitted.

Recycling is minimizing waste generation by recovering and reprocessing usable products that might otherwise become waste (i.e., recycling of aluminum cans, paper and bottles, etc.).

Redevelopment means the rehabilitation, improvement, and/or demolition and replacement of existing development on a site.

Regionally important plant species means those native plant species identified as endemic, uncommon, or rare in the county's regionally important plant species list maintained by the planning and environmental resources department or as identified by the Center for Plant Conservation, the Florida Natural Areas Inventory, or the Florida Committee on Rare and Endangered Plants and Animals.

Residence or residential use, as applied to any lot, plat, parcel, tract, area or building, means used or intended for dwelling purposes, but not including transient units.

Resource extraction, a type of heavy industrial use, means the dredging, digging, extraction, mining and quarrying of lime rock, sand, gravel or minerals for commercial purposes.

Restaurant use means any establishment, which may or may not include a drive-through service, where the principal business is the sale of food and beverages to the customer in a ready-to-consume state. This includes service within the building as well as takeout or carryout service. Restaurant uses are subdivided into the following intensity classifications:

- (1) *Low-intensity restaurant use* means a restaurant use that generates less than 50 average daily trips per 1,000 square feet of floor area.
- (2) *Medium-intensity restaurant use* means a restaurant use that generates between 50 and 100 average daily trips per 1,000 square feet of floor area.
- (3) *High-intensity restaurant use* means a restaurant use that generates above 100 average daily trips per 1,000 square feet of floor area.

Retention means the storage of a specific volume of stormwater runoff within a defined area having no direct discharge into receiving waters; included as examples are systems which discharge through percolation, filtered bleed-down and evaporation processes.

Right-of-way means land dedicated, deeded, used, or to be used for a street, alley, walkway, boulevard, drainage facility, access for ingress and egress, or other purpose by the public, certain designated individuals, or governing bodies.

Rip-Rap means a permanent erosion-resistant ground cover consisting of loosely placed pieces of natural stone or clean concrete rubble, which is free of attached sediments or reinforcing rods or other similar protrusions.

Road, arterial, means a route providing service that is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance.

Road capacity means the maximum rate of flow at which vehicles can be reasonably expected to traverse a point or uniform segment of a lane or roadway during a specified time period under prevailing roadway, traffic, and control conditions, usually expressed as vehicles per hour.

Road, collector, means a route providing service that is of relatively moderate average traffic volume, moderately average trip length, and moderately average operating speed. Such a route also collects and distributes traffic between local roads or arterial roads and serves as a linkage between land access and mobility needs.

Road, frontage, means a public street or road auxiliary to, and located alongside, abutting and parallel to a highway for purposes of maintaining local road continuity and for control of access.

Road, local, means a route providing service that is of relatively low average traffic volume, short average trip length or minimal through-traffic movement and high land access for abutting property.

Road network system, major, means all arterial, collector and frontage roads within the county, including new arterial, collector and frontage roads necessitated by new land development activity generating traffic.

Room, hotel or motel means a unit consisting of a room or rooms in a public lodging establishment as defined by section 509.013(4)(a), F.S., intended for transient lodging only for periods not exceeding 30 days. Transient occupancy shall conform to the definition contained in F.S. § 509.013(12) as to transient occupancy. For the purposes of density restriction under this Land Development Code:

- (1) A hotel/ motel unit may be a single bedroom and 1½ bathrooms or a hotel/motel unit may be a suite and may include a kitchenette but no more than 1½ bathrooms, one bedroom and one other living area.
- (2) All entrances to a hotel/motel unit shall share the same key or means of controlling access so that the hotel or motel unit as defined herein is not divisible into separately rentable units.
- (3) Suites containing more than one bedroom and 1½ baths may be constructed; however, each bedroom/full bath combination shall be considered a hotel/motel unit.

Runoff coefficient (c) means the standardized factor from which runoff can be calculated.

Runway means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

Salt marsh and buttonwood wetlands.

- (1) The term "salt marsh and buttonwood wetlands" means two plant associations that are sometimes collectively or individually referred to as the "transitional wetland zone." The salt marsh community is a wetland area subject to tidal influence, and the vegetation is dominated by nonwoody groundcovers and grasses. The vegetation may include, but is not limited to, the following nonwoody species:

Common Name	Scientific Name/Species
Dropseed	<i>Sporobolus virginicus</i>
Saltwort	<i>Batis maritime</i>
Salt grass	<i>Distichlis spicata</i>
Key grass	<i>Monanthochloe</i>
Glasswort	<i>Salicornia spp.</i>
Sea purslane	<i>Sesuvium portulacastrum</i>
Cordgrass	<i>Spartina spartinae</i>
Chestnut sedge	<i>Fimbristylis castanea</i>

- (2) Woody vegetation that may be present includes the three species of mangroves, as well as buttonwood (*Conocarpus erectus*); however, the salt marsh community is distinguished by the dominance of nonwoody plants, and the woody species have a coverage of less than 40 percent. The salt marsh community may be associated and intermixed with areas of almost bare ground on which the vegetation may be limited to masts of periphyton.
- (3) The buttonwood wetland is a wetland that is usually present in the more landward zone of the transitional wetland area, and may intermix with more upland communities. The vegetation may include, but is not limited to, the following species:

Common Name	Scientific Name/Species
Dropseed	<i>Sporobolus virginicus</i>
Sea oxeye daisy	<i>Borrchia spp.</i>
Saffron plum	<i>Bumelia celastrina</i>
Sea grape	<i>Coccoloba uvifera</i>
Buttonwood	<i>Conocarpus erectus</i>
Black torch	<i>Erithalis fruticosa</i>
Chestnut sedge	<i>Fimbristylis castanea</i>
Joewood	<i>Jacquinia keyensis</i>
Christmas berry	<i>Lycium Carolinianum</i>
Mayten	<i>Maytenus phyllanthoides</i>
Cordgrass	<i>Spartina spartinae</i>

- (4) The buttonwood wetland is distinguished from the salt marsh wetland by the dominance of buttonwood trees, usually occurring as an open stand that permits the

growth of an understory of groundcovers and shrubs. The buttonwood wetland is, in turn, distinguished from more upland communities by the presence of graminoids and halophytic groundcovers under its open canopy, and generally by the lack of an appreciable layer of humus and leaf litter. As referenced throughout these regulations, "salt marsh and buttonwood" habitat refers collectively and individually to "salt marsh" and "buttonwood" habitats for the purpose of determining regulatory requirements.

Scarified land means an area that is cleared of native vegetation, or topographically modified such that the land is not currently in a successional sequence leading to the establishment of the vegetative communities that were cleared or disturbed.

Sea turtle means any specimen belonging to the species *Caretta caretta* (loggerhead turtle), *Chelonia mydas* (green turtle), *Dermochelys coriacea* (leatherback turtle), *Eretmochelys imbricata* (hawksbill turtle), *Lepidochelys kempii* (Kemp's Ridley turtle) or any other marine turtle using the county beaches as a nesting habitat.

Seasonal residential unit is a type of transient residential unit with one or more rooms, toilet facilities, and a kitchen physically arranged to create a housekeeping establishment for occupancy by one family, with tenancies not to exceed 180 consecutive days.

Sediment means solid material that subsides to the bottom of a water body.

Setback means the area between a building or structure and the property line of the parcel of land on which the building or structure is located, unoccupied and unobstructed from the ground upward, except for fences or other development permitted in the area as provided for in this Land Development Code. In measuring a setback, the horizontal distance between the property line and the furthestmost projection of the building or structure shall be used. Further, the setback shall be measured at a right angle (90 degrees) from the property line.

Sewage disposal facility means any plant, system or property used or useful or having the present capacity for future use in connection with the collection, treatment, purification or disposal of sewage, and without limiting the generality of the foregoing definition shall include treatment plants, pumping stations, intercepting sewers, pressure lines, mains, and all necessary appurtenances and equipment, and shall include all property, rights, easements and franchises relating to any such system and deemed necessary or convenient for the operation thereof.

Shopping center means a group of commercial retail and/or professional services establishments planned, developed and managed as a unit, with off-street parking provided on the property.

Shoreline means the interface between land and water, extending seaward of mean high water to include fringing mangroves and adjacent shelf and may also include a transitional zone landward of mean high water (MHW).

- (1) Altered shorelines are generally located directly along dredged canals, basins and abutting channels and have been modified to such a degree that the shoreline no longer

exhibits those functions typical of natural shorelines including filtration, nutrient uptake, shoreline stabilization, storm surge abatement, and provisions of habitat for wildlife and fisheries. A shoreline is not altered unless the functional characteristics of both the transitional zone and the zone seaward of mean high water have been altered.

- (2) Unaltered shorelines are generally located along natural non-dredged waterways and open water. These shorelines continue to exhibit the natural functions cited above even though fill or rip-rap may be present either above or below MHW.

Sign means any object, device, display or structure or part thereof situated outdoors or indoors that is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service event or location and by any means including words, letters, figures, designs, symbols, fixtures, colors, or projected images. Signs do not include:

- (1) The flag or emblem of any nation, organization of nations, state, city, or fraternal, religious, or civic organizations;
- (2) Merchandise that is not otherwise incorporated into a sign structure;
- (3) Models or products incorporated in a window display;
- (4) Works of art that do not contain advertising messages and in no way identify a product, use or service; or
- (5) Scoreboards located on athletic fields.

Site plan means information submitted by an applicant that shall identify all development activities, including principal and accessory uses within the property boundaries.

Specimen tree means any tree with a diameter at breast height that is 75 percent of the record tree of the same species for the state.

Spreader swale means a ditch positioned parallel to the receiving water body that allows for indirect discharge of stormwater in excess of the retained or detained volume.

Storm event means the occurrence of a rainfall of specified frequency and duration, e.g. 25-year, or three-day storm.

Stormwater means the flow of water which results from a rainfall event.

Stormwater management plan means the detailed analysis describing how the rainfall control system for the proposed development has been planned and designed, and will be constructed to meet the requirements of this chapter.

Stormwater management system means the natural and constructed features of the property that are designed to treat, collect, convey, channel, hold, inhibit or divert the movement of surface water.

Stormwater runoff means that volume of rainfall that does not percolate into the ground, nor evaporates, nor is intercepted before reaching the stormwater management system.

Structure means anything constructed, installed or portable, the use of which requires a location on a parcel of land.. The term includes, but is not limited to, buildings, roads, walkways of impervious materials, paths, fences, swimming pools, sport courts, poles, transmission lines, signs, cisterns, sewage treatment plants, sheds, docks, and other accessory construction.

Submerged land means the area situated below the mean high tide line and/or the mean high water line of a body of water, including ocean, estuary, lake, pond, river or stream. For the purpose of this definition, drainage detention areas created as a function of development that are recorded on an approved final site plan or other authorized development order action of the County, and wetlands landward of the mean high water line, shall not be considered submerged land.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the pre-destruction market value of the structure, as determined by the office of the tax assessor of the county, either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimension of the structure. The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are necessary solely to ensure safe living conditions; or
- (2) Any alteration of a structure listed on the National Register of Historic Places, the state inventory of historic places, or any inventory of local historic places.

Substantial improvement, cumulative, means that improvement which is not substantial by itself but, when added to all prior non-substantial improvements to the original structure, would cause all the improvements to be substantial if permitted at one time. All applications deemed substantial or non-substantial must be approved by the FEMA Coordinator, the Assistant County Administrator, or the Building Official.

Surface water. See "Water body."

Swale means a shallow constructed ditch with the bottom above the water table.

Temporary Housing, Emergency or Non-Emergency, means recreational vehicles (or similar approved sheltering units) used for temporary occupancy.

Temporary uses means uses that are required for a defined period of time during the construction phase of permitted development (including, but not limited to, equipment storage, material storage, construction/safety fencing and office trailers), capital improvements, and uses that are

uniquely seasonal in nature (including but not limited to, public assemblies, holiday-related outdoor events such as Christmas tree and pumpkin sales, temporary emergency shelters, concerts, carnivals, art shows, seminars and other educational events, and tent meetings).

Threatened and endangered species means plant or animal species listed as such under the provisions of the federal Endangered Species Act, and/or Florida Statutes, and/or the Florida Endangered and Threatened Special Act.

Transient unit means a dwelling unit used for transient occupancy such as a hotel or motel room, a seasonal residential unit, a campground space, an institutional residential use, or a recreational vehicle space.

Transit means transportation services available to the public on a regular basis by bus, rail, or other vehicle, and usually on a fare-paying basis. Transit may be provided by either public, private or non-profit entities.

Transitional recreational vehicle unit is a recreational vehicle unit identified for conversion from a recreational vehicle to a seasonal residential unit within an approved development agreement with Monroe County establishing a phased transition from a traditional recreational vehicle park to a seasonal residential use.

Transitional habitat means the salt marsh and buttonwood association.

Tree caliper means an instrument for measuring external dimensions. As used in this land development code, this is an instrument used to measure a tree trunk at six (6) inches above grade.

Trip means a single or uni-directional movement with either the origin or destination existing or entering inside the study site.

Trip generation means the attraction or production of trips caused by a given type of land development.

Tropical Hardwood Hammock means an upland hardwood forest community consisting of broad-leafed trees, shrubs, and vines, nearly all of which are native to the West Indies. Characteristic tropical plants include strangler fig, gumbo-limbo, mastic, bustic, lancewood, ironwoods, poisonwood, pigeon plum, Jamaica dogwood, and Bahama lysiloma.

Upland means the area of a site landward of mean high water, excluding submerged lands and tidally inundated mangroves.

Upland Native Vegetation/Habitat (see *Native Upland Vegetation/Habitat*).

Unlawful structure means a structure that is not a lawful structure as allowed by the LDC at the time the structure was developed.

Utility means facilities such television cable, telephone exchanges, electric generation plants, stormwater collection systems, high power transmission lines and substations, gas distribution lines and sewage treatment collections systems and disposal plants.

Vacation rental or unit means an attached or detached dwelling unit that is rented, leased or assigned for tenancies of less than 28 days duration. Vacation rental use does not include hotels, motels, and RV spaces, which are specifically addressed in each district.

Vessel means every description of watercraft, barge, seaplane and airboat, used or capable of being used as a means of transportation on water.

Wastewater nutrient reduction cluster systems means wastewater treatment systems that are designed to serve multiple residences that are located on more than one parcel of land. These systems are permitted by the Florida Department of Health.

Wastewater treatment collection system means the use of land and its above ground installed appurtenances related to the collection and transmission of wastewater to a treatment facility located on another parcel of land.

Wastewater treatment facility means the use of land and its appurtenances for the treatment of wastewater collected predominately from other parcels of land.

Water or community water means all water on or beneath the surface of the ground, including the water in any watercourse, water body or wetland.

Water access walkway means a structure built and used exclusively for access to the water for leisure activities such as fishing, swimming, or observation, but by its design may not be used as a dock.

Water at least four feet below mean sea level at mean low tide means locations that will not have a significant adverse impact on off-shore resources of particular importance. For the purposes of this definition, "off-shore resources of particular importance" means hard coral bottoms, habitat of state or federal threatened and endangered species, shallow water areas with natural marine communities with depths at mean low tide of less than four feet and all designated aquatic preserves under F.S. chapter 258, pt. II (F.S. section 258.35 et seq.).

Water body or surface water means a natural or artificial watercourse, pond, bay, and coastal waters of the county extending to a landward limit defined by F.S. section 403.031.

Water-dependent facility means a use that is functionally dependent on actual access to open waters.

Water detention facility means a stormwater management facility that provides for the delay of movement or flow of a specified volume of stormwater for a specified period of time.

Water retention facility means a stormwater management facility that provides for storage of a specified volume of stormwater without discharge from the retention structure.

Water table means the boundary between the zone of saturation and the zone of aeration; it varies with such factors as tide and the amount of rainfall.

Watercourse means a channel, canal or streambed, either natural or manmade, which is involved in the accommodation of floodwaters.

Wet detention means the delay of stormwater runoff prior to discharge into receiving waters in a structure with a bottom elevation below the water table or control elevation.

Wet retention means the prevention of stormwater runoff from direct discharge into receiving waters in a structure with a bottom elevation below the water table or control elevation.

Wetlands means those areas that are inundated or saturated by surface water or groundwater at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptations, have the ability to grow, reproduce, or persist in aquatic environments or anaerobic soil conditions. Wetlands are those areas that meet the criteria specified in the State of Florida's *Wetland Delineation Manual* and/or the *United States Army Corps of Engineers Interim Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region*. The term wetlands also includes adjoining wetlands and isolated wetlands. Adjoining wetlands includes wetlands separated from other Waters of the United States by man-made dikes or barriers, natural river berms, beach dunes, and similar barriers. Isolated wetlands includes wetlands that are not contiguous, bordering, or neighboring other Waters of the United States. (Florida Keys wetlands include freshwater marsh, salt marsh, buttonwood, salt ponds, freshwater lenses, mangroves, and some areas of tropical hardwood hammocks and pinelands).

Wetland boundary means the landward extent of wetlands dominated by plant species, soils and other hydrologic evidence indicative of regular and periodic inundation or saturation.

Wind turbine means an energy conversion system that converts kinetic energy from the wind into electrical power through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and external pad-mounted transformer, if any.

Yard, front, means a required setback on a parcel of land that is located along the full length of the front property line of the parcel and is generally adjacent to a road. On parcels fronting more

than one road, such as corner lots and double frontage parcels, each yard along a road shall be a front yard.

Yard, rear, means a required setback on a parcel of land that is located along the full length of the rear property line and is generally on the side opposite to the primary front yard.

Yard, side, means a required setback on a parcel of land that is located along the full length of the side property line and is generally between the front and rear property lines.

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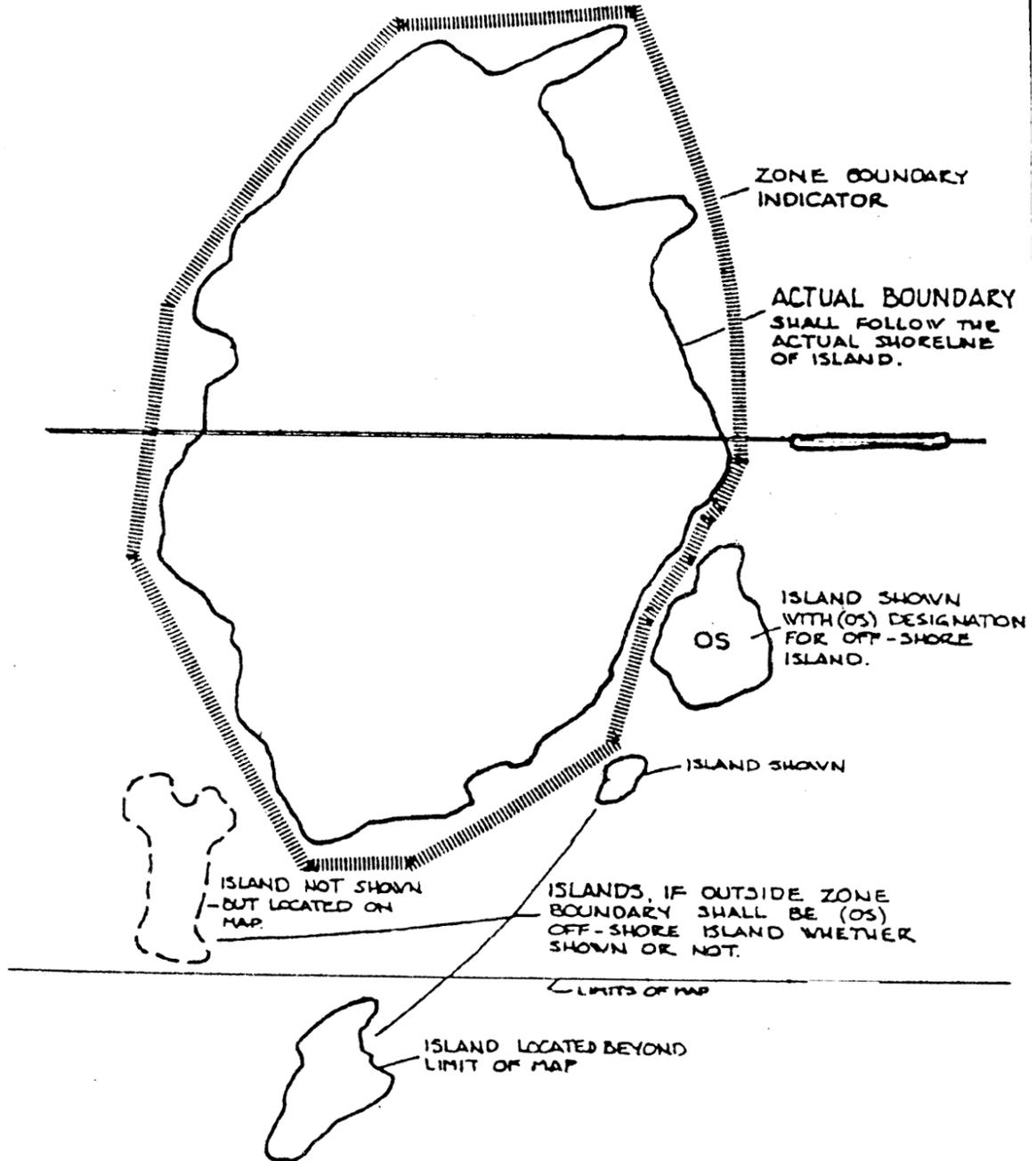
Sec. 101-2. Rules of Construction.

In the construction of the language of this Land Development Code, the rules set out in this section shall be observed unless such construction would be inconsistent with the manifest intent of the BOCC as expressed in the Monroe County Comprehensive Plan, or an element or portion thereof, adopted pursuant to F.S. Ch. 163 and F.S. Ch. 380. The rules of construction and definitions set out herein shall not be applied to any section of these regulations that shall contain any express provisions excluding such construction, or where the subject matter or context of such section is repugnant thereto.

- (1) Generally.
 - a. All provisions, terms, phrases and expressions contained in this Land Development Code shall be liberally construed in order that the true intent and meaning of the BOCC may be fully carried out. Terms used in this Land Development Code, unless otherwise specifically provided, shall have the meanings prescribed by the statutes of Florida for the same terms.
 - b. In the interpretation and application of any provision of this Land Development Code, it shall be held to be the minimum requirement adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this Land Development Code imposes greater restrictions upon the subject matter than a general provision imposed by this Code or another provision of this Land Development Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.
- (2) Computation of time. The time within which an act is to be done shall be computed by excluding the first day and including the last day; if the last day is a Saturday, or a Sunday or a legal holiday, that day shall be excluded. However, when a hearing of the board of county commissioners or planning commission is required by these regulations to be held at a site certain, and within a certain time period, and the meeting schedule of either the board or commission makes it impossible to meet both the site and time requirements without scheduling a special meeting, then the hearing shall be set for the next regularly scheduled meeting at the required site without regard to the required time period.
- (3) Delegation of authority. Whenever a provision appears requiring the head of a department or some other county officer or employee to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize professional-level subordinates to perform the required act or duty unless the terms of the provision or section specify otherwise.
- (4) Gender. Words importing the masculine gender shall be construed to include the feminine and neuter.
- (5) Month. The term "month" means a calendar month.

- (6) Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
- (7) Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing. The use of the plural number shall be deemed to include any single person or thing.
- (8) Usage of shall and may. The word "shall" is mandatory and the word "may" is permissive.
- (9) Tense. Words used in the past or present tense include the future as well as the past or present.
- (10) Week. The term "week" shall be construed to mean seven days.
- (11) Written; in writing. The term "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.
- (12) Year. The term "year" means a calendar year, unless a fiscal year is indicated.
- (13) Boundaries. Interpretations regarding boundaries of land use (zoning) districts on the land use district map shall be made in accordance with the following, as partially illustrated in this section in the figure entitled Interpretation of Boundaries:
 - a. Boundaries shown as following or approximately following any road shall be construed as following the centerline of the road.
 - b. Boundaries shown as following or approximately following any platted lot line or other property line shall be construed as following such line.
 - c. Boundaries shown as following or approximately following section lines, half-section lines, or quarter-section lines shall be construed as following such lines.
 - d. Boundaries shown as following or approximately following the shorelines of any key or other island shall be construed as following the mean high-water line of such island or key. In many instances, the boundary lines have been intentionally drawn seaward of the shoreline so that the shoreline itself will be visible.
 - e. All islands without a specific land use designation shall be considered zoned as Offshore Island (OS) whether they are labeled as OS, unlabeled, not shown on these maps, or lie beyond the areas covered by these maps.
 - f. Boundaries shown as separated from and parallel or approximately parallel to any of the features listed in subsection (13) of this section shall be construed to be parallel to such features and at such distances therefrom as are shown on the map.

INTERPRETATION OF BOUNDARIES



Sec. 101-3. Purpose.

- (a) It is the purpose of this chapter, the land development regulations, to establish the standards, regulations, and procedures for review and approval of all proposed development of property in the unincorporated areas of the county, and to provide a development review process that is comprehensive, consistent and efficient in the implementation of the goals, objectives and policies of the comprehensive plan.
- (b) In order to foster and preserve public health, safety, comfort and welfare, and to aid in the harmonious, orderly and progressive development of the unincorporated areas of the county, it is the intent of this Land Development Code that the development process in the county be efficient, in terms of time and expense; effective, in terms of addressing the natural resource and public facility implications of proposed development; and equitable, in terms of consistency with established regulations and procedures, respect for the rights of property owners, and consideration of the interests of the citizens of the county.
- (c) The board of county commissioners deems it to be in the best public interest for all development to be conceived, designed and built in accordance with good planning and design practices and the minimum standards set forth in this Land Development Code.

Sec. 101-4. Applicability.

- (a) Generally. The provisions of this Land Development Code shall apply to the unincorporated areas of the county. All development of whatever type and character, whether permitted as of right or as a conditional use, shall comply with the development standards and the environmental design criteria set forth the Comprehensive Plan and the Land Development Code. No development shall be undertaken without prior approval and issuance of a development permit under the provisions of this Land Development Code and other applicable laws and regulations.
- (b) Exception.
 - (1) The provisions of this Land Development Code and any amendments hereto shall not affect the validity of any previously and lawfully issued and effective building permit, provided that construction authorized by such permit has been commenced prior to the effective date of any amending ordinance from, and provided that construction continues without interruption until development is complete. In the event a building permit expires, then all further development shall be permitted in conformance with the requirements of the comprehensive plan and the Land Development Code.
 - (2) Notwithstanding the provisions of the Monroe County Comprehensive Plan, an applicant for a development agreement, conditional use permit, variance and/or an appellant seeking review of an administrative decision that is pending on the date of adoption of any ordinance amending the text of this Land Development Code in a manner affecting

the administrative decision shall be entitled to have his or her application or appeal considered pursuant to the regulations in effect immediately prior to the date of adoption of the ordinance amending the text of this Land Development Code in a manner affecting the administrative decision.

- (3) Notwithstanding the provisions of the Monroe County Comprehensive Plan and this chapter, the holder of a final major development approval under the provisions of section 6-221 et seq. of the Monroe County Code now repealed and an applicant for major development approval, that was pending as of December 12, 1985, shall be entitled to the following rights:
- a. The holder of a final major development approval granted prior to the effective date of the Monroe County Comprehensive Plan and the ordinance from which this chapter is derived shall be entitled to develop pursuant to the approved final major development approval, provided that construction is commenced within 12 months of the date the final major development approval was granted; in the event a major development was approved for more than one phase, only those phases for which construction was or is commenced within 12 months of the date the final major development approval was granted shall be entitled to be developed pursuant to this exemption; and
 - b. The applicant for a major development approval pending on December 12, 1985, shall be entitled to have his application considered for approval pursuant to the comprehensive plan and regulations in effect immediately prior to the effective date of the Monroe County Comprehensive Plan and the ordinance from which this chapter is derived, and if the approval is granted shall be entitled to develop pursuant to the approved final major development approval, provided that construction is commenced within 12 months of the date the final major development approval was granted. In the event a major development was approved for more than one phase, only those phases for which construction was or is commenced within 12 months of the date the final major development approval was granted shall be entitled to be developed pursuant to this exemption. With respect to major development in planning areas 41 and 43, the 12-month period for the commencement of construction, referred to in this subsection, shall not commence until August 1, 1988; however, should the proposed habitat conservation plan affecting these planning areas not be accepted by the board of county commissioners, the commencement date shall begin on the date the board rejects the concept of the habitat conservation plan. The planning commission shall continue after the effective date of the land development regulations for the exclusive purpose of considering such pending applications.
- (4) Except as otherwise provided, all applications for development approval filed after the date of adoption of any ordinance amending the Comprehensive Plan or this Land Development Code shall be considered for approval under the comprehensive plan policies and regulations in effect at the time at which the application was found complete.

- (c) *Existing uses prior to September 15, 1986.* All land uses existing on September 15, 1986 which are permitted as a conditional use under the terms of this Land Development Code but were not granted conditional use permit prior to the requirement shall be deemed to have a conditional use permit.
- (d) *Vacation rental use.* Previous vacation rental uses shall be discontinued in any district that prohibits vacation rental uses, after the effective date of the ordinance from which this section is derived. All vacation rental uses shall obtain annual special rental permits regardless of when the use was first established.

Sec. 101-5. Penalties.

A violation of any provision of the comprehensive plan shall constitute a violation and shall be prosecuted in accordance with Chapter 8.

Sec. 101-6. Ownership Disclosures.

- (a) *Purpose.* The purpose of this section is to provide the minimum requirements for disclosing ownership of property as it relates to certain applications required by this Land Development Code.
- (b) *Intent.* The intent is to disclose the identity of true parties in interest to the public, thereby enabling the public to ascertain which parties will potentially benefit from land use-related applications.
- (c) *Applicability.*
 - (1) Disclosure provisions are required for future land use map amendments, land use district (zoning) map amendments, overlay map amendments, developments of regional impact, development agreements, plat approvals, major conditional use permits and minor conditional use permits.
 - (2) Any person or entity holding real property in the form of a partnership, limited partnership, corporation, assignment of interest, trust, option, assignment of beneficial or contractual interest, or any form of representative capacity whatsoever for others, except as otherwise provided in this section, shall, during application submittal for the types of applications provided in subsection (1), make a public disclosure, in writing, under oath, and subject to the penalties prescribed for perjury. In the case of a trust, the four largest beneficiaries must also sign the affidavit.
 - (3) This written disclosure shall be made to the planning director at the time of application. The disclosure information shall include the name and address of every person having a beneficial or contractual interest in the real property, however small or minimal. All

evidence submitted shall be subject to the planning director's satisfaction, and said satisfaction shall be liberally interpreted in favor of the county's interest.

- (4) The planning and environmental resources department's applications shall notice applicants to make disclosures required under this section. When a required disclosure is not provided, the application may be found incomplete by the planning director.
- (5) Exemptions to the requirements of this section include the beneficial interest which is represented by stock in corporations registered with the federal securities exchange commission or in corporations registered pursuant to F.S. chapter 517, whose stock is for sale to the general public.

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