

**CHAPTER 1**  
**GENERAL PROVISIONS**

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**Table of Contents**

<b>Chapter 1. General Provisions.....</b>	<b>1</b>
<b>Section 1.01. Title .....</b>	<b>1</b>
<b>Section 1.02. Authority .....</b>	<b>1</b>
<b>Section 1.03. Purpose and Intent .....</b>	<b>1</b>
<b>Section 1.04. Consistency with Comprehensive Plan.....</b>	<b>1</b>
<b>Section 1.05. General Interpretation.....</b>	<b>1</b>
<b>Section 1.06. Responsibility for Interpretation .....</b>	<b>2</b>
<b>Section 1.07. Coordination with Other Governmental and Quasi-Governmental Agencies .....</b>	<b>2</b>
<b>Section 1.08. Violations.....</b>	<b>2</b>
<b>Section 1.09. Severability.....</b>	<b>2</b>
<b>Section 1.10. Nonconformities.....</b>	<b>2</b>
1.10.01. Intent .....	2
1.10.02. Nonconforming Lots.....	2
1.10.03. Nonconforming Uses .....	3
1.10.04. Nonconforming Structures.....	4
1.10.05. Approved Construction.....	4
1.10.06. Ordinary Repairs and Maintenance .....	4
1.10.07. Nonconforming Structures Unsafe because of Lack of Maintenance .....	4
1.10.08. Nonconforming Structures Unsafe for Reasons Other than Maintenance.....	4
1.10.09. Casual, Temporary, or Illegal Uses.....	5
1.10.10. Uses Under Special Exception Provisions.....	5

## **Chapter 1. General Provisions**

### **Section 1.01. Title**

This Code shall be entitled the “City of Palm Coast Unified Land Development Code”, otherwise known as the “Land Development Code”, and may from time-to-time be referred to herein as the “Code” or the “LDC”.

### **Section 1.02. Authority**

This Land Development Code is adopted under authority of the City of Palm Coast by virtue of the constitution and laws of the state of Florida including particularly **Sections 163.3201 and 163.3202, Florida Statutes**, (the Local Government Comprehensive Planning and Land Development Regulation Act) and the general authority granted in **Article VIII, Section 2, of the Constitution of the State of Florida** and **Chapter 163 and Chapter 166, Florida Statutes**.

### **Section 1.03. Purpose and Intent**

The City has developed this Unified LDC to implement its Comprehensive Plan and to streamline the development review process. This LDC sets forth regulations, requirements, and procedures governing the use and development of land for the purpose of protecting the health, safety, and general welfare of the citizens of the City and to enhance the appearance, function, and livability of the City, to the end of improving the overall quality of life within the community.

As required by **Chapter 163, Florida Statutes**, this LDC contains specific and detailed provisions which regulate the subdivision of land; the use of land and water; areas subject to flooding; environmentally sensitive lands; signage; landscaping; stormwater management; and protection of potable water well fields. This LDC also requires that all development be reviewed for its impact on public facilities and services, and that adopted levels-of-service are maintained.

The provisions of this LDC establish the full range of land development regulations necessary to adequately regulate the use of real property and implement, in conjunction with and subordinate to the Comprehensive Plan, sound growth management within the City and oversee the transition of any land development authority from the Palm Coast Community Services Corporation to the City.

### **Section 1.04. Consistency with Comprehensive Plan**

The goals, objectives, and policies of the Comprehensive Plan shall take precedence in the event of inconsistency with this LDC and this LDC shall be interpreted and administered consistent with the overall goals, objectives, and policies of the Comprehensive Plan.

It is intended that this LDC implement the City’s planning objectives and policies adopted as part of the Comprehensive Plan, as amended and periodically updated. The Comprehensive Plan shall govern where a land use regulation is not included or addressed in this LDC.

### **Section 1.05. General Interpretation**

In the interpretation and administration of this LDC, all provisions shall be:

1. Considered as requirements;
2. Interpreted consistent with the intent of this LDC; and
3. Deemed neither to limit nor repeal any other powers granted under State Statutes.

## **Section 1.06. Responsibility for Interpretation**

The provisions of this Code shall be administered by the Land Use Administrator. The Land Use Administrator shall refer to the Comprehensive Plan for guidance when any question arises concerning the application or interpretation of the regulations, performance standards, definitions, development criteria, or any other provisions of this LDC. The Land Use Administrator shall be limited to interpretations of standards, regulations, and requirements of this LDC. Interpretations regarding technical codes prepared by other agencies and adopted by reference within this LDC shall not be included in the Land Use Administrator's purview, but the Land Use Administrator may refer to the decisions of such agencies in making interpretations.

## **Section 1.07. Coordination with Other Governmental and Quasi-Governmental Agencies**

The City shall coordinate its permitting activities with the county, regional, state and federal, governmental and quasi-governmental agencies having jurisdiction over certain land development matters.

## **Section 1.08. Violations**

Any violation of the previous Land Development Code of the City shall continue to be prosecuted as a violation under this LDC and shall be subject to penalties and enforcement under the provisions of this LDC unless the use, development, construction, or other activity is consistent with the express terms of this LDC, in which case enforcement action shall cease, except to the extent of collecting penalties for violations that occurred before the effective date of this LDC.

## **Section 1.09. Severability**

Should any section or provision of this LDC be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this LDC as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

## **Section 1.10. Nonconformities**

### **1.10.01. Intent**

It is the intent of this chapter to permit lots, structures, uses of land and structures, and characteristics of use which were lawful before the effective date of a provision of this LDC, but which are later prohibited, regulated, or restricted under the terms of this LDC to continue until they are abandoned or removed, but not to encourage their continuation. Such lots, structures, uses of land and structures, and characteristics of use are declared by this LDC to be incompatible with those permitted in the districts involved. It is further the intent of this LDC that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

### **1.10.02. Nonconforming Lots**

#### **A. Nonconforming in Size**

When a nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimums set forth in **Chapter 3**, then the lot may be used as proposed, just as if it were conforming.

#### **B. Nonconforming in Setbacks**

When development on a nonconforming lot cannot reasonably comply to setback requirements due to the lot size limitation, the Land Use Administrator may grant an administrative deviation of standards (see **Chapter 2**) from the applicable setback requirements if:

1. The property cannot reasonably be developed without such deviations. Compliance is not reasonably possible if a building that serves the minimal needs of the use proposed for the nonconforming lot cannot be constructed and located on the lot in conformity with such setback requirements. Mere financial hardship does not constitute grounds for finding that compliance is not reasonable.
2. The deviations are necessitated by the size or shape of the nonconforming lot.
3. The property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health and safety.

**C. Applicable to Undeveloped Lots Only**

This section applies only to undeveloped nonconforming lots (a lot of record with no substantial structures).

**D. Combination of Nonconforming Lots**

As of the effective date of this Code, if an undeveloped nonconforming lot adjoins and has continuous frontage with one (1) or more other undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor his successors in interest may take advantage of the provisions of this subsection. Provided, however, that this subsection shall not apply to a nonconforming lot if a majority of the developed lots located on either side of the street where such lot is located and within five hundred (500) feet of such lot are also nonconforming. The intent of this subsection is to require nonconforming lots to be combined with other lots to create conforming lots, but not to require such combination when that would be out of character with the rest of the neighborhood.

**1.10.03. Nonconforming Uses**

Where, at the effective date of adoption or amendment of this LDC, a lawful use of land exists that is made no longer permissible, or does not conform to the design requirements and standards set forth under the terms of this LDC as enacted or amended, such use may be continued if it remains otherwise lawful, subject to the following provisions:

**A. Expansion of Nonconforming Uses**

Nonconforming uses shall not be expanded or extended beyond the scope and area of its operation nor enlarged, increased, or extended to occupy a greater area of land that was occupied at the effective date of adoption or amendment of this LDC, unless such use is changed to a use permitted in the district in which the property is located.

**B. Abandonment of Nonconforming Uses**

If any such nonconforming use of land ceases for any reason for a period of one (1) year, the nonconforming use shall be deemed abandoned and shall not be reestablished on those premises, unless a time extension is granted by the Planning and Land Development Regulation Board prior to the end of the one (1) year period based upon the public interest and equity to the property owner.

**C. Additional Structures Prohibited**

Additional structures that do not conform to the requirements of this LDC shall not be erected in connection with a nonconforming use of land.

**1.10.04. Nonconforming Structures**

Where a lawful structure exists at the effective date of adoption or amendment of this LDC that could not be built under the terms of this LDC by reason of restrictions on area, lot coverage, height, yards, design requirements or other characteristics of the structure or its location on the lot, such structure may be continued as a lawful nonconforming structure if it remains otherwise lawful, subject to the following provisions:

- A. No such structure may be enlarged or altered in a way that increases its nonconformity.
- B. Should such structure be damaged by any means more than fifty (50) percent of the reasonable estimated replacement cost of the structure (as determined by the Flagler County Property Appraiser), it shall not be reconstructed except in conformity with the provisions of the LDC.
- C. An existing nonconforming structure shall be brought into compliance with the LDC to the maximum extent feasible whenever there is a change of use, alteration, or an addition to the existing nonconforming structure. Compliance with the LDC shall include, but not be limited to, parking, driveways, paved surfaces, stormwater retention, buffers, landscaping, and fencing/screening.
- D. Any dwelling unit that is occupied, constructed, or permitted for construction on the effective date of this Ordinance, but which does not meet the minimum living area size, shall be deemed to be a conforming structure within the zoning district assigned to the parcel on which the dwelling unit is located notwithstanding the requirements of **Chapter 3**.

**1.10.05. Approved Construction**

Proposed structures for which building permits have been issued prior to their designation as nonconforming by the adoption or amendment of this LDC may be completed and used as originally intended, provided they are completed and in use one (1) year after the date on which the permit was issued.

**1.10.06. Ordinary Repairs and Maintenance**

Ordinary repair or replacement of walls, roofs, fixtures, wiring, or plumbing on any nonconforming structure or portion of a structure and on any structure containing a nonconforming use is allowable, provided the structure existing at the date it becomes nonconforming shall not be increased in size or weight.

**1.10.07. Nonconforming Structures Unsafe because of Lack of Maintenance**

If a nonconforming structure, portion of a structure or any structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs or maintenance, and is declared by the Land Use Administrator to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the zoning district in which it is located.

**1.10.08. Nonconforming Structures Unsafe for Reasons Other than Maintenance**

If a nonconforming structure, portion of a structure, or any structure containing a lawful nonconforming use becomes physically unsafe or unlawful for reasons other than lack of repairs or maintenance, nothing in this LDC shall be deemed to prevent the strengthening or restoring to a safe condition of such building or part thereof declared to be unsafe by the authorized official of the City charged with protecting the public safety, provided that provisions in **Subsection 1.10.04** are met.

**1.10.09. Casual, Temporary, or Illegal Uses**

The casual, temporary, or illegal use of land or structures, or land and structures in combination, or the use of accessory structures, shall not be sufficient to establish the existence of a nonconforming use or to create rights in the continuance of such use.

**1.10.10. Uses Under Special Exception Provisions**

Any use which has been granted a special exception development order in a zoning district under the terms of this LDC shall not be deemed a nonconforming use in such district, but shall without further action be deemed a conforming use in such district.