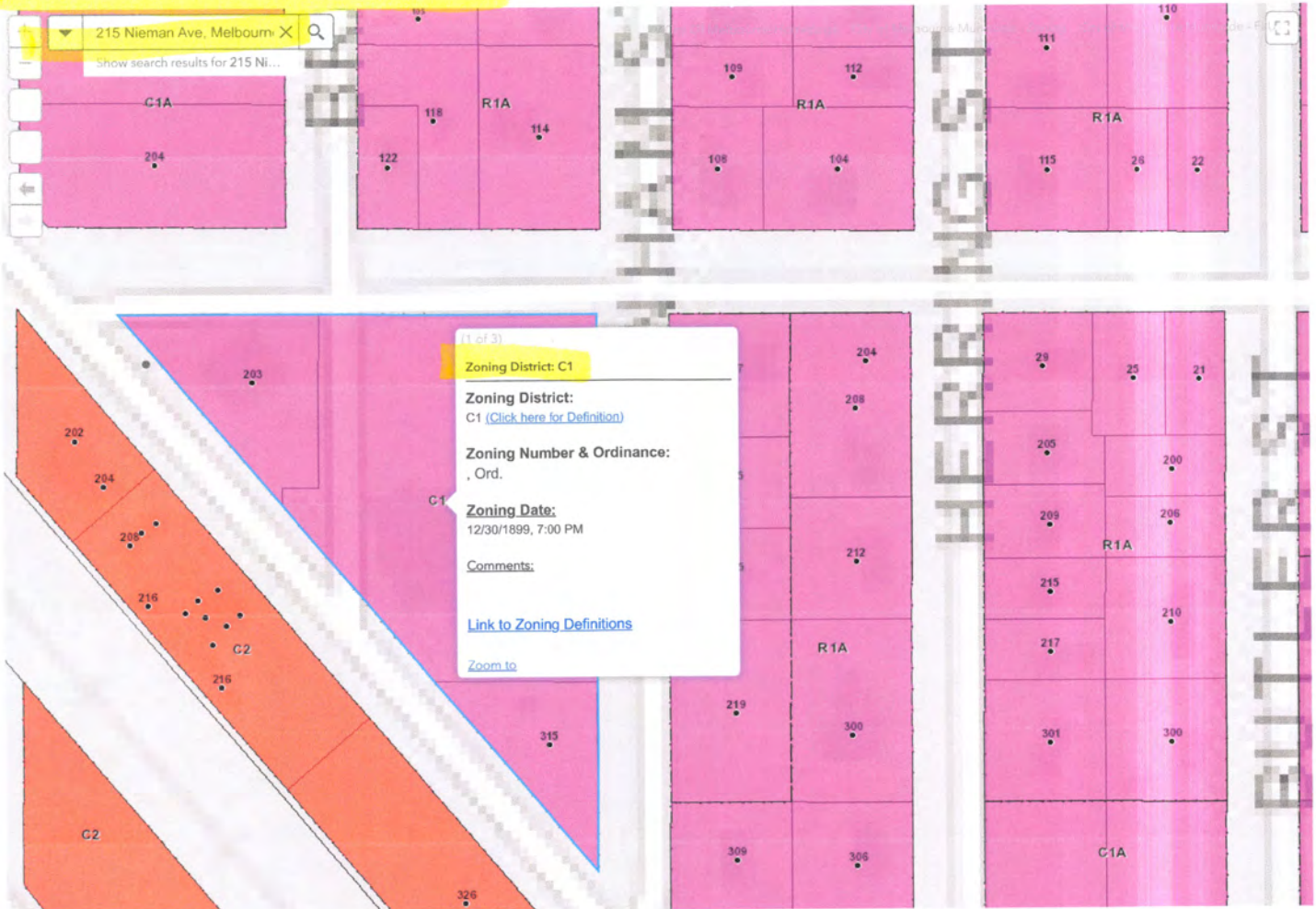


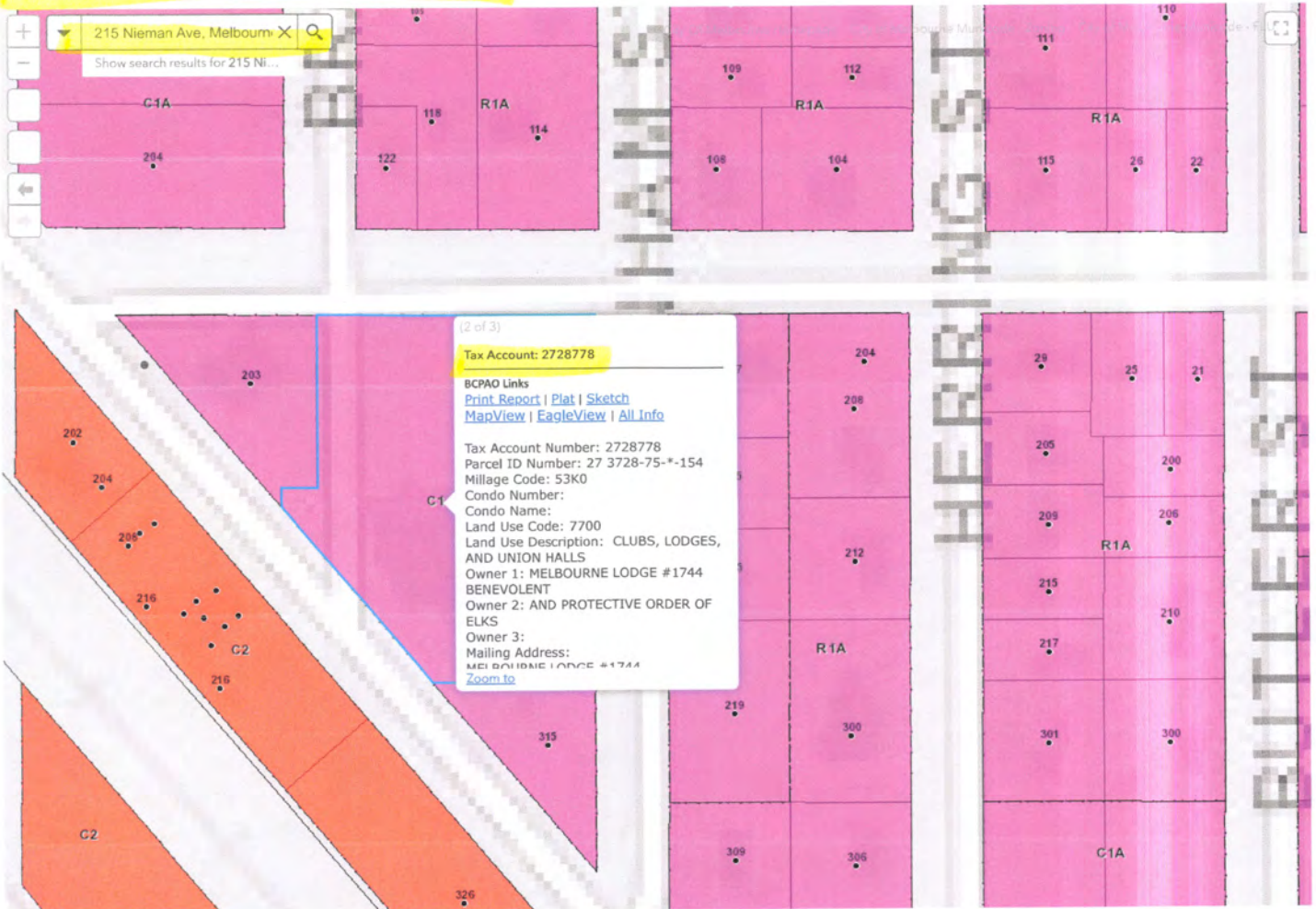
Melbourne, FL Code of Ordinances

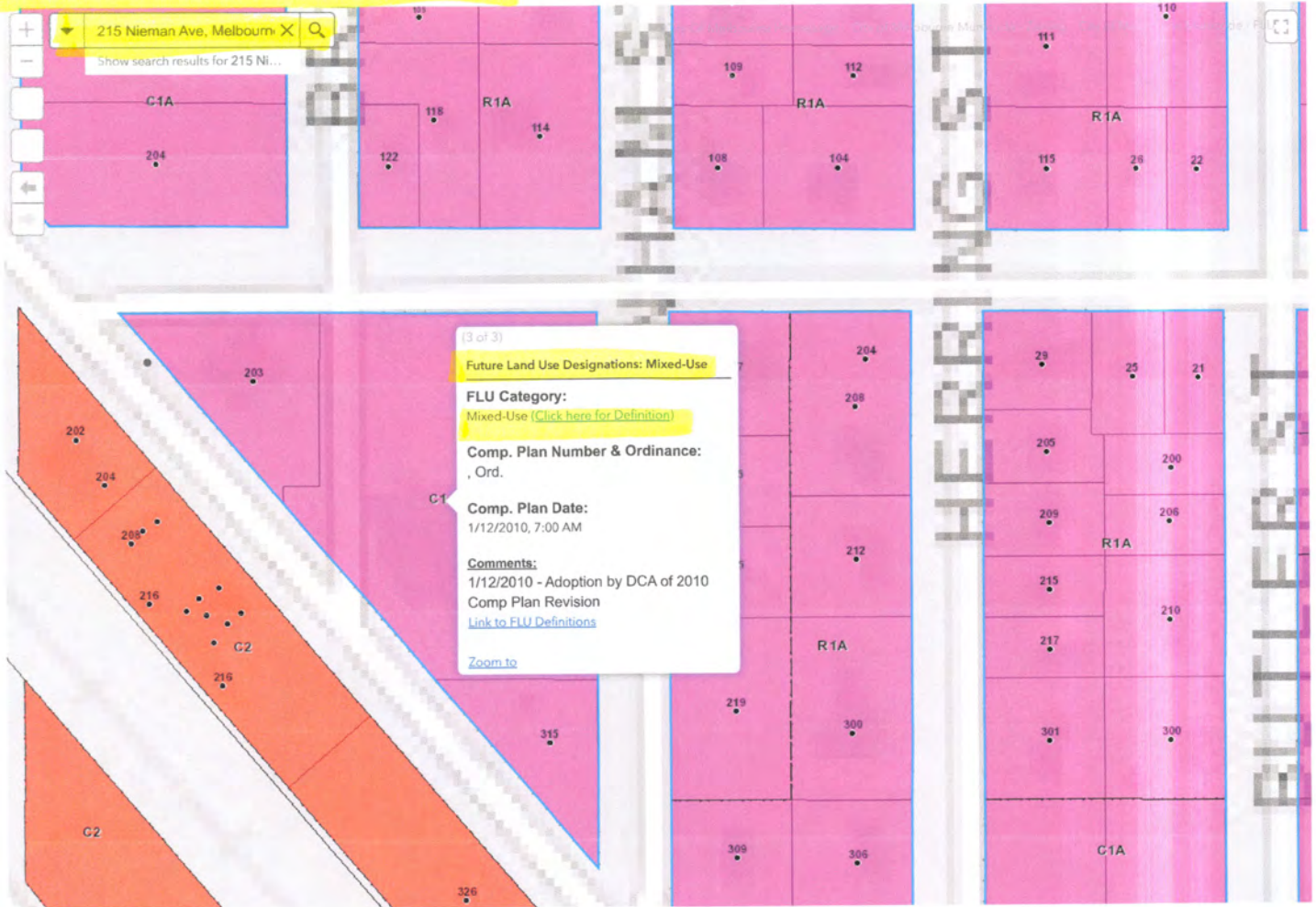
commercial development to provide a buffer area between residential and nonresidential areas as well as to facilitate cohesive grouping of more intensely developed commercial activities with high traffic generating capabilities.

(L) *C-1A — Professional, Offices and Services District.* The provisions of this district are intended to apply to an area adjacent to major streets and convenient and complementary to major commercial, industrial and/or transportation facilities. The types of uses permitted and other restrictions are intended to provide an amenable environment for the development of professional offices and services separate from the intensive development of commercial and industrial facilities.

(M) *C-1 — Neighborhood Commercial District.* The provisions of this district are intended to apply to an area adjacent to arterial and major collector streets and convenient to major residential areas. The types of uses permitted are intended to serve consumer needs. Lot sizes and other restrictions are intended to reduce conflicts with adjacent residential uses and to minimize the interruption of traffic along thoroughfares.







100ft
80.622 28.106 Degrees

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ARTICLE III. - ESTABLISHMENT OF ZONING MAP AND DISTRICTS

Sec. 1. - Zoning map.

The boundaries of these districts are hereby established as shown on a map entitled "The Zoning Map of the City of Melbourne," on file in the community development department, which map, with all explanatory matter thereon, shall be deemed to accompany, be, and is hereby made a part of this code.

The official zoning map shall bear the seal of the city under the following words: "This is to certify that this is the Official Zoning Map referred to as Ordinance Number 2005-120 of the City of Melbourne, Florida" together with the date of the adoption of this code.

If, in accordance with the provisions of this code and applicable Florida law, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be made on the official zoning map promptly after the amendment has been approved by the city council. A zoning number and an ordinance number shall be given to each change and a file of such changes kept by the community development department. Any amending ordinance shall provide that such changes or amendments, including rezoning of a parcel of land or issuance of a conditional use on a parcel of land, shall not become effective until 30 days from the date of rendition of the ordinance, and if appealed or otherwise judicially contested, until resolution of any judicial contests or appeals. The change or amendment shall be duly recorded within five business days after the 30-day period has expired and resolution of any judicial contests or appeals.

No zoning changes shall be made on the official zoning map or matter shown thereon except in conformity with the procedures set forth in this code. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this code and punishable as provided under this code, the Melbourne City Code, or Florida Statutes.

Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map which shall be stored in the community development department when not in use and readily available to the public, shall be the final authority as the current zoning status of land and water areas, buildings and other structures in the city.

- (A) *Replacement of official zoning map.* In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the city council may by resolution adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor attested by the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of Ordinance No. 2005-120 of the City of Melbourne, Florida." Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption or amendment.
- (B) *Interpretation of district boundaries.* Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:
- (1) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
 - (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
 - (3) Boundaries indicated as approximately following city limits shall be construed as following city limits.
 - (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
 - (5) Boundaries indicated as following shorelines shall be construed to follow the high water mark and in the event of change in the shoreline shall be construed as moving within the high water mark; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.

- (6) Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (5) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the use of the scale shown on said zoning map.
- (7) In cases where the actual location of physical features varies from those shown on the official zoning map, or in other circumstances not covered by subsections (1) through (6) above, the city council shall interpret the district boundaries.
- (C) *Water areas.* All areas within the city which are under water and not shown as included within any district shall be subject to all the requirements of the district which immediately adjoins or abuts the water area. If the water area adjoins two or more districts the boundaries of each district shall be construed to extend into the water area in a straight line as projected until they intersect a projected line from other district boundaries.
- (D) *Vacations; built-up land.* Whenever any street, alley or other right-of-way is vacated by official action of the Council of the City of Melbourne, the use district and area regulations governing the property abutting upon each side of such street, alley or public way shall be automatically extended to the center of such vacation and all area included within the vacation shall thereafter be subject to all appropriate regulations of the extended use districts. In all cases where land is built up by fill upon areas formerly under water, the use district and area regulations applying to the land immediately adjoining such built-up land shall be automatically extended thereto.

(Ord. No. 2005-120, § 2, 11-8-2005)

Sec. 2. - Zoning districts and intent.

For the purpose of classifying, regulating and restricting the location of trades and industries, and the location of buildings designed for industry, business, residence and other uses, the City of Melbourne is hereby divided into the following zoning districts, which implement the City of Melbourne Comprehensive Plan. The designation of use districts and uses by letter symbols as set forth herein, when used throughout this code and upon the zoning map shall have the same effect as if the full description of said district were stated.

- (A) *AEU — Agricultural Estate Use District.* The AEU agricultural estate district encompasses lands devoted to agricultural pursuits and single-family residential development of spacious character. The AEU zoning district is intended to be similar to the Brevard County AU zoning district in rural areas.
- (B) *REU — Rural Estate Use District.* The REU rural estate district encompasses lands devoted to single-family residential development of spacious character. The REU zoning district is intended to be similar to the Brevard County RR-1 zoning district in rural areas that are transitioning from rural to suburban use.
- (C) *R-1AAA, R-1AA, R-1A — Single-Family Low Density Residential Districts.* The provisions of these districts are intended to apply to an area of single-family residential development. Lot sizes and other restrictions are intended to protect and promote high quality residential development.
- (D) *R-1B — Single-Family Low Density Residential District.* The provisions of this district are intended to apply to an area of single-family residential development with incentives on lot size for affordable housing projects. (See appendix B, article V, section 2, Table 2A, Footnote 6 and appendix B, article VI, section 1(B)). Lot sizes and other restrictions are intended to permit a flexibility of design and a variety of housing styles, promote affordable single-family housing, and encourage the preservation of natural features such as scrub habitat, unique hardwood canopies and wetlands.
- (E) *R-2 — One-, Two- and Multiple-Family Dwelling Medium Density District.* The provisions of this district are intended to apply to an area of low or medium density residential development with a variety of housing types. Lot sizes and other restrictions are intended to promote and protect low or medium density residential development, maintaining an adequate amount of open space for such development. Some nonresidential uses compatible with the character of the district are also permitted as conditional uses.
- (F) *R-3 — Multiple-Family Dwelling High Density District.* The provisions of this district are intended to apply to an area of low, medium, or high density residential development. Lot, height, and other building restrictions are intended to accommodate a variety of residential development, maintaining an adequate amount of open space for residential uses. Some nonresidential uses compatible with the character of the district or as accessory uses to serve high density residential are also allowed.

- (G) *R-4 — Two-Family Dwelling District.* The provisions of this district are intended to apply to an area to be developed solely for duplexes at a low or medium density. It is intended that this district accommodate a compatible development of residential use at a higher density than single-family use, but at no lower standard of quality. Internal design, attractiveness, order and efficiency are encouraged by providing for adequate usable open space for dwellings and related facilities and through consideration of good functional relationship both between dwellings and surrounding uses.
- (H) *R-A — Residential Holding District.* The provisions of this district are intended to apply to a sparsely developed area capable of supporting single-family residences at very low densities. This classification is also intended to place land in a holding pattern until such time that a specific development request is presented which is consistent with the comprehensive plan.
- (I) *R-2T — Planned Residential Development for Mobile Home Parks.* Mobile home parks developed in such a manner as to make efficient, economical and aesthetically pleasing use of the land, so restricted that same will be continually maintained by the owner, and when such is provided for in a carefully drawn plan, the city council may permit upon recommendation of the planning and zoning board such development providing the conditions contained in article V, section 2(G) of this code are met.
- (J) *PUD — Planned Unit Development District.* The planned development is a concept which encourages mixed uses and unconventional development designs in those cases where the developer can demonstrate improved living environments, protection of natural resources or increased effectiveness of service delivery and the reduction of external trips. The purpose of a planned development is to encourage the development of large tracts of land as planned residential neighborhoods and communities that provide a more varied and interesting urban pattern and a full range of residence types as well as commercial uses designed to serve the inhabitants of the planned development. It is recognized that only through ingenuity, imagination and flexibility can residential developments be produced which are in keeping with the intent of this section while departing from the strict application of conventional use and dimension requirements of other zoning districts and subdivision regulations.

The standards for planned unit developments contained in article V are intended to achieve the following objectives:

- (1) Accumulation of large areas of usable open spaces for recreation and preservation of natural amenities.
 - (2) Flexibility in design to take the greatest advantage of natural land, trees, historical and other features.
 - (3) Creation of a variety of housing types and compatible neighborhood arrangements that give the home buyer greater choice in selecting types of environment and living units.
 - (4) Allowance of sufficient freedom for the developer to take a creative approach to the use of land and related physical development, as well as utilizing innovative techniques to enhance the visual character of the City of Melbourne.
 - (5) Efficient use of land that may result in smaller street and utility networks and reduce development costs.
 - (6) Establishment of criteria for the inclusion of compatible associated uses to complement the residential areas within the planned unit development.
 - (7) Simplification of approval procedures of proposed developments through simultaneous review by the city of proposed land use, site consideration, lot and setback consideration, public needs and requirements, and health and safety factors.
 - (8) Economical and efficient use of land, utilities and streets with resulting lower housing costs.
- (K) *R-P — Residential—Professional District.* The provisions of this district are intended to apply to a transition area between commercial and residential uses. Principal uses and restrictions of the district are intended to promote and protect low or medium density residential development in combination with low intensity commercial development to provide a buffer area between residential and nonresidential areas as well as to facilitate cohesive grouping of more intensely developed commercial activities with high traffic generating capabilities.
- (L) *C-1A — Professional, Offices and Services District.* The provisions of this district are intended to apply to an area adjacent to major streets and convenient and complementary to major commercial, industrial and/or transportation facilities. The types of uses permitted and other restrictions are intended to provide an amenable environment for the development of professional offices and services separate from the intensive development of commercial and industrial facilities.

- (M) *C-1 — Neighborhood Commercial District.* The provisions of this district are intended to apply to an area adjacent to arterial and major collector streets and convenient to major residential areas. The types of uses permitted are intended to serve consumer needs. Lot sizes and other restrictions are intended to reduce conflicts with adjacent residential uses and to minimize the interruption of traffic along thoroughfares.
- (N) *C-2 — General Commercial District.* The provisions of this district are intended to apply to an area intended to be developed and preserved as a major commercial center serving the commercial needs of the community and region as well as the motoring public. The types of uses and other restriction are intended to promote adequate protection from conflicts with adjacent residential and other noncommercial uses, and to minimize the interruption of traffic along adjacent thoroughfares.
- (O) *C-3 — Central Business District.* This district is intended to apply to the central commercial, professional, financial, governmental and civic core of the city. Lot and building regulations are intended to permit intensive development of the area and to discourage uses not requiring a central location and which would create friction with performance of central functions.
- (P) *C-P — Commercial Parkway District.* The provisions of this district are intended to apply to areas located adjacent to a main highway. The types of uses permitted and restrictions are intended to serve the needs of the motorist and provide an amenable impression of the city. Large lot sizes and other restrictions are intended to minimize frequent ingress and egress to the highway from abutting uses, thereby allowing the thoroughfare to serve its primary function of carrying an uninterrupted flow of traffic.
- (Q) *M-1 — Light Industrial District.* The provisions of this district are intended to apply to an area located in close proximity to rail, air or major roadway facilities and which can serve intensive commercial uses and light manufacturing, warehousing, distribution, wholesaling and other industrial functions of the city and the region. Restrictions herein are intended to minimize adverse influences of the industrial activities on nearby non-industrial areas and to eliminate unnecessary industrial traffic through non-industrial areas.
- (R) *M-2 — General Industrial District.* The provisions of this district are intended to apply to an area located in close proximity to rail, air and major roadway facilities and which can serve general manufacturing, storage, distribution and other general industrial functions of the city, state and region. Restrictions herein are intended to minimize adverse influence of the industrial activities on nearby non-industrial areas and to eliminate unnecessary industrial traffic through non-industrial areas.
- (S) *I-1 — Institutional District.* The provisions applicable to this district are intended to apply to an area which can serve the needs of the community for public and semi-public facilities of an educational, recreational, health or cultural nature. Since the site and building requirements for such uses vary with the size and type of use, a review and approval of the plans is specified and the zoning itself is predicated upon the approval of the site plan.
- (T) *C-E — Integrated Commercial Edge District.* This district is intended to apply to an area that has historically served the heavy commercial and light industrial needs of the community while providing for supporting accessory residential opportunities. This zoning district is generally located just outside of a central business district or in an area that transitions between industrial and lighter intensity uses.

(Ord. No. 2005-120, § 2, 11-8-2005; Ord. No. 2009-31, § 2, 8-25-2009; Ord. No. 2010-14, § 3, 4-13-2010; Ord. No. 2017-31, § 2, 7-11-2017; Ord. No. 2019-30, § 1, 6-11-2019)

Sec. 3. - Consistency with the comprehensive plan.

This section is intended to correlate individual zoning classifications with land use districts. The following table shows which zoning districts implement the various land use categories. No real property shall be rezoned, and no amendment to this code shall be adopted, unless such action is consistent with the comprehensive plan of the city. The planning and zoning board shall include in its recommendation upon any rezoning application, and upon any ordinance amending the zoning code submitted to the board for review, a finding that the proposed action is or is not consistent with the city's comprehensive plan.

Future Land Use Code*	Full Name	Zoning Districts Allowed
COM	General Commercial	RP, C1A, C1, C2, C3, CP, I1
EST	Estate Residential	AEU, REU, R-1AAA, R-1AA, R-A
LDR	Low Density Residential	AEU, REU, RA, R1AAA, R1AA, R1A, R1B, R2, R4, PUD
MDR	Medium Density Residential	R2, R3, PUD, R4, R2T
HDR	High Density Residential	R3, R4
EDG	Urban Edge	AEU, I1, PUD
REC	Recreation	RA, I1
PUB/INS	Public/Institutional	I1
IND	Industrial	M1, M2
HCM	Heavy Commercial	C2, CP, M1, C-E
OFF/PRO	Office/Professional	R-1AA, R-1A, R-2, C1A, RP
MIX	Mixed Use	R1AAA, R1AA, R1A, R1B, R2, R2T, R3, RP, C1, C1A, C2*, C3, CP, I1, PUD, AEU
CON	Conservation	All districts

C2 zoning is permitted in the mixed use future land use category only on those properties that were zoned C2 as of June 22, 2010.

Note— (The following was moved from the definitions section.)

Densities within each comprehensive future land use category are as follows:

- (a) *Urban edge*—One unit per 100 acres.
- (b) *Estate residential*—Up to three dwelling units/acre.
- (c) *Low density residential*—Up to six dwelling units/acre.
- (d) *Medium density residential*—Six to 15 dwelling units/acre.
- (e) *High density residential*—Up to 30 dwelling units/acre.
- (f) *Mixed use*:
 - Up to 100 units/acre in the Downtown Activity Center.
 - Up to 100 units per acre in the Eau Gallie Activity Center when zoned C-3.
 - Up to 30 units per acre in the Midtown Activity Center.
 - Up to 30 units per acre in a community activity center.
 - Up to 15 units per acre outside of an activity center.
- (g) *Commercial*—Up to 15 units per acre.
- (h) *Office/Professional*:
 - Up to 15 units per acre in an activity center.
 - Up to ten units per acre outside of an activity center.

(Ord. No. 2005-120, § 2, 11-8-2005; Ord. No. 2010-37, § 3, 6-22-2010; Ord. No. 2015-54, § 1, 12-8-2015; Ord. No. 2017-32, § 1, 7-11-2017; Ord. No. 2019-30, § 1, 6-11-2019; Ord. No. 2022-48, § 1, 10-25-2022)

Sec. 4. - Cap zoning and conditional zoning.

Zoning ordinance relating to particular parcels of land placing a cap on the maximum dwelling density currently in existence are hereby ratified. Zoning ordinance relating to a particular parcel of land placing a cap on the maximum dwelling density are hereby authorized. Said ordinances shall reference the placing of cap on the zoning density using formats such as "cap 2" or "cap 10," following the zoning district designation, meaning the maximum density is two units per acre or ten units per acre, respectively. Zoning granted subject to conditions set forth in the ordinance, rezoning of a parcel of land, or issuance of a conditional use, are hereby authorized. All currently existing rezoning or conditional use ordinances containing conditions of approval are hereby ratified.

(Ord. No. 2005-120, § 2, 11-8-2005)

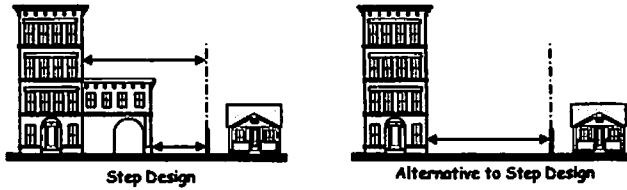
ARTICLE IV. - GENERAL DISTRICT REQUIREMENTS

Sec. 1. - Exceptions and variations to height regulations.

- (A) *Exceptions.* The height limitations contained in the schedule of district regulations do not apply to spires, belfries, cupolas, antennas, parapets (as defined in appendix D, chapter 11, section 11.04), water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.
- (B) *Multi-story developments.* Developments in the R-2, R-3, R-P, M-1, M-2, C-P, C-1A, C-1 C-2 and C-E zoning districts that exceed one story in height, except for two-story single-family homes and two-family buildings, shall provide the following minimum building setbacks:

	Adjacent to:	
Building Height:	Any single-family district or single-family, townhouse or two-family development in R-2, R-3, R and PUD districts	Any multifamily district or developed multifamily in the R-P or PUD districts
Up to 36 feet	35 feet	25 feet
More than 36 feet to 48 feet	45 feet	30 feet
More than 48 feet to 72 feet	55 feet	35 feet
More than 72 feet to 96 feet	65 feet	40 feet
More than 96 feet	75 feet	45 feet

This regulation should not be misconstrued to represent that all tall buildings must utilize a "step" design; the setback on the lower floors could also be the same as the top floors without any "steps" (see graphic below).



These standards may be modified for building heights approved through the conditional use process (see next section).

(C) *Additional height through conditional use review.*

(1) *General.* Should additional height be requested through the conditional use process as provided in Tables 2A and 2B, article V, section 2, the following standards, in addition to the conditional use review criteria, shall be considered:

- (a) The proposed building shall:
 - 1. Preserve scenic views.
 - 2. Maintain character of adjacent single-family residential zoning districts.
 - 3. Minimize blockage of breeze and light to adjacent properties and sidewalk area.
- (b) The lot shall have a minimum size of 22,500 square feet.
- (c) The lot width shall be at least 150 feet.
- (d) Parking areas, including surface parking and structures, shall be screened with landscaping to minimize their visibility from adjacent streets.
- (e) No shadow will be cast upon any solar energy panel for which a building permit has been requested or previously granted, and which is located upon any adjacent structure or property.
- (f) Conditional use requests for additional building height shall be required to meet additional criteria related to the public benefit of the proposal. Specifically, conditional use requests to increase building height by up to 100 percent of the permitted height will require meeting additional breezeway and landscape requirements and/or other public benefits as deemed necessary by the city. Conditional use requests to increase building height by up to 100 percent of the permitted height will require meeting extraordinary public benefit requirements including breezeways and landscape. In addition, approval of height increases over 100 percent of the permitted height shall require a five-sevenths vote of the city council.

(D) *Reserved.*

(E) *Melbourne International Airport area height overlay standards.*

- (1) *General.* The intent of this subsection is to preserve and enhance the unique features of the Melbourne International Airport by establishing a height overlay for the diverse aviation, industrial, and commercial uses within the area. Such standards will assist in the timeliness of development processing and permitting by the city for future economic development projects that require additional height, while also providing separation from adjacent single-family residential zoning.
- (2) *Applicability.* This article will apply to development in parts of the Melbourne International Airport as more fully described in the table below (and as outlined on a map attached to Ordinance No. 2013-41 adopted July 9, 2013). The areas specified herein will continue to be subject to all non-height standards of development, as well as federal or local aviation height zone restrictions previously imposed. In addition, projects with conditional uses already approved for height will comply with the ordinance for each project's specific approval.

Area	Location	Max Height	Max # Stories
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A	Airport owned property zoned M-1, located west of Airport Boulevard, west of north Apollo Boulevard, south of the L-7 drainage canal, east of Wickham Road, and north of NASA Boulevard.	96 ft.	8
B	Airport owned property zoned M-1 or M-2, located west of north Apollo Boulevard, north of the L-7 drainage canal and immediately adjacent to St. Michael's Place.	60 ft.	5

(3) *Height restriction setback.* Structures exceeding 48 feet of height that are located within the overlay area and located adjacent to a single-family residential zoning district shall provide additional setbacks.

Area A: 500-foot setback

Area B: 300-foot setback

However, other project-related improvements such as parking, stormwater, and other structures that do not exceed 48 feet of height may be located within the height restriction setback.

(4) *Conditional use within height restriction setback.* A request for additional height within the height restriction setback will require a conditional use approval, pursuant to appendix B, article IV, section 1(C) and appendix B, article IX, section 5.

(Ord. No. 2005-120, § 2, 11-8-2005; Ord. No. 2007-92, § 1, 11-27-2007; Ord. No. 2009-31, § 3, 8-25-2009; Ord. No. 2010-37, § 4, 6-22-2010; Ord. No. 2013-41, § 1, 7-9-2013; Ord. No. 2015-32, § 1, 9-8-2015; Ord. No. 2016-04, § 1, 1-26-2016; Ord. No. 2020-38, § 1, 7-14-2020; Ord. No. 2022-01, § 2, 1-25-2022)

Sec. 2. - Building setbacks.

(A) *Measuring building setbacks.* The setback requirements stated in this section shall be construed as a minimum setback and shall not be construed as repealing in any manner any existing requirement or zoning ordinance of the City of Melbourne. If there are conflicting setbacks, the most restrictive setback, i.e., the greatest setback, shall apply unless specifically stated otherwise.

(B) *Setback encroachments.* Every part of a required yard shall be open and unobstructed except as hereinafter provided or as otherwise permitted in this code.

- (1) Sills or belt courses may not project over 18 inches into a required yard.
- (2) Movable awnings may not project over five feet into a required yard, and where the yard is less than ten feet in width the projection shall not exceed more than one-half the depth of the yard.
- (3) Chimneys, fireplaces, bay windows, or pilaster may not project over two feet into a required yard.
- (4) Fire escapes, stairways, and balconies that are unroofed and unenclosed may not project over five feet into a required rear yard, or over three feet into a required side yard.
- (5) Hoods, canopies, eaves or marquees may not project over four feet into a required yard.
- (6) Fences, walls and hedges shall be permitted in required yards subject to the provisions established herein.
- (7) *Setbacks to waterways.* On all building sites abutting upon a canal, waterway, river or other navigable stream, the minimum setback from the waterway for all buildings, or portions thereof, shall be:

- a. Single-family residential uses: 35 feet from the shoreline/mean high water line.
- b. All uses other than single-family residential uses:
 1. Structures/uses with no interaction/interconnection or passive use of the waterfront: 25 feet from the shoreline/mean high waterline.
 2. Structures/uses that necessitate closer proximity to the water's edge to activate/utilize the waterfront: 15 feet from the shoreline/mean high water line. Structures/uses that activate the waterfront include docks, marinas, piers, boardwalks, marine platforms, water-related retail, outdoor dining, pavilions, covered porches, or other uses/structures approved by the community development director.
 3. Structures/uses that abut a single-family residential zoning district or use: 35 feet from the shoreline/mean high water line. The setback shall be maintained from the side yard of the abutting property for a distance of 35 feet at which point the setback may shift to (7)b.1. or (7)b.2. above.

(8) Existing or new porch areas in the rear yard of single-family and duplex structures may be screened provided that the enclosed area does not extend more than 12 feet into the required rear yard and that the area of the enclosure does not exceed 240 square feet.

(9) Setbacks are subject to reasonable accommodation as set forth in appendix D, section 1.01.

(C) *Additional setback.* See article IV, section 1 for additional setbacks required as a result of increased building height.

(Ord. No. 2005-120, § 2, 11-8-2005; Ord. No. 2009-31, § 3, 8-25-2009; Ord. No. 2017-31, § 3, 7-11-2017; Ord. No. 2019-57, § 4, 12-10-2019; Ord. No. 2021-57, § 1, 1-11-2022)

Sec. 3. - Buildings and structures.

- (A) *Buildings required.* All residential, commercial, industrial and institutional uses shall provide at least the minimum size building required for the district in which the use is to be located except where the use does not require a building such as vehicle storage, land excavation, land alteration/non-household waste landfill or agricultural uses. Said building shall contain plumbing facilities adequate to serve the needs of the customers and employees of the commercial, industrial or institutional uses.
- (B) *Erection of more than one principal structure on a lot.* In any district, except AEU, REU, R-1AAA, R-1AA, R-1A and R-1B, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this code shall be met for each structure as though it were on an individual lot. The separation between structures shall not be less than required by the Fire Code, or ten feet, whichever is more.
- (C) *Structures to have access.* Every building hereafter erected or moved shall be on a lot adjacent to a public street or with access to a city approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking

(Ord. No. 2005-120, § 2, 11-8-2005)

Sec. 4. - Density.

- (A) *Designation of lesser maximum density.* Any person, firm or corporation owning an interest in real property that files an application for a change in land use classification to R-2, R-3 or other land use classification permitting multifamily dwellings may, at its option, request such change with a maximum density limitation of less than that permitted in that particular land use classification. Said request shall designate an exact lesser maximum density limitation in terms of a specified number of dwelling units per gross acre. Said request may be specified in the application for the change in land use classification or at any time prior to final action by the City Council of Melbourne on said application site plan approval. Upon final approval by the city council of a change in land use classification with a requested designation of a lesser maximum density limitation, such designation shall become a binding condition on the use of said land and the designation shall be noted on the Official Zoning Map of Melbourne. In such an event the maximum density specified in the specific district involved shall be rendered inapplicable to said land and the lesser maximum density limitation designation shall control.
- (B) *Density calculation.*

- (1) *Adjacent to waterways, oceans, or lakes.* In calculating gross acreage for parcels of land abutting waterways, oceans, or lakes, only that portion of the parcel lying upland of the mean or ordinary high water line of said parcel shall be included.
- (2) *Clustering.* Density may be clustered on an overall development project as outlined in the comprehensive plan.
- (3) *Within established subdivisions.* In calculating gross acreage for parcels of land within a subdivision, the following acreage may be utilized to determine the total density:
 - (a) *Subject property.* Acreage of the subject property.
 - (b) *Adjacent right-of-way.* Half of the width of any immediately adjacent right-of-way, multiplied by the length of the right-of-way running parallel with the subject property.
 - (c) *Portion of common infrastructure and property.* A proportional share of any common infrastructure and property areas shown on the recorded subdivision plat, such as retention, open space, recreational facilities, common parking areas, conservation areas, and any other area used to calculate initial density during the subdivision process.
- (4) *Future Land Use categories.* Dwelling unit density shall be additionally classified according to the following categories:
 - (a) *Urban edge (one unit per 100 acres).* This density allowance is intended to provide a clear separation between urban uses within a master planned community and nearby rural and conservation uses.
 - (b) *Estate residential (zero to three units/acre).* This density is intended as a transition between the remaining rural areas and the more intensely developed sites in the city. This density range accommodates detached single-family houses on larger lot sizes, and accessory agricultural uses.
 - (c) *Low density residential (zero to six dwelling units/acre).* This density is appropriate where urban services are provided in a neighborhood setting. This density range accommodates detached single-family homes, patio homes, zero lot line houses and other forms of detached or semi-detached homes.
 - (d) *Medium density residential (over six to 15 dwelling units/acre).* This density is intended to provide a buffer between low-density residential uses and more intense uses such as high density residential or commercial. It is also suitable at major intersections when adequate buffering from the highways can be provided. Low-density residential uses may be permitted in these use areas.
 - (e) *High density residential (over 15 to 30 dwelling units/acre).* This density is intended for areas close to major intersections and commercial areas where a slightly higher amount of residential trips can be allowed due to proximity to shopping and major roads. Apartments, high-rise residential structures and other intense housing product types are typical uses, although low and medium density residential uses may also be permitted.
 - (f) *General commercial (up to 15 units per acre).* This density is intended to permit the consideration of limited medium density residential uses along major transportation corridors as part of mixed use developments.
 - (g) *Mixed use (varies per location).*
 - Downtown Melbourne Activity Center (DMAC)—Up to 100 units per acre.
 - Eau Gallie Activity Center (EGAC)—Up to 100 units per acre when zoned C-3.
 - Midtown Activity Center (MAC)—Up to 30 units per acre.
 - Community Activity Center (CAC)—Up to 30 units per acre.
 - Outside an activity center—Up to 15 units per acre.

This density is intended to encourage mixed use urban development within designated activity center overlays and along major transportation corridors. Higher residential densities are permitted in the urban core areas of the city while lower residential densities are allowed outside of the urban centers.
 - (h) *Office/Professional (varies per location).*
 - Inside an activity center—Up to 15 units per space.
 - Outside an activity center—Up to ten units per space.

This density is intended to permit the consideration of limited low density and medium density residential uses in areas where such development can be utilized as a buffer between lower intensity residential uses and higher intensity commercial uses.

(C) Transfer of development rights (TDR) for properties.

- (1) **Purpose.** This section provides a means to transfer development rights regarding density or intensity from eligible sending sites to eligible receiving sites through a voluntary process that permanently preserves the natural environment of uplands along the Indian River Lagoon that provide a public benefit. The intent of this section is to:
 - (a) Recognize there are coastal wetlands in the city that warrant protection.
 - (b) Offer an incentive-based alternative to development of coastal wetlands by allowing development rights to be transferred to the adjacent upland areas suitable for development.
 - (c) Direct development at the future land use densities established on the future land use map, from coastal wetlands to the upland portion of the site, consistent with Comprehensive Plan policy 1.1.15.
 - (d) Provide a mechanism by which the city can obtain the rights to protect the coastal wetlands for conservation uses.
 - (e) Recognize that that the conservation element of the Comprehensive Plan supports conservation uses along the Indian River Lagoon.
- (2) **Applicability.** The sending and receiving sites for the transfer of development rights shall be located north of Carolin Street and south of Laurie Street, having land on both sides of U.S. Highway 1 and abutting the Indian River Lagoon. The sending site means the area located east of U.S. 1 and abutting the Indian River Lagoon. The receiving site means the area located west of U.S. 1 and abutting U.S. 1.
- (3) **[Subject to approval.]** The transfer of development rights from the sending site to the receiving site shall be subject to city council approval by resolution.
- (4) **Evidence of transfer of development rights.** The certificate of transfer of development rights shall document the development rights that have been removed from the sending site and transferred to the receiving site and shall be executed by the community development director and the then-current property owners of the sending site and the receiving site. The certificate of transfer of development rights shall be recorded in the public records. The certificate of transfer of development shall be valid for transfer purposes only.
- (5) **Calculations.** The acreage for development rights that a sending site is eligible to send to a receiving site shall be determined by applying the sending site's available acreage for purposes of establishing density and/or intensity pursuant to this Code to the area of the sending site.

(Ord. No. 2005-120, § 2, 11-8-2005; Ord. No. 2010-37, § 4, 6-22-2010; Ord. No. 2015-35, § 1, 8-25-2015; Ord. No. 2015-51, § 1, 11-24-2015; Ord. No. 2022-48, § 1, 10-25-2022)

Sec. 5. - Intensity/floor area ratio (FAR).

Intensity calculation/floor area ratio (FAR). In calculating a development's FAR, the assigned FAR shall not include such features as parking lots or structures, aerial pedestrian crossovers, open or partially enclosed plazas, or exterior pedestrian and vehicular circulation areas. Maximum allowable FARs shall be classified according to the following future land use map categories:

(1)	Office/professional	0.7 FAR
(2)	General commercial (varies per location):	
	Downtown Melbourne Activity Center (DMAC)	6 FAR
	Eau Gallie Activity Center (EGAC)	3 FAR

	Midtown Activity Center (MAC)	2 FAR
	Community Activity Center (CAC)	2 FAR
	Outside an activity center	0.7 FAR
(3)	Heavy commercial	0.7 FAR
(4)	Mixed use (varies per location):	
	Downtown Melbourne Activity Center (DMAC)	6 FAR
	Eau Gallie Activity Center (EGAC)	6 FAR when zoned C-3
	Midtown Activity Center (MAC)	2 FAR
	Community Activity Center (CAC)	2 FAR
	Outside an Activity Center	1 FAR
(5)	Industrial	1 FAR
(6)	Public/institutional (varies per location):	
	Downtown Melbourne Activity Center (DMAC)	6 FAR
	Eau Gallie Activity Center (EGAC)	3 FAR
	Midtown Activity Center (MAC)	2 FAR
	Community Activity Center (CAC)	2 FAR
	Outside an Activity Center	0.5 FAR
(7)	Recreational (varies per location):	
	Downtown Melbourne Activity Center (DMAC)	1 FAR
	Eau Gallie Activity Center (EGAC)	1 FAR
	Midtown Activity Center (MAC)	0.5 FAR
	Community Activity Center (CAC)	0.5 FAR
	Outside an Activity Center	0.5 FAR
(8)	Urban edge	0.5 FAR

(9)	Low, medium and high density residential - supportive community uses	0.5 FAR
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(Ord. No. 2010-37, § 4, 6-22-2010; Ord. No. 2022-48, § 1, 10-25-2022)

Sec. 6. - Breezeways.

Breezeway requirements for waterfront properties: (Indian River Lagoon and Atlantic Ocean). Development sites (not including single-family detached residential lots) abutting waterways and located within a C-1, C-2, C-P, R-2, or R-3 zoning district shall be designed to maximize the preservation of views and breezes. All development within these areas shall comply with the standards contained in this section, in addition to the conditional use criteria, contained in appendix B, article IX, section 5 of the zoning code, for those uses that require conditional use review.

New multi-story developments, as applicable above, fronting on waterways, shall include a breezeway. For the purpose of this section, a breezeway shall consist of one or more open space areas, unoccupied and unobstructed by any portion of a building, structure, fence or sign over four feet in height, except for the projections of uncovered steps, uncovered balconies or uncovered porches, being the minimum horizontal distance between the side of a building or structure and the adjacent side property line or between the adjacent sides of two buildings on the same parcel or project area, extending from the street right-of-way line to the rear property line. A breezeway may include required building setbacks, buffer areas, landscape areas, surface parking lots, driveways, vehicular use areas, stormwater retention areas, swimming pools, pool decks and uncovered patios.

Proposed Height	Breezeway	Landscaping ⁽¹⁾	Trees ⁽²⁾
Up to 40 ft.	30% of lot width	Per code	Per code
40 to 80 ft.	30% of lot width + 1% per 10 ft. of height above 40 ft.	Per code + 50 sq. ft. of landscape area per foot above 40 ft. in height	Per code
More than 80 ft.	30% of lot width + 1% per 10 ft. of height above 40 ft.	Per code + 50 sq. ft. of landscape area per foot between 40 and 80 ft. in height, + 100 sq. ft. per foot above 80 ft. in height	Per code + one 150 gal. containerized tree per 5 ft. above 80 ft. in height
Sites of more than 3 acres	See above	See above	As required above + an additional 150 gal. containerized tree per acre

- (1) Landscaping refers to perimeter or interior landscaping.
- (2) To be planted between the right-of-way and the principal building.
- (3) Not allowed adjacent to single-family districts.

(Ord. No. 2010-37, § 4, 6-22-2010)

Sec. 7. - Aggregation of parcels.

Two or more parcels of land in close proximity to one another shall be aggregated and treated as a single lot under the zoning code and land development regulations when the parcels of land are determined to be unified by ownership and determined to be part of a unified use or plan of development. The following criteria shall be considered in order for the community development director to

determine whether there is unified ownership and a unified use or plan of development:

- (1) Unity of ownership shall occur when one of the following factors is present:
 - (a) The same person or entity has retained or shared control of the parcels or the development; or
 - (b) The same person or entity has ownership or a significant legal or equitable interest in the parcels or the development; or
 - (c) There is common management of the parcels or the development.
- (2) Unity of use or plan of development. No one factor listed below shall be determinative of the existence of a unity of use, nor is it necessary for all of the following factors to indicate a unity of use:
 - (a) Intent of the owner or developers, to unify the parcels, as evidenced through word and action; and
 - (b) Adaptability of property to unified use or plan of development; and
 - (c) Interdependence of the parcels; and
 - (d) Highest and best use of property; and
 - (e) Appearance of the land; and
 - (f) Actual or proposed use of the land; and
 - (g) Possibility of parcels being combined in use in reasonably near future; and
 - (h) Interconnection, interdependence, or relationship of the infrastructure serving the parcels of land.
- (3) The following activities shall not be considered in determining whether to aggregate two or more parcels of land:
 - (a) The sale of unimproved parcels of land, where the seller does not retain significant control of the future development of the parcels, shall not affect this determination.
 - (b) The fact that the same lender has a financial interest, including one acquired through foreclosure, in two or more parcels, so long as the lender is not an active participant in the planning, management, or development of the parcels in which it has an interest, shall not affect this determination.
 - (c) The existence of multiple zoning districts on the lot shall not affect this determination.
 - (d) The existence of multiple tax parcels on the lot shall not affect this determination.

Notwithstanding the foregoing, to aggregate two or more parcels, the parcels of land in a development must be in close proximity to one another. Close proximity shall mean that two parcels of land in a development are within 500 feet of each other. Measurement of the distance between two parcels of land in a development shall be by the straight-line method of measurement, meaning that by drawing a straight line between the nearest part of any of the boundaries of both parcels, said boundaries are within 500 feet of each other. Remote parking lots must comply with the code requirements for off-site, off-street parking (per appendix D, chapter 9, article V, section 9.75).

(Ord. No. 2010-13, § 2, 9-7-2010)

ARTICLE V. - DISTRICT REGULATIONS

No building shall be erected, nor shall buildings or premises be used for any purpose other than a purpose permitted by this code in the use district in which such building or premises is or are located.

(Ord. No. 2005-120, § 2, 11-8-2005)

Sec. 1. - Application of district regulations.

Unless the context expressly indicates the contrary, the regulations set by this code within each district in this article shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

- (1)

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

- (2) No building, structure or premises shall be erected, altered or used so as to produce greater height, smaller yards or less unoccupied area, and no building shall be occupied by more families than prescribed for such building, structure or premises for the district in which it is located.
- (3) No part of a yard, or other open space, or off-street parking or loading space required in connection with any building for the purpose of complying with this code, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
- (4) No yard or lot existing at the time of adoption of this code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this code shall meet the minimum requirements established by this code.
- (5) Every building or structure hereafter erected shall be located on a lot as defined herein. Every building hereafter erected or structurally altered shall be on a lot adjacent to a public street, or with access to a public street.
- (6) A lot with multiple zoning designations. When a lot includes two or more parcels reflecting different zoning districts, the applicable zoning regulations of this zoning code shall be applied to the area within each respective zoning district. Each use must comply with its underlying zoning district. Additionally, no accessory use shall be located on any portion of the lot unless the principal use is a permitted use, as established in Tables 1A and 2A, section 2(D), article V of the zoning code, in the zoning district underlying the accessory use. Notwithstanding the foregoing, as set forth in chapter 50, Stormwater Regulations, and appendix D, chapter 9, article V, parking and loading, City Code, parking and stormwater as accessory facilities may be located on any portion of the lot, provided that the principal use is a permitted use (P) on any portion of the lot and the principal use does not require conditional use (C) approval per Tables 1A and 2A, section 2(D), article V, of the zoning code.

(Ord. No. 2005-120, § 2, 11-8-2005; Ord. No. 2010-13, § 3, 9-7-2010; Ord. No. 2017-31, § 4, 7-11-2017)

Sec. 2. - District use and dimensional standards.

This section defines and prescribes the specific uses allowed within each zoning district identified in this code, as well as specific standards required to develop within each zoning district and a methodology for uses not specifically listed. In addition, this section contains the use standards for the rural zoning districts, and the use and dimensional standards for planned developments.

- (A) *Uses not specifically listed.* In the event that a particular use is not listed anywhere in this chapter and that no listed use describes the land use activity in question and that such use is not determined to be an accessory use, then it shall be considered the same as the use having the most similar characteristics. An unlisted use shall be determined to be a permitted use, prohibited, or conditional use based on the similarities to other uses listed or defined elsewhere in this chapter.
- (B) *Criteria for reviewing uses not listed.* Upon application for a use not herein listed, the community development director shall determine whether or not the use shall be allowed in the specific zoning district and whether it shall be listed as a permitted use, a permitted use with conditions or a conditional use.

The basis for reviewing unlisted uses shall be the North American Industrial Classification System (NAICS), which shall be used to determine the general classification of uses. Other factors which may be considered shall be traffic generation volume, type of traffic attracted to and generated by the site, parking requirements, compatibility to surrounding land uses, noise, lighting and visual impacts, hours of operation, and intensity of use. The community development director, or designee, may after review of the criteria herein set forth determine that certain uses are prohibited uses and shall not be allowed in any zoning district. In the event that any use is determined to be a prohibited use, record of the reasons given for that decision shall be kept on file and shall be used as guidelines for subsequent use determinations.

(C)

Appeals of decisions on unlisted uses. Such decisions may be appealed to the planning and zoning board in conformance with the provisions of part II, chapter 2, article IV, boards and committees.

- (D) *Use and dimensional standards tables.* Tables 1A and 1B contain a list of uses allowed in each district and specify whether they are permitted by right (P) or if they require conditional use approval (CU). Tables 2A and 2B contain the dimensional standards for the various uses allowed in each district.

Table 1A. Table of Uses, Residential Districts									
Uses	R-A	R-1AAA	R-1AA	R-1A	R-1B	R-2	R-3	R-4	R-P
Agricultural pursuits*	C ¹	N	N	N	N	N	N	N	N
Assisted living facility	N	N	N	N	N	C	C	C	C
Bed and breakfast*	N	N	N	N	N	P	P	N	P
Child care facilities	N	N	N	N	N	C	C	N	C
Community center	C	C	C	C	C	C	C	C	C
Community residential home (1 to 6 residents)*	P	P	P	P	P	P	P	P	P
Community residential home (7 to 14 residents)*	N	N	N	N	N	P	P	N	P
Convalescent/nursing homes*	N	N	N	N	N	C	C	C	P
Domestic violence shelter*	N	N	N	N	N	P	P	N	P
Dormitory	C	C	C	C	C	C	C	C	C
Dwellings, accessory*	P/A	P/A	P/A	P/A	P/A	P/A	P/A	N	P/A
Dwelling, multifamily*	N	N	N	N	N	P	P	N	P
Dwelling, single-family detached*	P	P	P	P	P	P ²	P	N	P
Dwellings, two-family/duplex*	N	N	N	N	N	P	P	P	P
Family day care home*	N	P	P	P	P	P	P	P	P
Financial institutions	N	N	N	N	N	N	N	N	C

Golf or tennis grounds or similar use	C	C	C	C	C	C	C	C	C
Group home	N	N	N	N	N	C	C	C	C
Hospitals	N	N	N	N	N	C	C	N	C
House of worship, convent or parish house*	C	C	C	C	C	C	C	C	C
Marinas*	N	N	N	N	N	C	C	C	N
Medical marijuana treatment center dispensing facilities	N	N	N	N	N	N	N	N	N
Parking lot in a residential district ³	P	P	P	P	P	P	P	P	P
Personal service establishments	N	N	N	N	N	N	N	N	P
Public use	C	C	C	C	C	C	C	C	C
Public utility service facilities*	C	C	C	C	C	C	C	C	C
Retail and service establishments	N	N	N	N	N	N	P/A ⁴	N	C/A ⁵
Recovery home/halfway house*	N	N	N	N	N	C	C	N	C
School	C	C	C	C	C	C	C	C	C

* See article VI, section 1 for special conditions

P - Permitted uses;

C - Uses that require conditional use approval;

N- Prohibited;

P/A - Permitted as accessory use;

P/C - Permitted or conditional use

NOTE: See detailed use requirements for the AEU, REU, R-2T, and PUD in the sections that follow:

¹ No commercial agricultural use activities shall be allowed.

- ² Shall be constructed as a condominium or on platted (subdivided) lots.
- ³ City council approval required. See appendix D, chapter 9, article V, section 9.77.
- ⁴ See article VII, section 2(l), retail and service establishments in multifamily developments, for special conditions.
- ⁵ Allowed only as accessory use if directly associated with a principal use that is allowed.

Table 1B. Table of Uses, Nonresidential Districts

Uses	R-P	C-1A	C-1	C-2	C-3	C-P	C-E	M-1	M-2	I-1
Amusement center*	N	N	C	P	C	P	P	P	P	P
Agricultural uses*	N	N	N	N	N	N	C	C	C	N
Assembly, light*	N	N	N	C	N	C	P	P	P	N
Assisted living facilities	C	C	P	P	C	P	P	P	P	P
Bars (see art. VI, sale of alcohol)*	N	N	C	C	C	C	C	C	C	C
Bed and breakfast	N	N	P	P	P	N	P	N	N	N
Brewpub*	N	N	P	P	P	P	P	P	P	N
Building, contractor and equipment storage (outdoor) ¹	N	N	N	N	N	N	P	P	P	N
Car wash establishments, freestanding*	N	N	N	C	N	C	P	P	P	N
Child care facilities	C	C	P	P	P	P	P	P	N	P/A
Clubs and lodges	N	N	P	P	P	P	P	C	C	C
Community center building	C	C	C	P	C	P	P	P	N	N
Convenience stores with gas pumps/gas stations*	N	N	N	C	N	C	C	P	P	N
Day shelter*	N	N	N	C	N	N	C	C	C	C
Domestic violence shelter*	P	N	P	P	N	P	P	N	N	P

Dormitory	C	C	P	P	P	P	P	P	P	P
Drive-in theaters*	N	N	N	N	N	C	N	N	N	N
Dwellings, accessory (see art. VI, section 1(A))*	P/A	P/A	P/A	P/A	P/A	P/A	P/A	P/A	P/A	P/A
Dwellings, multifamily (see art. VI, section 1(K))*	P	P	P	N	P	P	N ⁷	N	N	N
Dwellings, single-family (see art. VI, section 1(K))*	P	P	P	N	P	N	N ⁷	N	N	N
Dwellings, two-family/duplex (see art. VI, section 1(K))*	P	P	P	N	P	N	N ⁷	N	N	N
Electronic assembly	N	N	N	P	C	P	P	P	P	N
Group home facilities	C	C	C	C	C	C	C	N	N	N
Hospitals	N	C	P	P	N	P	P	P	N	P
Hotels, motels ²	N	N	P	P	P	P	P	P	P	N
House of worship*	C	P	P	P	P	P	P	P	P	P
Kennel	N	N	N	C	N	C	C	P	P	N
Laboratories (research, medical & dental) and clinics	P	P	P	P	P	P	P	P	P	N
Landfill for non-household waste	N	N	N	N	N	N	N	C	C	N
Manufacturing, heavy	N	N	N	N	N	N	N	N	P	N
Manufacturing, light	N	N	N	N	N	N	P	P	P	N
Marinas*	N	N	C	C	C	C	C	N	N	N
Medical marijuana treatment center dispensing facilities	N	N	N	N	N	N	N	N	N	N

Micro-brewery	N	N	N	C	C	C	C	C	P	N
Micro-distillery	N	N	N	C	C	C	C	C	P	N
Mini-storage facilities	N	N	C	C	N	C	P	P	P	N
Nursing and convalescent homes*	P	P	P	P	N	P	P	N	N	P
Office/financial institutions	P ³	P	P	P	P	P	P	P	P	N
Outdoor display (see article VII, section 2(G))	N	N	N	N	P/A	P/A	P	P	P	N
Parking facilities as a principal use	C	C	P	P	P	P	P	P	P	P
Plant nurseries*	N	N	N	N	N	P	P	P	P	N
Public use*	C	C	C	P	C	P	P	P	P	P
Public utility service facilities*	C	C	C	C	C	C	P	P	P	P*
Recovery home/halfway house*	N	N	N	C	N	C	C	N	N	C
Recreation, indoor	N	N	C	P	C	P	P	P	P	P
Recreation, outdoor	N	N	N	N	N	C	C	C	C	N
Recreational vehicle (RV) parks*	N	N	N	N	N	C	N	N	N	N
Recycling facility*	N	N	N	N	N	N	N	C	P	N
Restaurants*	N	C	P	P	P	P	P	P	P	N
Retail	P/A ⁴	P/A ⁴	P ⁵	P ⁵	P ⁵	P	P	P	P	N
Schools*	C	C	P	P	P	P	P	P	P	P
School, non-academic instruction	C	C	P	P	P	P	P	P	P	P

Service, vehicle*	N	N	N	C	N	C	P	P	P	N
Service, business	N	P	P	P	P	P	P	P	P	N
Service, major vehicle*	N	N	N	N	N	N	P	P	P	N
Service, personal	P	P	P	P	P	P	P	P	P	N
Soup kitchens*	N	N	N	C	N	N	C	C	C	P
Studio, art	N	N	P	P	P	P	P	P	P	N
Temporary labor agency*	N	N	N	P	N	P	P	P	P	N
Transitional homeless shelter*	N	N	N	C	N	N	C	C	C	C
Vehicle impounding yard*	N	N	N	C	N	C	P	P	P	N
Vehicle sales and rental with accessory services*	N	N	N	P	N	P	P	P	P	N
Veterinary facility*	N	C	P	P	C	P	P	P	P	N
Warehousing and wholesaling ⁶	N	N	N	N	N	N	P	P	P	N
Wholesaling from sample stocks.	N	N	N	P	P	N	P	P	P	N

* See article VI, section 2, use standards, or article VII, section 2, standards for specific accessory uses and structures, for special conditions.

P - Permitted uses;

C - Uses that require conditional use approval;

N- Prohibited;

P/A - Permitted as accessory use;

P/C - Permitted or conditional use

¹ Outside storage areas shall be effectively walled on all sides where adjacent to rights-of-way or non-industrial uses, per appendix D, chapter 9, article III, section 9.45, to avoid any deleterious effect on adjacent property.

² Provided that the minimum floor area for hotel and motel units shall be 230 square feet.

³ Financial institutions in R-P require conditional use approval.

- ⁴ Allowed only as accessory use if directly associated with a principal use that is allowed.
- ⁵ Except vehicular sales and rental. See article VII, section (2)(G) for outdoor display standards.
- ⁶ In enclosed structures, including refrigerated storage and bulk storage, excluding hazardous substances, hazardous wastes and petroleum products.
- ⁷ Single-, two-, and multiple-family dwellings existing prior to 2019 are permitted in C-E.

Table 2A. Table of Dimensional Standards, Residential Districts

Residential	AEU	REU	R-A	R-1AAA	R-1AA	R-1A	R-1B	R-2	R-3	R-4	R-P	R-2T
Minimum lot area (sq. ft.)										10,000	7,000	10 acres
One family	2.5 acres	1 acre	1 acre	12,000	10,000	7,500	5,000	7,500	7,500			
Two-family								10,000	10,000			
Three-family								12,000	12,000			
Townhouses								1,800	1,800			
Multiple-family								8,500	12,000			
Minimum lot width (ft.) ³	150	125	150	100	85	75	50/65			100	70	
One family								50	50			
Two-family								100	100			
Three-family								120	120			
Townhouses								18	18			
Multiple-family								85	120			
Minimum lot depth (ft.)	150	125	200	120	110	100	80			100	100	
One family								100	100			

Two and three-family								100	100			
Townhouses								80	80			
Multiple-family								100	100			
Maximum lot coverage (%)	None	None	40	40	40	40	50			40	40	
One family								50	50			
Two and three-family								40	40			
Townhouses								60	60			
Multiple-family								40	40			
Minimum living area (sq. ft.) ⁵												
Residential	750	1,200	1,500	1,700	1,350	1,000	1,000			900		
One family								1,000	1,000		1,000	
Two and three-family								900	900		900	
Townhouses								1,000	1,000		1,000	
Multiple-family												
Efficiency								450	450		450	
One-bedroom								550	550		550	
Two-bedrooms								650	650		650	
Three-bedrooms								800 ⁶	800 ⁶		800 ⁶	

Nonresidential												300	
Maximum height (ft.) ⁷	3 floors with a maximum height of 36 feet ⁸							See footnote ⁹	3 floors with a maximum height of 36 feet	See footnote ⁹			
Residential								3 floors with a maximum height of 36 feet		3 floors with a maximum height of 36 feet			
One-, two- and three-family								3 floors with a maximum height of 36 feet					
Townhouses and multifamily								4 floors with a maximum height of 48 feet					
Nonresidential								3 floors with a maximum height of 36 feet		3 floors with a maximum height of 36 feet			
Minimum setback requirements (ft.) ¹⁰													
Front	25	25	50	30	25	20	20	20 30 (MF)	20 30 (MF)	30	20	10	
Side interior lot ¹¹	10	10	30	15	10	7.5	5 ¹²	7.5 (SF) 15 (MF)	7.5 (SF) 25 (MF)	10	7.5 (SF) 15 (MF)	8	

Side corner lot	25	25	30	25	25	20	20	20 (SF) 25 (MF)	20 (SF) 25 (MF)	25	20	8
Rear—permitted	20	20	40	25	25	25	25	25	25	25	20	8
Rear—abutting alley			35	20	20	20	15	20	20	20	15	
Minimum setback from water	35	35	35	35	35	35	35	35	35	35	35	35
Maximum building length (ft.) for townhome buildings								200	200			
Enclosed garage per single- or two-family unit (except affordable housing)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
Additional buffer ¹³	N	N	N	N	N	N	N	Y	Y	N	Y	Y

NOTE: See appendix D, land development code, for additional setbacks and right-of-way dedications.

- ¹ Ten percent usable open space required. Shall include but not be limited to improved play areas and wetlands or other natural features, which are accessible to the residents of the development. Retention areas, required buffers, rights-of-way, and other code required tracts shall not be included in the calculation of open space.
- ² See standards in article V, section 2.
- ³ If calculated a mean width, the width at the street line shall not be less than 80 percent of the required lot width except for lots on the turning circles of cul-de-sac or on the outside radius of a curve; in such cases the lot width at the street line shall be no less than 25 feet.
- ⁴ No more than half of the lots shall be allowed to have 50 feet in width; the other half shall have a minimum lot width of 65 feet. For affordable housing developments, all lots shall be allowed to have a minimum 50 feet in width.
- ⁵ See article VI, section 1, affordable housing development.

- ⁶ Plus 100 square feet for each additional bedroom.
- ⁷ See article IV, section 1, exceptions and variations to height regulations.
- ⁸ Structures accessory to agriculture (AEU) may be 45 feet in height.
- ⁹ Additional height may be allowed subject to conditional use approval and the standards set forth in article IV, section 1 (height regulations).
- ¹⁰ See appendix B, article IV, section 1, multi-story developments; appendix B, article VI, section 1, residential uses; and appendix D, chapter 9, article XV, section 9.273, landscaping design standards.
- ¹¹ Townhome setbacks are determined between buildings; interior townhome units do not have side setback requirements.
- ¹² If the building envelopes are depicted on the approved final plat recorded in the Public Records of Brevard County, the sum of the side interior yards on both sides of the residential unit shall equal at least ten feet.
- ¹³ Notwithstanding the setbacks required as noted in the table above, multifamily, nonresidential, and mixed-use developments, subject to formal site plan approval, shall provide a visual screen and buffer area within their yard setbacks abutting residential uses and zoning districts, per appendix D, chapter 9, article III, section 9.44.1(a). This does not apply to projects located within redevelopment districts. New affordable housing developments are subject to the visual screen requirements identified within Appendix B, Article VI, Section 1(B).

Table 2B. Table of Dimensional Standards, Nonresidential Districts

	R-P	C-1A	C-1	C-2	C-3	C-P	C-E	M-1	M-2	I-1
Minimum lot area (sq. ft.)										
Non-residential	7,000	6,000	5,000	5,000	4,000	22,500	5,000	10,000	10,000	20,000
Single-family residential	5,000	5,000	5,000	-	5,000	-	5,000	-	-	-
Two-family residential	10,000	10,000	10,000	-	10,000	-	5,000	-	-	-
Multi-family residential	7,000	7,000	7,000	-	7,000	12,500	5,000	-	-	-
Townhome	1,800	1,800	1,800	-	1,800	-	-	-	-	-
Minimum lot width ¹										
Non-residential	70	60	50	50	30	150	50	100	100	100
Single-family residential	See R-1B	See R-1B	See R-1B	-	See R-1B	-	50	-	-	-

Two-family residential	100	100	100	-	100	-	50	-	-	-
Multi-family residential	70	85	85	-	30	120	50	-	-	-
Townhome	18	18	18	-	18	-	-	-	-	-
Minimum lot depth (ft.)										
Non-residential	100	100	100	100	100	150	100	100	100	150
Single-family residential	80	80	80	-	80	-	100	-	-	-
Two-family residential	100	100	100	-	100	-	100	-	-	-
Multi-family residential	100	100	100	-	100	100	100	-	-	-
Townhome	80	80	80	-	80	-	-	-	-	-
Maximum lot coverage (%)										
Non-residential	40	50	50	50	100 ²	40	50	50	50	n/a
Single-, two, and multi-family residential	40	50	50	-	100 ²	40	50	-	-	-
Townhome	60	60	60	-	60	60	-	-	-	-
Minimum building area (sq. ft.)	300	300	300	300	300	300	300 ³	300 ³	300 ³	
Minimum living area (sq. ft.) ⁴										
Single-family residential	1,000	1,000	1,000	-	1,000	-	See R-3	-	-	-

Two-family residential	900	900	900	-	900	-	See R-3	-	-	-
Multi-family residential	See R-P in table 2A	See R-2	See R-2	-	See R-3	See R-3	See R-3	-	-	-
Townhome	1,000	1,000	1,000	-	1,000	-	-	-	-	-
Maximum height (ft.) ^{5, 6}	3 floors with a maximum height of 36 feet	4 floors with a maximum height of 48 feet			8 floors with a maximum height of 96 feet	4 floors with a maximum height of 48 feet				NA
Minimum setback requirements (ft.) ⁷			See footnote			See footnote				25 ¹⁰
Front	20	20	20	20	None	50	20	20	20	
Side interior lot	7.5	None	None	None	None	25	None	None	None	
Side corner lot	20	20	20	20	None	40	None	None	None	
Rear	20	20	15	20	None	30	20	20	20	
Rear-abutting alley	15	15	10	10	None	10	10	15	15	
Additional buffer ¹²	N	N	Y	Y	N	Y	N	Y	Y	Y

¹ If calculating a mean width, the width at the street line shall not be less than 80 percent of the required lot width except for lots on the turning circles of cul-de-sac or on the outside radius of a curve; in such cases the lot width at the street line shall be no less than 25 feet.

² Except for required yards.

³ Except where no buildings are proposed.

⁴ See article VI, section 1, affordable housing development.

⁵ See article IV, section 1, exceptions and variations to height regulations.

⁶ Additional height may be allowed subject to conditional use approval and the criteria standards set forth in article IV, section 1 (Exceptions and Variations to Height).

- ⁷ See article IV, section 1, Exceptions and Variations to Height Regulations, for additional setback requirements (except affordable housing developments).
- ⁸ Residential only projects in a C-1 zone must meet the yard requirements specified for the R-2 zone or affordable housing development.
- ⁹ Multifamily affordable housing only in a C-P zone see article VI, section 1, affordable housing development.
- ¹⁰ 35 feet if abutting a residential use; 50 feet if adjacent to a collector or arterial. Additional setbacks per article VI, section 2(N). Interior yards shall meet the requirements necessary for adequate police and fire protection.
- ¹¹ If abutting a residential district that requires setbacks, use the setback required in that district along the abutting property line. For multi-story developments, see article IV, section 1, Exceptions and Variations to Height Regulations for additional setback requirements (except affordable housing developments). Townhome setbacks are determined between buildings; interior townhome units do not have side setback requirements.
- ¹² Notwithstanding the setbacks required as noted in the table above, new multifamily, nonresidential, and mixed-use developments, subject to formal site plan approval, shall provide a visual screen and buffer area within their yard setbacks abutting residential uses and zoning districts, per appendix D, chapter 9, article III, section 9.44.1(a). This does not apply to projects located within redevelopment districts. New affordable housing developments are subject to the visual screen requirements identified within Appendix B, Article VI, Section 1(B).

(E) *Standards for AEU—Agricultural Estate Use, Single-Family Residential District.*

(1) *Principal uses and structures.*

- (a) Agricultural pursuits, including the raising and grazing of animals and fowl, and the packing, processing, and sales of commodities raised on the premises.
- (b) Houses of worship. Houses of worship shall be located no closer than 25 feet to any property line which abuts on a public highway or alley, or 50 feet to any property line abutting a lot under different ownership than that on which the structure is to be placed.
- (c) Community residential homes (one to six residents).
- (d) Dwelling units — single-family detached residential.
- (e) Farmer's stand.
- (f) Landscaping business subject to the following conditions:
1. The minimum site size shall be five acres.
 2. There shall be a minimum of a 200-foot setback from all property lines for the storage of heavy equipment or for the location of any structure which is intended to be used in conjunction with the landscaping business.
 3. The retail or wholesale sale and storage of all products incidental to the landscaping business shall be permitted on the premises. Such items as sod, fertilizer, seed and plants are examples of such products permitted under this use.

(g) Plant nurseries.

(2) *Accessory uses and structures.*

- (a) Barns, subject to use standards in article VII.
- (b) Dwelling unit, accessory (tenant dwellings), subject to the use standards of article VI, section 1(A).
- (c) Home-based business, subject to the use standards in article VII.
- (d) The keeping of horses and sheep, not to exceed four per acre, and limited to the personal, noncommercial use of the occupant of the property.
- (e) Parking, locating and storing recreational vehicles and recreational equipment (including horse trailers) on developed single-family properties, subject to the following standards:

1. *Use.* The recreational vehicle or recreational equipment shall:
 - a. Be owned or used by the property owner, occupant, or guest residing with the owner or occupant;
 - b. Be for the personal off-site recreational use of the owner, occupant, or guest residing with the owner or occupant;
 - c. Not be used for residential or commercial purposes;
 - d. Not be connected to utilities to accommodate residential use; and
 - e. Not be parked on vacant property.
2. *Number and location.* The maximum number and location of recreational vehicles and recreational equipment is as follows:
 - a. Unlimited number in a garage or other completely enclosed structure;
 - b. No more than one per one-quarter acre of lot size, or portion thereof, in a side yard (except side corner yard) or rear yard if completely screened on all four sides by, and does not exceed the height of, an opaque visual barrier; and
 - c. No more than one which is visible anywhere on the lot if located in either:
 - (i) An unenclosed carport.
 - (ii) A rear or side yard if not completely screened by, or exceeds the height of, an opaque visual barrier.
 - (iii) A driveway area if set back a minimum of five feet from the front and (if applicable) side corner property line and parked perpendicular to the street upon which the driveway is accessed, except where parked at least 100 feet from any street frontage on lots at least one acre in size.

(f) Parking and storage of commercial motor vehicles or heavy equipment where accessory to a primary agricultural use, subject to chapter 56.

(g) Skateboard ramps, subject to use standards in article VII.

(h) Tennis courts, as an accessory to a single-family residence. A minimum of one-half acre shall be required for an unlighted tennis court and one acre for a lighted tennis court.
- (3) Conditional uses permissible by the city council.
 - (a) Bed and breakfast, subject to use standards provided in article VI, section 2(D).
 - (b) Boarding of horses and horses for hire. A minimum lot area of five acres shall be required for boarding of horses and horses for hire, and all structures for the permanent or temporary housing of horses shall meet the setback requirements for such structures. A conditional use permit shall not be required where the number of horses does not exceed four per acre.
 - (c) Community residential home (seven to 14 residents).
 - (d) Composting facility. A minimum of ten acres and an eight-foot high visually opaque vegetative buffer is required. All processing activities and structures shall meet a minimum setback of 300 feet.
 - (e) Assisted living facility.

(f) Convalescent/nursing homes, subject to the standards contained in article VI, section 1.

 - (g) Farmers' market. All sales booths, temporary structures and trucks being used to sell produce shall be a minimum of 50 feet from all road rights-of-way and 30 feet from all other property lines. All parking for salespeople and customers shall be on the property of the landowner and there shall be no parking on the right-of-way. A site plan shall be submitted in accordance with article IX of the zoning code.
 - (h) Hog farm. A minimum of ten contiguous acres is required before a hog farm may be considered for approval as a conditional use (see definition of "hog farm").
 - (i) Private or public club.
 - (j) Private heliport.

1. No more than one helicopter shall be permitted and that helicopter shall not be designed to carry more than four persons.
 2. Takeoff and landing areas must be 500 feet from all property lines and shall be encircled by a fence or vegetative buffer not less than five feet in height.
 3. Fueling facilities are prohibited and a conceptual site plan shall be submitted to include the approach zone and its relationship to existing homes and a noise exposure map prepared by a certified engineer.
 4. Each heliport shall be limited to two round trips per day during daylight hours only.
- (k) Public or private school, including kindergartens, primary and secondary schools and colleges.
- (l) Public utility service facilities, subject to use standards provided in article VI, section 2(O).
- (m) Roadside stand.
- (n) Security trailer on properties larger than five acres.
- (o) Veterinary clinics, kennels. Veterinary clinics and kennels shall be located at least 300 feet from the nearest residentially zoned lot. The minimum lot area is 2.5 acres.
- (4) *Prohibited uses and structures.* All uses not specifically or provisionally permitted herein.
- (F) *Standards for REU — Rural Real Estate Use, Single-Family Residential District.*
- (1) *Principal uses and structures.*
 - (a) Community residential homes (one to six residents).
 - (b) Dwelling units - single-family detached residential.
 - (c) Parks and public recreational facilities.
 - (2) *Accessory uses and structures.*
 - (a) Barns, subject to use standards in article VII.
 - (b) Home occupations, subject to use standards set forth in article VII.
 - (c) The keeping of horses and sheep not to exceed four per acre, and limited to the personal, noncommercial use of the occupant of the property.
 - (d) Parking, locating and storing recreational vehicles, recreational equipment (including horse trailers) per section 9.74(p).
 - (e) Parking and storage of commercial motor vehicles or heavy equipment where accessory to a primary agricultural use.
 - (f) Skateboard ramps, subject to use standards in article VII.
 - (g) Tennis courts are allowed as an accessory use to a single-family residence. A minimum of one-half acre shall be required for an unlighted tennis court and one acre for a lighted tennis court.
 - (h) Dwelling, accessory, subject to the standards of article VI, section 1(A).
 - (3) *Conditional uses permissible by the city council.*
 - (a) Bed and breakfast.
 - (b) Houses of worship.
 - (c) Public utility service facilities, subject to use standards provided in article VI, section 2(O).
 - (d) Raising and grazing of animals, subject to a minimum lot size of 2.5 acres.
 - (4) *Prohibited uses and structures.* All uses not specifically or provisionally permitted herein.
- (G) *Standards for R-2T — Planned Residential Development for Mobile Home Parks.*
- (1) *Ownership.* The site proposed shall be, and remain at all times, in single ownership. Should any portion of a site approved and certified by the city for a mobile home park be sold so as to create more than one ownership of said site, and thereby affect the improvements and protective devices that this code provides, then the previous certification shall be revoked and said property shall then comply with the provisions that apply to the R-1A zone classification.

(2) *Site and building regulations.*

Mobile home park	
Development site minimum size	10 acres
Perimeter setback	25 ft.
Mobile home sites	
Minimum lot size	4,000 sq. ft. (single-wide); 5,000 sq. ft. (double-wide)
Minimum lot width	40 ft. (single-wide); 50 ft. (double-wide)
Front yard setback	10 ft.
Side yard setback	8 ft.
Rear yard setback	8 ft.
Recreation area (minimum)	10% of gross site area*

* Not including required buffers and roads.

(3) *Mobile home park standards.*

- (a) *Perimeter setback.* All perimeter yards shall be landscaped and maintained and shall otherwise be unoccupied except for utility facilities, signs, entrance ornamentation and/or landscaping devices. Landscaping shall constitute an effective opaque screen for the protection of the inhabitants of the mobile home park, and may include, but shall not be limited to, decorative fencing and/or decorative trees and shrubs.
- (b) *Street right-of-way widths and improvements.*
 - 1. Right-of-way widths of streets within a mobile-home park shall conform to all applicable minimum standards of the City of Melbourne, and requirements for such streets.
 - 2. Dedication of streets inside mobile-home parks is not required, however, street construction shall meet all minimum standards of the City of Melbourne subject to the following conditions:
 - a. Variation from street drainage design requirements of the subdivision regulations, to provide for center street drainage may be made only when provision has been made for adequate reinforced pavement edges to prevent pavement breaking due to absence of standard curb and gutter.
 - b. Streets in mobile home parks shall be constructed to meet the following standards:
 - (i) Minimum right-of-way width: 40 feet.
 - (ii) Minimum paving width: 24 feet constructed to conform with adequate construction standard approved by the city engineer.
 - (iii) Sidewalks shall be required and shall conform to the specifications contained in the subdivision regulations.

(4)

Mobile home stand. The area of the mobile home stand shall be improved to provide an adequate foundation for the placement and tie-down of the mobile home, thereby securing the superstructure against uplift, sliding rotation and overturning.

- (a) The mobile home stand shall not heave, shift, or settle unevenly under the weight of the mobile home due to frost action, inadequate drainage, vibration or other forces acting on the superstructure.
 - (b) The mobile home stand shall be provided with anchors and tie-downs such as cast-in-place concrete "dead men," eyelets imbedded in concrete foundations or runways, screw auger, arrowhead anchors, or other devices securing the stability of the mobile home.
 - (c) Anchors and tie-downs shall be placed at least at each corner of the mobile home stand and each shall be able to sustain a minimum tensile strength of 2,800 pounds.
- (5) **Mobile home unit standards.** Each mobile home used for human habitation shall have minimum facilities consisting of:
- (a) Inside running water and an installed kitchen sink.
 - (b) Inside bathing facilities which shall consist of an installed tub or shower.
 - (c) An installed flush toilet.
 - (d) Installed electric lighting facilities.
 - (e) Screening, which shall be provided to effectively cover all outside openings such as windows and doors, with a fine mesh such as is ordinarily used in dwellings to prevent the entrance of flies, mosquitoes, and similar pests.
 - (f) An enclosed body or shell, which shall be in good repair, to effectively protect the occupants from the elements.
 - (g) All mobile homes shall have suitable skirting between the base of the trailer and the ground. This skirting shall be made of block, wood, lattice or other approved material. Openings in the skirting shall not be more than two inches square.
 - (h) Transient or travel trailers shall not be permitted unless as provided in appendix D, section 9.74(p).
- (6) **Utilities and services.**
- (a) Each mobile home shall be independently served by separate electric power, gas, and other utility services, wherever such utilities and services are provided, and no mobile home shall be in any way dependent upon such service or utility from lines located within another mobile home or mobile home site, except as may be installed in public easements.
 - (b) All mobile home parks must be connected to public water and sewer lines.
 - (c) All electrical, telephone, cable television, and other utility lines in a mobile home park shall be placed underground.
 - (d) Proper and adequate access for firefighting purposes, access to service areas for garbage and waste collection, and other necessary services shall be provided.
- (7) **Site plan required.** Concurrent with the request for rezoning to R-2T, a scaled and dimensioned site plan of the development shall be prepared by a registered engineer, land surveyor, landscape architect, or architect, and typical tentative floor plans of permanent facilities shall be submitted. For site plan requirements see article IX, section 6.
- (8) **Assurance of improvements.** A statement defining the manner in which the City of Melbourne is to be assured that all improvements and protective devices are to be installed and maintained shall accompany the request for a planned mobile home development. The city council may require the posting of a performance bond, letter of credit, tri-party agreement, or other security instrument acceptable to the city attorney, not to exceed 110 percent of the cost of providing:
- (a) The public services customarily supplied by the City of Melbourne to fill respective needs for stormwater, sanitary sewage, disposal, potable water supply and other utilities.
 - (b) The public improvements necessary to ensure proper ingress and egress for the site. Subsequent to the compliance of the aforementioned conditions, the planning and zoning board shall certify that such planned development is in accordance with the requirements and intent of the zoning code, and the customary procedure for obtaining a building permit shall take effect.

- (9) *Expansion of existing mobile home parks.* Whenever the owner of a mobile home park proposes expansion, plans for such expansion shall be submitted and approved in the same manner as plans for new mobile home parks. Mobile home park expansion plans shall comply with new park requirements unless such compliance is found too impracticable by the planning and zoning board, in which case minor variations of new park standards may be approved by the board of adjustment.

Improvement of substandard conditions in existing parks may be required as a precedent to expansion of such parks.

- (H) *PUD — Planned Unit Development District.* This section establishes the standards for planned unit developments. The review procedures are stated in article IX, section 6, formal site plan review.

- (1) *Definitions.* For the purpose of this section, certain words and terms used shall be defined as follows:

- (a) *Planned unit development or PUD.* Area of land developed as a single entity, or in approved stages in conformity with a final development plan by a developer or group of developers acting jointly, which is totally planned to provide for a variety of residential and compatible complimentary uses and common open space.
- (b) *Common open space.* Parcel or parcels of land, or a combination of land and water within the site designated as a planned unit development, and designed and intended for the use or enjoyment of residents of the planned unit development. All common open space shall be improved to the extent necessary to complement the residential uses and may contain compatible and complementary structures for the benefit and enjoyment of the residents of the planned unit development.
- (c) *Common recreation and usable open space.* The total amount of improved usable area, including outdoor space, permanently set aside and designated on the site plan as recreational or open space of the PUD. Such usable space may be in the form of active or passive recreation areas including but not limited to playgrounds, golf course, beach frontage, nature trails and lakes. Common usable open space shall be improved to the extent necessary to complement the uses and may contain compatible and complementary structures for the benefit and enjoyment of residents of the PUD. Easements, drainage ditches, dry or wet retention areas, swales, parking areas, road rights-of-way or minimum yards and spacing between dwelling units may not be included in determining usable open space. Water areas may be used to partially fulfill open space requirements. If golf courses and/or water areas are used to partially fulfill open space requirements, calculations for said water areas shall not exceed one-half of the required open space. All water areas included as part of the open space requirement shall be permanent water bodies and shall be improved with docks or piers, and planted with grass and maintained around all sides so as to prevent mosquitoes, insects, rodents, and reptiles.
- (d) *Developer.* Any person, firm, association, syndicate, partnership or corporation, who is involved in the construction and creation of a planned unit development.
- (e) *Development agreement.* An agreement entered into by a developer and the city council to guarantee that the regulations existing at the time of execution of the development agreement, or the regulations established as part of the PUD review process, shall govern the development of the land for the duration of the agreement.
- (f) *Development plan.* Site layout of a planned unit development drawn in conformity with the requirements of this code. Said development plan shall specify and clearly illustrate the location, relationship, design, nature and character of all primary and secondary uses, public and private easements, structures, parking areas, public and private roads, and common open space.
1. *Preliminary development plan.* The conceptual site layout required in conjunction with an application for rezoning to PUD.
 2. *Final development plan.* Site layout approved by the City Council of Melbourne and recorded with the Clerk of the Circuit Court of Brevard County according to the provisions of this code.
- (g) *Development schedule.* Comprehensive statement showing the type and extent of development to be completed within the various practicable phases and the order in which development is to be undertaken. A development schedule shall contain an exact description of the specific buildings, facilities, common open space, and other

improvements to be developed at the end of each time period.

- (h) *Phase/stage.* A specified portion of the planned unit development that may be developed as an independent entity. A phase must be conceptually delineated in the preliminary development plan, defined in the final development plan, and specified within the development agreement.
 - (i) *Site.* The actual physical area to be developed as a planned unit development, including the natural and created characteristics of said area.
- (2) *Unified ownership or control.* The title of all land within a proposed site for a planned unit development shall be owned or controlled by the developer submitting the applications provided for under this section. The term "controlled by" shall be interpreted to mean that said developer shall have the written consent of all owners of property within the proposed site not wholly owned by the developer. Said consent shall contain a statement that said developer is authorized to represent said owners in the submission of an application under the provisions of this section, and that said owners shall agree to be bound by the decision of the city council in the event said application is approved.
- (3) *Permitted uses.* Uses permitted in the planned unit development may include and shall be limited to the following:
- (a) *Residential/primary uses.*
 1. Single-family detached units.
 2. Townhouses.
 3. Attached dwelling units.
 4. Multifamily residential dwelling units in single or and multi-story structures.
 - (b) *Nonresidential/secondary uses.*
 1. House of worship.
 2. Public or semi-public uses.
 3. Cultural, recreational facilities.
 4. Personal service centers.
 5. Offices, commercial, and professional centers.
 6. Hotels and motels.
- (4) *Common open space.*
- (a) All common open space shall be preserved for its intended purpose as expressed in the final development plan. The developer shall choose one of the following three methods of administering common open space:
 1. Public dedication of the common open space to the city. This method is subject to formal acceptance by the city in its sole discretion.
 2. Establishment of a corporation/association of all individuals or corporations owning property within the planned unit development or phase/stage thereof for ownership and to ensure the maintenance of all common open space.
 3. Retention of ownership, control and maintenance of all common open space by the developer.
 - (b) All privately owned common open space shall continue to conform to its intended use and remain as expressed in the final development plan through the inclusion in all deeds, or through the use of recorded covenants and restrictions running with the land or serving as equitable servitudes upon the land, of appropriate restrictions to ensure that the common open space is permanently preserved according to the final development plan. Said deed restrictions shall run with the land, or serve as equitable servitudes upon the land, and be for the benefit of present as well as future property owners and shall contain a prohibition against partition.
 - (c) All common open space, as well as public and recreational facilities, shall be specifically included in the development schedule and be constructed and fully improved by the developer at an equivalent or greater rate than the construction of residential structures.
 - (d)

If the developer elects to administer common open space through a corporation/association, said organization shall conform to the following requirements:

1. The developer must establish the corporation/association prior to the sale of any lots, parcels, or tracts within the PUD.
 2. Membership in the corporation/association shall be mandatory for all residential property owners within the phase of the planned unit development for which said association shall have jurisdiction and said association or corporation shall not discriminate in its members or shareholders on the basis of race, creed, color, or sex.
 3. The corporation/association shall manage all common open space and recreational and cultural facilities that are available without payment of club membership assessments to lot owners within the PUD or conveyed public ownership and operations, shall provide for the maintenance, administration and operation of said land and any other land within the planned unit development not publicly or privately owned by individual PUD lot owners, and shall secure adequate liability insurance on the land.
- (5) *Development standards.* The PUD concept allows for deviation from the traditional development standards that apply to conventional zoning districts. However, the purpose of providing flexibility in the application of development standards is to encourage mixed-use quality developments, superior urban form and innovative development techniques. Therefore, the proposed development standards need to be justified and consistent with the criteria noted below.
- (a) *Criteria for approving development standards.* To ensure the PUD objectives are met, the flexibility of the standards shall be based on the analysis of the following:
1. Comparison with the existing and surrounding zoning standards.
 2. Adequacy of existing and proposed public facilities and services.
 3. Site characteristics.
 4. Compatibility with surrounding uses/use of mitigation strategies.
 5. Provision of multiple uses on single site.
 6. Substantive features or amenities that result in a direct community/municipal benefit:
 - Public space with seating area (plaza or green, 250 square feet minimum).
 - Tot lot with playground equipment (300 square feet minimum).
 - Fountains, sculptures or architectural features in conjunction with a public space, vista or parking area.
 - Use of pedestrian arcades.
 - Additional public amenities to be approved by city council.
 7. Affordable housing.
 8. Shared parking (typical operating hours for uses sharing parking cannot overlap (i.e., house of worship and office uses)).
 9. Increased landscaping (must exceed minimum required plant material volume by 20 percent and provide variety of species).
 10. Residential above commercial or office.
 11. Shared stormwater.
 12. Multi-modal or inter-modal facilities.
 13. Outstanding architectural design.
 14. Unique/imaginative features not normally found in similar developments.
 15. Land dedication for public use.
 16. Restoration of an existing historic structure details/features such as restoring original storefronts, porches, balconies, window or door openings and other major architectural details.

(b) *Base standards.* As noted above, the PUD process allows the developer to propose his/her own development standards (lot size, density, etc.), except for the following:

Development site	
PUD development size	10 acres minimum
Perimeter setback	25 feet minimum
Residential density (see section (c) below)	10 units per acre maximum
Hotel density	40 rooms per gross acre
Recreation/open space	15% of gross acreage
Maximum acreage of nonresidential use:	
Less than 200 dwelling units	Not allowed
200 to 499 dwelling units	5% of gross site area
500 dwelling units or more	7% of gross site area
Individual lots	
Front building setback	20 feet from ROW minimum
Building length	Not more than 200 feet maximum
Breezeway requirement for waterfront sites	At least 25% of building frontage
Building separation	
Up to 24 feet in height	10 feet
Up to 36 feet in height	20 feet
Up to 48 feet in height	25 feet
Over 48 feet in height	25 feet + 5 feet for every 12 feet in height over 48 feet
Minimum floor area per unit	
Single-family	1,000 square feet
Multifamily:	
Efficiency	450 square feet

1 bedroom	550 square feet
2 bedrooms	650 square feet
3 bedrooms	800 square feet
Hotel use	300 square feet per unit

- (c) *Maximum density.* The average density permitted in each PUD shall be established by the city council upon recommendation of the planning and zoning board. The criteria for establishing an average density include existing zoning, adequacy of existing and proposed public facilities and services, site characteristics, and the recommended density of any land use plan involving the area in question. In no case shall maximum density permitted exceed ten dwelling units per gross acre.
- (d) *Perimeter setback.* This standard may be modified (increased or decreased) based on the following criteria:
- Lot sizes within the development and adjacent areas (existing or permitted).
 - Structure type and massing.
 - Structure height.
 - Provision of opaque buffering or screening to protect the privacy and amenities of the adjacent existing uses.
- No buildings, parking lots or other structures may be located within the perimeter setback area. However, swimming pools and pool decks may be permitted subject to the normal residential setback requirements. The buffer area may be included in the calculation for the required open space, if the area is intended for common use and not fenced for the private use of the adjacent residential unit.
- (e) *Minimum lot size, lot width, lot depth, and setbacks.* There shall be no pre-determined minimum lot size, lot width, lot depth, or building setbacks required within a PUD district. The criteria for establishing these standards include existing zoning, character of existing and future developments adjacent to the PUD, site characteristics, and the intended character of the development. The general location of proposed structures and proposed setbacks shall be shown on the development plan and the standards shall be stated on the developers' agreement. Properties bordering the ocean must meet the department of environmental protection setback requirements.
- (f) *Minimum lot frontage.* Each dwelling unit or other permitted use shall have access to a public street either directly or indirectly via an approach private road, pedestrian way, court or other area dedicated to public or private use or common easement guaranteeing access. Permitted uses are not required to front on a public dedicated road. The city and other governmental agencies shall be allowed access on privately owned roads, easements and common open space to ensure the police and fire protection of the area to meet emergency needs, to conduct city services, to provide emergency medical services, and to generally ensure the health and safety of the residents of the PUD.
- (g) *Off-street parking.* All uses shall meet the parking and loading requirements of appendix D, land development code, article V, unless modified through the PUD review process.
- (h) *Underground utilities.* Within the PUD, all utilities including, but not limited to, telephone, television cable and electrical systems shall be installed underground. Primary facilities providing service to the site of the PUD may be exempted from this requirement. Large transformers shall be placed on the ground and contained within landscaped pad mounts, enclosures or vaults. Any required substations shall be screened by walls designed to be compatible with the design of the PUD.
- (i) *Infrastructure.* The minimum construction requirements for streets or roads, sidewalks, sewer facilities, utilities and drainage shall be in compliance with the requirements of the City of Melbourne Subdivision Regulations, except as noted below:
- 1.

Proposed vehicular alleys shall meet the following minimum standards:

- a. One way alley—16 feet right-of-way width with 12 feet pavement;
- b. Two-way alley—24 feet right-of-way width with 20 feet pavement;
- c. Parallel parking shall not be allowed within alleys.
- d. Garages shall be oriented to alleys where provided.
- e. Driveways to alleys shall be either three to five feet long or greater than 16 feet to avoid creating an unusable area in front of the garage.

(Ord. No. 2005-120, § 2, 11-8-2005; Ord. No. 2006-79, §§ 3—6, 8-8-2006; Ord. No. 2009-26, § 1 (exh. A), 7-14-2009; Ord. No. 2009-31, §§ 4—7, 8-25-2009; Ord. No. 2010-13, §§ 4, 5, 9-7-2010; Ord. No. 2010-14, § 4, 4-13-2010; Ord. No. 2010-37, § 5, 6-22-2010; Ord. No. 2010-49, § 1, 10-12-2010; Ord. No. 2011-17, § 1, 5-24-2011; Ord. No. 2013-20, § 9, 3-26-2013; Ord. No. 2014-28, § 2, 5-27-2014; Ord. No. 2015-34, § 2, 8-25-2015; Ord. No. 2015-35, § 2, 8-25-2015; Ord. No. 2015-52, § 2, 12-8-2015; Ord. No. 2016-49, § 2, 7-26-2016; Ord. No. 2017-31, § 4, 7-11-2017; Ord. No. 2017-32, § 2, 7-11-2017; Ord. No. 2017-41, § 2, 10-10-2017; Ord. No. 2019-30, § 2, 6-11-2019; Ord. No. 2022-01, § 2, 1-25-2022; Ord. No. 2022-08, § 1, 3-8-2022; Ord. No. 2022-47, § 3, 10-25-2022)

Sec. 3. - Overlay zone regulations.

(A) *Eau Gallie art overlay zone.*

- (1) *General.* The intent of this subsection is to identify 21 square blocks of existing residential housing as an area that supports a live/work environment for artists, limited office, and low intensity commercial uses while maintaining the residential character of the neighborhood. The zone shall promote a scale of development conducive to pedestrian activity and encourage the use of consistent sidewalks, landscaping and business signage. Utilizing the existing scale of structures, new structures and buildings will provide the opportunity to create a focus for revitalization and promotion of the historical, cultural and artistic environment.
- (2) *Applicability.* This section shall apply to property located west of Pineapple Avenue, east of Avocado Avenue, north of Creel Street and south of McClendon Street; the properties located along the west side of Avocado Avenue south of Law Street and north of Creel Street; and the properties located along the east side of Guava Avenue north of McClendon Street and south of Mathers Street.

Overlay regulations only apply to properties with a mixed use future land use classification and C-1 (Neighborhood Commercial) zoning.

(3) *Overlay regulations.*

(a) *Permitted uses.*

1. Bed and breakfast.
2. Community residential home, one to six residents (see article VI, sec. 1(C)).
3. Dwellings, accessory (see article VI, sec. 1(A)).
4. Dwellings, multi-family.
5. Dwellings, single-family.
6. Dwellings, two-family/duplex.
7. Laboratories (research, medical and dental) and clinics.
8. Office.
9. Parking facilities as a principal use.
10. Restaurant, 30 seats or less.
11. Retail.
12. Schools, including non-academic instruction, ten students or less.
13. Service, business.

14. Service, personal.
 15. Studio, art.
- (b) *Conditional uses permissible by the city council.*
1. Restaurants, 31 to 50 seats.
 2. House of worship, convent or parish house, 30 seats or less.
 3. Public utility service facilities.
 4. Schools, including non-academic instruction, 11 students or more.
 5. Assisted living facility.
- (c) *Prohibited uses.* All uses not specifically or provisionally permitted herein.
- (d) *Maximum height permitted.* 40 feet; requests for additional height will not be considered.
- (e) *Maximum allowable density.* Maximum allowable density and intensity standards for the Eau Gallie art overlay zone are established in Future Land Use Element Policy 1.16.3 and are regulated as follows:
1. Density—Six residential dwelling units per acre. A permitted accessory dwelling unit shall not be deemed to exceed the allowable density.
 2. Intensity—0.5 FAR for commercial development.
- (f) *Property setbacks.*
1. Front - 20 feet generally, or 15 feet for a single-story porch;
 2. Side corner - 20 feet generally, or 15 feet for a single-story porch;
 3. Side - Zero feet generally, or 7.5 feet when abutting single-family residential, per R-2 setbacks;
 4. Rear - 15 feet generally, or 25 feet when abutting single-family residential, per R-2 setbacks;
 5. Rear-abutting alley - ten feet.
- (g) *Parking.*
1. A change in use from residential to the following nonresidential uses shall not be subject to additional parking space requirements if the building footprint remains the same and on-street parking or public parking lots are available within 500 feet in an appropriate area, as determined by the community development director and the city engineer:
 - (i) Restaurants with up to ten seats;
 - (ii) Schools with a single instructor and no more than five students;
 - (iii) Retail uses of 1,000 square feet or less; and/or
 - (iv) Bed and breakfast up to three rooms;
 - (v) Personal service with either 1,000 square feet or less or with two stations or less; and/or
 - (vi) Business service of 1,000 square feet or less.
 2. Parking in the overlay zone will be monitored over time as properties change to nonresidential uses to assess the need for amendment to the parking requirements, and the need for additional on-street parking, including angled spaces.
 3. Required parking may be placed directly adjacent to the property in the right-of-way in lieu of on-site parking and some accommodation for on-site employee parking spaces shall be made on-site if physically possible, as approved by the city engineer and community development director. Parking in the right-of-way must be designed and built in accordance with the city engineering and planning department requirements.
 4. See appendix D, section 9.72(a)(57) for additional parking regulations that apply in this overlay zone.
 5. Parking requirements in the Eau Gallie art overlay zone will prevail when in conflict with other portions of the code.
- (h) *Signage requirements for the art overlay zone.* Signage requirements for the art overlay zone are subject to the city's sign regulations, and are further regulated as follows:

1. *Permitted signs.*

- (i) One detached ground sign, per property.
 - a. Must comply with the Downtown Melbourne and Eau Gallie District Architectural Guidelines, as amended from time to time.
 - b. Sign setback shall be a minimum of five feet from any property line.
- (ii) One mural, per property.
- (iii) One building sign, per licensed business.
 - a. Sign shall not exceed four square feet.
 - b. Sign shall be located in proximity to the business entrance door.
- (iv) Up to two flags, each secured to a flagpole.

2. *Prohibited signs.*

- (i) Window signs.
- (ii) Neon signs.
- (iii) Reader boards and changeable copy signs.
- (iv) Flashing and internally lit signs.
- (v) Flags flown from a flexible rod or pole.
- (vi) Additional signage or increased sign area is prohibited.
- (vii) Any sign not expressly permitted is prohibited including, without limitation, the signs listed in appendix D, chapter 11, section 11.19.

(B) *Central business overlay zone.*

- (1) *General.* In an effort to protect and enhance the core areas of downtown Melbourne and Eau Gallie, the city council has adopted a special set of development and design standards to apply to all areas within the central business overlay zone (CB-OZ). The development and design standards for the CB-OZ build upon the Melbourne zoning and land development regulations.
- (2) *Applicability.* This overlay shall apply to development within the Melbourne Downtown Redevelopment Area as defined in sec. 20.40, and the Olde Eau Gallie Riverfront Community Redevelopment Area as defined in section 20-202, City Code, excluding the Eau Gallie art overlay zone as defined in section 3(A)(2) of this article.
- (3) *Special uses.*
 - (a) *Accessory residential.*
 - 1. One accessory dwelling (such as a garage apartment, mother-in-law unit) may be permitted on an existing developed single-family lot. See article VI, section 1(A) for additional regulations.
 - 2. Accessory multifamily residential dwellings will be permitted on properties zoned C-2, as part of a mixed-use project with a maximum density of 15 units per acre.
- (4) *Special setbacks.*
 - (a) *Property abutting New Haven Avenue and Highland Avenue.* Newly constructed buildings must be located on and oriented to the street and any associated surface parking lots must be located in the interior of the site or at the sides of buildings. For CB-OZ projects with property lines abutting New Haven Avenue or Highland Avenue (from Montreal Avenue to St. Clair Street) the following principal building setback shall apply:
Front and side corner: Maximum = 5 feet*

*Additional setbacks for multi-story projects (article IV, section 1(B)) shall not apply.
 - (b) *Additional C-1 and C-2 allowances.*

For the C-1 and C-2 zoning districts within the CB-OZ, (except where vision clearance conflicts occur), the following setbacks are identified:

1. Front and side corner: Minimum = zero feet*
2. Abutting single-family residential zoning districts: Minimum = 20 feet*

*Additional setbacks for multi-story projects (article IV, section 1(B)) shall not apply.

(5) *Special height standards.* In the C-1 and C-2 zoning districts, an additional floor of building height (up to five floors or 60 feet tall) will be allowed without the conditional use approval requirement if:

- (a) A retail project incorporates an additional floor of office use and/or an additional floor of residential use; or
- (b) Ground level retail is incorporated with any multi-story non-retail project.

(6) *Parking.* See appendix D, section 9.72(a)(57) for additional parking regulations that apply in this overlay zone.

(Ord. No. 2007-92, § 2, 11-27-2007; Ord. No. 2010-37, § 5, 6-22-2010; Ord. No. 2011-05, § 1, 2-8-2011; Ord. No. 2014-27, § 1, 5-27-2014; Ord. No. 2014-43, § 1, 8-12-2014; Ord. No. 2015-32, § 2, 9-8-2015; Ord. No. 2015-35, § 2, 8-25-2015; Ord. No. 2017-31, § 4, 7-11-2017; Ord. No. 2019-44, § 1, 9-25-2019; Ord. No. 2022-01, § 2, 1-25-2022)