Chapter 62

LAND DEVELOPMENT REGULATIONS*

* Cross References: Buildings and building regulations, ch. 22; environment, ch. 46; fire safety standards, § 50-36 et seq.; historical preservation, ch. 58; waterways, ch. 122.


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IN GENERAL

Sec. 62-1. Status of chapter.

This chapter is chapter 62 of the Code of Ordinances of Brevard County, Florida, notwithstanding the fact that it is published in a separate volume from the remainder of such Code.


In the construction of this chapter, the rules and definitions set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the board of county commissioners. The rules of constructions and definitions set out in this section shall not be applied to any section of this chapter which shall contain any express provisions excluding such construction, or where the subject matter or context of such section may be repugnant thereto.

Generally. All general provisions, terms, phrases and expressions contained in this chapter shall be liberally construed in order that the true intent and meaning of the board of county commissioners may be fully carried out. Terms used in this chapter, unless otherwise specifically provided, shall have the meanings prescribed by the statutes of the state for such terms. In the interpretation and application of any provisions of this chapter, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this chapter imposes greater restrictions upon the subject matter than the general provision imposed by this chapter, the provision imposing the greater restriction or regulation shall be deemed to be controlling. In case of any difference of meaning or implication between the text of this chapter and any caption, illustration, map, chart, summary table or illustrative table, the text shall control.

Clerk of the board of county commissioners. "Clerk of the board of county commissioners" means the clerk of the circuit court of the 18th Judicial Circuit in and for Brevard County.

State Law References: Clerk of circuit court to be clerk to board of county commissioners, F.S. § 125.17.

Clerk of the circuit court and county clerk. "Clerk of the circuit court" and "county clerk" mean the clerk of the circuit court of the 18th Judicial Circuit in and for Brevard County.


Computation of time. The time within which an act is to be done shall be computed as provided in the Florida Rules of Civil Procedure (RCP).

Conjunctions. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunction "and," "or" or "either . . . or," the conjunction shall be interpreted as follows:

(1) And indicates that all the connected items, conditions, provisions or events shall apply.

(2) Or indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
(3) Either . . . or indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.

County. "County" means Brevard County, Florida.

Delegation of authority. Whenever a provision appears requiring the head of a department or some other county officer or county employee to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer or employee to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

F.A.C. "F.A.C." means the Florida Administrative Code, as amended.

F.S. "F.S." means the latest edition of Florida Statutes, as amended.

Gender. Words importing the masculine gender shall include the feminine and neuter.

Includes and including. "Include" and "including" shall not be construed to limit a term to the specified examples, but are intended to extend the meaning of the term to all instances or circumstances of a like kind or character.

Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Keeper and proprietor. "Keeper" and "proprietor" mean and include persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or through a servant, agent or employee.

May. "May" is to be construed as being permissive.

Month. "Month" means a calendar month.

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person or thing. The use of the plural number shall be deemed to include any single person or thing.

Oath. "Oath" includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Officer and official. Whenever reference is made to any officer or official, the reference will be taken to be to such officer or official of Brevard County, Florida.

Ordinance. "Ordinance" means any ordinance of Brevard County and all amendments thereto.
Owner. "Owner," applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

Person. "Person" shall extend and be applied to individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups and legal entities or combinations thereof.

Property. "Property" includes real and personal property.

Shall. "Shall" is to be construed as being mandatory.

Sidewalk. "Sidewalk" means any portion of a street between the curbline and the adjacent property line intended for the use of pedestrians.

State. "State" means the State of Florida.

Street. "Street" means any street, avenue, boulevard, road, alley, viaduct or other public highway in the county.

Tenant and occupant. "Tenant" and "occupant," as applied to a building or land, include any person holding a written or oral lease of or occupying the whole or part of such building or land, either alone or with others.

Week. "Week" means seven days.

Written and in writing. "Written" and "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. "Year" means a calendar year, unless a fiscal year is indicated.

Sec. 62-3. Catchlines of sections, history notes and references.

(a) The catchlines of the several sections of this Code set in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, or any part of such sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(b) The history notes or source notes appearing in parentheses after sections in this Code are not intended to have any legal effect, but are merely intended to indicate the sources of matter contained in the section. Cross references, editor's notes and state law references which appear after sections or subsections of this Code or which otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.

(c) All references to chapters, articles or sections are to the chapters, articles and sections of this Code unless otherwise specified.
Sec. 62-4. Authority to adopt land development regulations.

Pursuant to F.S. ch. 163, pt. II (F.S. § 163.3161 et seq.), also known as the Local Government Comprehensive Planning and Land Development Regulation Act, and F.S. ch. 125, entitled "County Government," the county is hereby authorized and empowered to adopt and enforce land development regulations for the unincorporated areas of the county which are based on, related to and serve as a means of implementation of the county comprehensive plan.

(Code 1979, § 14-1)

Sec. 62-5. General penalty; continuing violations.

(a) In this section, the term "violation of this Code" or "violation" means:

(1) Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.

(2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.

(3) Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.

(b) In this section, the term "violation of this Code" or "violation" does not include the failure of a county officer or county employee to perform an official duty unless it is provided that failure to perform the duty is to be punished as provided in this section.

(c) Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code shall be punished by a fine not to exceed $500.00 or by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment. With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense.

(d) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise, the imposition of civil fines or other administrative actions, including action pursuant to F.S. ch. 162.

(e) The board of county commissioners is authorized and empowered to institute legal proceedings in the circuit court of the county for the purpose of obtaining injunctive relief and such other relief as may be proper under the law against violators of this Code.

(Code 1979, § 14-9)

State Law References: Penalty for ordinance violations, F.S. § 125.69.

Sec. 62-6. Additional remedies.

The violation of any of the codes, regulations, restrictions and limitations promulgated under the provisions of article VI of this chapter, pertaining to zoning, article VII of this chapter, pertaining to subdivisions, or article IX of this chapter, pertaining to signs, may be restricted by injunction, including a mandatory injunction, and otherwise abated in any manner provided by law, and such suit or action may be
instituted and maintained by the board of county commissioners, by any taxpayer within the county or by any person affected by the violation of any such regulation, restriction or limitation.

(Code 1979, § 14-10)

Sec. 62-7. Severability of parts of chapter.

It is declared to be the intent of the board of county commissioners that if any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this chapter, and it shall be construed to have been the legislative intent to pass this chapter without such unconstitutional, invalid or inoperative part therein, and the remainder of this chapter, after the exclusion of such part or parts, shall be deemed and held to be valid as if such part or parts had not been included in this chapter. If this chapter or any provision thereof shall be held inapplicable to any person, group of persons, property or kind of property, or circumstances or set of circumstances, such holding shall not affect the applicability of this chapter to any other person, property or circumstances.

Sec. 62-8. Provisions considered as continuation of existing ordinances.

The provisions appearing in this chapter, so far as they are the same as those of ordinances existing at the time of the adoption of this chapter, shall be considered as a continuation thereof and not as new enactments.

Secs. 62-9--62-100. Reserved.

ARTICLE II.

ADMINISTRATION AND ENFORCEMENT

DIVISION 1.

GENERALLY

Sec. 62-100.1. Administrative duties of the zoning official.

The zoning official of the county shall be employed under the supervision of the county manager or designee. The zoning official shall have the following duties:

(1) To attend all meetings of the planning and zoning board, all meetings of the board of adjustment, and all meetings of the board of county commissioners at which matters of zoning or recommendations from the planning and zoning board are to be considered.

(2) To serve as secretary to the planning and zoning board and to the board of adjustment and in such capacity keep, prepare and serve as custodian of the minutes and records of such boards.

(3) To receive and process all applications for amendments to the official zoning map and all applications for variances before the board of adjustment.
(4) To collect and account for all fees required by the board of county commissioners for the filing of applications for amendments to the official zoning map and for applications for variances before the board of adjustment.

(5) To schedule, coordinate and publish the required notice for all public hearings specified under the provisions of article VI of this chapter.

(6) To advise and cooperate with the county manager or designee in the enforcement, amendment and implementation of this regulation and other laws, regulations and ordinances relating to zoning and the use of land within the county.

(7) To disseminate information to the general public on proposed amendments to the official zoning map.

(8) To coordinate with the code enforcement division to enforce compliance with the provisions and conditions specified to this regulation and other laws, regulations and ordinances relating to zoning and the use of land within the county.

(9) To supervise and train those employees within this division.

(10) To take such action as deemed necessary to coordinate the implementation of the provisions of articles VI, VII and VIII of this chapter and other laws, regulations and ordinances relating to zoning and the use of land within the county.

(11) To serve as custodian of the official zoning map and to record or direct the recording of all proposed amendments and variances to said map as specified under the provisions of this regulation.

(12) To support in preparing and developing comprehensive and specific land use plans for consideration by the board of county commissioners and planning and zoning board/local planning agency.

(13) To advise and recommend on amendments and revisions of articles VI, VII and VIII of this chapter and on other ordinances, laws and regulations to zoning and land use controls.

(14) To assist the land development division director in his duty to advise and recommend to the board of county commissioners and planning and zoning board all site plan approvals required under the provisions of articles VI, VII and VIII of this chapter and other ordinances, laws and regulations relating to zoning and the land use.

(15) To prepare the agenda and conduct, coordinate and direct all meetings of the planning and zoning board and board of adjustment.

(16) To advise and recommend to the board of county commissioners and planning and zoning board on all applications for amendments to the official zoning map.
(17) To assist in taking such action as deemed necessary to perform the planning function of zoning and land use regulations as required under this chapter and other applicable laws, ordinances and regulations relating to zoning and land use.

(18) To interpret the provisions of article VI of this chapter and its application to any particular land use.

(Code 1979, § 14-20.59(A); Ord. No. 93-17, § 1, 6-22-93; Ord. No. 97-49, § 1, 12-9-97; Ord. No. 98-12, § 5, 2-26-98; Ord. No. 99-07, § 1, 1-28-99)

Sec. 62-101. Permit and inspection fees.

The board of county commissioners is authorized and empowered by resolution to fix reasonable permit and inspection fees to be charged by the board for such building permits, examinations and inspections as the board may determine are necessary in the administration of the provisions of this chapter.

(Code 1979, § 14-7)

Sec. 62-102. Issuance of building permit for lots abutting on private roads or unpaved roads; and for lots accessing public roads through ingress/egress easements or flag stems.

(a) Definitions. For the purpose of this section, the following definitions shall apply:

(1) Access means an exclusive easement or other exclusive perpetual right of ingress or egress for all parcels eligible under this chapter which have been recorded in the public records of the county. The term exclusive, as used in this definition, shall mean access to no more than two parcels as described in subsection 62-102(b)(2)b.8.

(2) Flag lot means any lot, plot, tract or parcel of land having a narrow, deeded strip of land connecting the main body of the lot, plot, tract or parcel to a dedicated and accepted road.

(3) Private road means a road, street or right-of-way utilized by the abutting properties, which road, street or right-of-way is not dedicated, accepted or maintained by the county.

(4) Public street means any street, road or easement dedicated and accepted by the board of county commissioners, built to the specifications for paved or unpaved roads adopted by the county, and maintained by the county.

(5) Single-family residence means a private residence building used or intended to be used as a home or residence in which the use and management of all sleeping quarters and all appliances for sanitation, cooking, ventilation, heating and lighting are designed primarily for the use of one family unit. This includes a manufactured home, modular coach, mobile home and duplex.

(6) Unpaved road means any road stabilized to a limerock-bearing ratio of between 40 and 60 (LBR 40 and 60) and provides a stormwater system, which would be reviewed and constructed in an existing public right-of-way. All construction should be completed in accordance with the subdivision and site plan regulations, current stormwater ordinance, and land-clearing
regulations.

(b) **Criteria for issuance of building permits.**

(1) Except as specifically provided in this section, no building permits shall be issued by the county for use on a parcel, unless that parcel abuts on a public street, as defined herein.

(2) Exceptions. For parcels which do not abut on a public street, building permits may be issued for said parcels in the following circumstances:

a. **Private roads.** Building permits for single-family and duplex residential structures, and appurtenant structures, may be issued for parcels utilizing private roads within recorded subdivisions, where such private roads connect directly to a public street, and where said private road is shown on a subdivision platted and recorded in the public records of the county, and if, in the opinion of the board of county commissioners, the private road meets the following requirements:

1. That the private road must be constructed to those design specifications set forth in article VII of this chapter and maintained by the applicant or homeowners association; and
2. That the private road shall not restrict public access to any county right-of-way, or preclude or obstruct any existing or planned public road street systems; and
3. Public utilities and emergency vehicles shall be granted the use of the private road, and under no circumstances shall such use be restricted; and
4. The private road shall not include a street, road, right-of-way, or easement dedicated to the county or "the public."

b. **Access by easement:** Building permits for single-family and duplex residential structures, and appurtenant structures, may be issued for parcels which do not abut on a public street when it can be shown that the parcel has access to a public street through a perpetual and irrevocable right of access, and such access shall not include a street, road, right-of-way or easement dedicated to the county or "the public" by a plat or other recorded instrument; provided, however, that the following criteria has been met:

1. That the parcel is of unique dimension or character, such that direct access by abutting on a public street is not feasible; and
2. That the parcel cannot be established as a flag lot, pursuant to the provisions of subsection (b)(2)d.; and
3. That the access is at least 25 feet wide; and
4. That the parent parcel which contains the easement provides at least 40 feet of
unencumbered building envelope width; and

5. That the access is cleared, graded and maintained so as to assure access by emergency vehicles; and

6. That the access is for the exclusive use of the parcel for which the building permit is to be issued; except as stated in subsection 8; and

7. That where more than one access strip is utilized, such access strips not to exceed two, may be located side by side, and additional access strips shall be a minimum of 40 feet apart, regardless of ownership when located on local streets, or 90 feet apart, regardless of ownership when located on collector or arterial roads; and

8. That the access is for no more than two parcels. The sum of the parcels served by the easement, including an easement within a flag lot stem, shall be a minimum of five acres in size.

9. No more than two easements will be allowed per access strip.

10. Only one easement shall be permitted over any flag stem.

11. This section shall not apply to any prior easements approved by the county and designated on county zoning maps.

12. An administrative waiver to the separation standards or width of the easements of up to 20 percent may be granted by the county manager and/or his designee if it can be shown that the waiver request meets the conditions of subsection (c).

c. **Unpaved road agreements.** The board of county commissioners and a single property owner or multiple property owners whose property abuts a right-of-way which is not maintained by the county may enter into an agreement, to allow the issuance of a permit to construct an unpaved road within county right-of-way and obtain a permit for the consideration of one or more single-family residence under the following conditions:

1. These agreements shall be limited to existing county rights-of-way of at least 50 feet in width. If a right-of-way exists of less than 50 feet in width, additional easements, dedicated or deeded to the county and accepted by the county for maintenance in accordance with the provisions of subsection 7 below, must be obtained on each side of the right-of-way by the owner for drainage and sidewalk purposes to bring the total width to 50 feet. Any requests for deviation from the 50-foot width requirement shall be made as part of the application process and will be reviewed by the land development division for a determination. Any acquisition costs associated with the right-of-way and easements will be borne solely by the property owner. The traveling surface of the road will be centered within the right-of-way.
2. Only those properties within 1,320 feet of a county-maintained roadway are eligible. However an administrative approval may be considered by staff to allow a distance up to 20 percent or 264 feet beyond the 1,320 feet, if the extension would not create a detrimental impact to the public interest. Staff shall consider topography, drainage characteristics and impact to adjacent land in granting this administrative approval.

3. When an unpaved road is initiated, it may only extend 1,320 feet from an existing county maintained roadway which has been established as the beginning point for the project. If the existing maintained roadway is unpaved, that existing maintained roadway must have been constructed and maintained without the benefit of unpaved road agreements. In addition, the roadway built under an unpaved road agreement will not be permitted to extend beyond the original 1,320 feet from an existing county-maintained roadway until such time as the existing county-maintained road is paved and a special assessment project has been established to pave the unpaved road section constructed under one or more unpaved road agreements.

4. Each lot, parcel or tract of land must meet all of the requirements of the comprehensive plan, shall satisfy all criteria of the environmental health section, and shall meet all of the requirements of the office of natural resource management and land clearing regulations for issuance of a building permit.

5. There shall be a limitation of one agreement per parcel, which agreement shall not be transferable.

6. By entering into an unpaved road agreement, every participating property owner is responsible for all costs related to the construction of the unpaved roadway including survey, design, initial signage and installation, engineering, permitting and construction for the length of roadway covered by the agreement. The roadway shall be designed and stabilized to a minimum of between LBR 40 and 60 and shall be reviewed and inspected by the county land development division for approval prior to the issuance of a building permit. Additionally, to defer the cost of county maintenance, the agreement shall stipulate a fixed amount that must be paid prior to execution of the agreement. This amount would be determined by the road and bridge department or its successor and adopted by resolution in an amount necessary to reimburse the county for maintenance costs. The unpaved road agreement shall also constitute the participating land owner's consent to a special assessment project involving the payment of a proportionate share of the county's cost to pave the road, in the manner prescribed by subsections 7a. [7.a]] and 8. once 50 percent of the owners of lots abutting the unpaved road have obtained building permits.

7. The following conditions shall apply to the county's acceptance of a dedication or deed for right-of-way required to construct an unpaved road:
a) Whether an unpaved road agreement exists or not, the county's acceptance of an owner's offer to dedicate or deed right-of-way, shall constitute an agreement by the property owner dedicating or conveying the right-of-way necessary to construct an unpaved road as well as the agreement of any successor in interest to that owner, approving a special assessment project involving the payment of a proportionate share of the county's cost to pave the road once 50 percent of the owners of lots abutting the unpaved road have obtained building permits. The proportionate share shall be calculated by a method of assessment procedure which may entail a calculation based upon a property's front footage along the road, or the number of platted lots fronting the road, or square footage of platted lots fronting the road, or any combination thereof deemed equitable by the board of county commissioners. Said method of assessment shall be based upon the cost to pave the road and shall be assigned to the number of assessable lots specially benefitted by the paving project. Assessable lots shall include all lots specially benefitted by the paving project, including any lot, the owner of which, has entered into an unpaved road agreement and any owner who has not entered into an unpaved loan agreement.

b) Either upon receipt of notice that a special assessment is being levied for paving of an unpaved road or upon application for a building permit for property abutting an unpaved road, any owner of such property may enter into an agreement for the assessment and repayment of the owner's pro rata share for the cost of paving the unpaved road, as determined in subparagraph a. [7.a]] above, at the time the paving project is completed. The agreement shall provide for repayment of the owner's assessment upon completion of the paving project, in either (1) a lump sum; or (2) over a period of ten years in monthly or annual installments of the principal due bearing interest at a rate not to exceed two percent above the true interest cost of any bonds used to finance the cost for paving the road, or (3) through any other method of financing approved by the board. Such an agreement shall take the form of a recordable assessment lien against the owner's property, provided the county may also record against any owner of an assessable lot who does not enter into an unpaved road an assessment lien in the amount of the assessment plus interest (as recited above) payable over a period of ten years in monthly or annual installments. Per Resolution 04-045, Brevard County will use the uniform method of collecting non-ad valorem assessments levied by the County for any assessment lien. Default in non-ad valorem taxes can result in a tax certificate being sold on the property and additional charges will accrue, subject to the exception provided for in subparagraph 8. below.

c) Dedication or conveyance of the right-of-way required to pave an unpaved road, as well as the maintenance responsibility for that right-of-way, must be accepted by resolution duly adopted, by the Brevard County Board of County Commissioners. The resolution shall provide a legal description of
the property and shall be recorded in the public records of Brevard County, Florida.

8. Any special assessment project arising out of the application of this subsection 62-102(b)(2)c. shall be implemented using the procedures and a methodology provided for in F.S. ch. 170. Upon completion of the special assessment project and compliance with the procedures in F.S. ch. 170, the special assessment shall constitute a lien with the priority provided for in said statutes. The special assessment lien shall be enforceable by the uniform method of collecting non-ad valorem assessments, provided that the owners of residential property qualified for a homestead exemption on September 30, 2008 may defer payment of the assessment until the homestead is sold and conveyed. The county shall record a release of lien within 60 days after the date the assessment is paid.

9. Where the subject roadway on which the agreement applies intersects with an existing county-maintained dirt road, and where all buildable lots abutting the subject roadway are two and one-half acres or larger in area, the property owner would not be required to participate in the establishment of a special assessment project for paving of the road.

d. **Flag lots.** A building permit may be issued for a flag lot as defined in this section where the width of such lot does not entirely abut a dedicated and accepted road. Approval for such flag lots shall be obtained from the board of county commissioners as part of the plat approval process. However, an application involving no more than two flag lots in any lot, parcel or tract of land under single ownership may be approved administratively after considering the following factors:

1. There shall be no more than two flag lots subdivided from any one lot, parcel or tract unless approved by the board of county commissioners pursuant to article VII of this chapter.

2. Each flag lot shall have a minimum lot area of one acre, excluding the flag stem.

3. The flag stem shall be a minimum of 25 feet in width.

4. Where more than one access strip is utilized, such access strips, not to exceed two, may be located side by side, and additional access strips shall be a minimum of 90 feet apart on collector and arterial roads and 40 feet apart on local streets, regardless of ownership, except as defined in subsection 9. below; providing the property located between the flag stems meets the minimum lot width, depth and size requirements of the county zoning requirements.

5. The narrow strip for each flag lot shall intersect a dedicated and accepted road at no less than a 60 feet degree angle with curvature beginning no less than 40 feet from the road right-of-way.
6. Flag lots may be utilized in low-density platted subdivisions having lots of one acre or more as approved by the board of county commissioners as part of the subdivision plat approval procedure. Flag lots shall be utilized for single-family, duplex, mobile home and modular coach purposes only.

7. Any flag lot of record prior to June 23, 1976, shall be considered a nonconforming lot of record if the flag stem is a minimum of ten feet in width; and such lot shall enjoy the same nonconforming rights as set forth in section 62-1188.

8. Where the flag lot is utilized for the purpose of a multifamily project, the access strip shall be a minimum of 50 feet in width; and the access driveway shall be paved and constructed to county standards for a public road in accordance with article VII of this chapter.

9. An administrative waiver to the separation standards or flag stem width of up to 20 percent may be granted by the county manager and/or his designee if it can be shown that the waiver request meets the conditions of subsection (c).

(c) **Waivers and appeals.** Where the county manager and/or his designee, and affected agencies find that undue hardship may result from strict compliance with subsection (b)(2)b., (b)(2)c., and (b)(2)d., the county manager shall approve a waiver to the requirements of this section if the waiver serves the public interest.

Conditions: An applicant seeking a waiver shall submit a written request to the county manager for the waiver stating the reasons for the waiver and the facts, which support such waiver. All requests for waivers must be submitted prior to or in conjunction with the application for unpaved road, flag stem or easement. The county manager and affected agencies shall not approve a waiver, unless they determine the following:

1. The particular physical condition, shape or topography of the specific property involved causes an undue hardship to the applicant if the strict letter of the code is carried out.

2. The granting of the waiver will not be injurious to the other adjacent property.

3. The conditions upon which a request for waiver are based, are peculiar to the property for which the waiver is sought and are not generally applicable to other property and do not result from actions of the applicant.

4. The waiver is consistent with the intent and purpose of the county zoning regulations, the county land use plan and the requirements of this section.

5. The county land development division and affected agencies concur that undue hardship was placed on the applicant.

If the county manager and affected agencies approve a waiver, the county land development division may attach such conditions to the waiver to assure that the waiver will comply with the intent and purpose of this section.
The board of county commissioners shall hear appeals relating to any administrative decisions or determination concerning implementation or application of these section provisions, and shall make the final decision approving or disapproving the decision or interpretation.

The request for appeal shall be submitted to the land development division that shall schedule a hearing before the board of county commissioners within 30 days of receipt of the written request. The request shall contain the basis for the appeal.

(d) **Application procedure.** Any person seeking the issuance of a building permit, under the provisions of this section, shall submit an application with permitting and enforcement department, on such form as provided by the permitting and enforcement department, together with such application fee as may be adopted by resolution by the board of county commissioners. Said application shall include, at a minimum, the following:

1. A copy of the recorded deed or instrument indicating current ownership of the parcel; and
2. A copy of the recorded deed or instrument indicating applicant's interest in the subject parcel; and
3. A copy of the county property appraiser's map of the subject parcel, indicating all properties within 500 feet of the subject parcel; and
4. A copy of the land clearing application and plan of the limits of clearing. (Note: "Fees are not required but notification of surrounding owners may be required.")
5. A current (within six months of application date), certified survey reflecting "flag lot" and/or easement configuration. Said survey should also include the parcel to be served by the flag stem or easement.

(e) **Review of decisions.** Any applicant who is aggrieved by any decision by the county land development division that the subject parcel does not comply with the criteria set forth in this section, may, within 30 days after the date of the decision of the county land development division, apply to the board of county commissioners for review and consideration of the county land development division's decision.

(Section 62-103. Prima facie evidence.)

The following circumstances provide prima facie evidence that a property is being used as a resort dwelling:

1. On a non-homestead property, different occupants have been observed on at least two separate occasions within any 90-day period;
(2) On a non-homesteaded property, different vehicles with different license plate tags have been observed parked on at least two separate occasions in any 90-day period; or

(3) The property is advertised or held out to the public as a vacation rental, vacation resort, short-term rental, short-term resort, or resort rental.

(Ord. No. 06-37, § 2, 7-11-06)

Editors Note: Section 3 of Ord. No. 06-37, adopted and effective July 11, 2006, states the following: "If the enactment of this ordinance creates any non-conforming uses, then the provision of Section 62-1191 shall apply. The term "the effective date of the division" referred to in Section 62-1191, shall be deemed to expressly mean the effective date of this ordinance."


DIVISION 2.

LOCAL PLANNING AGENCY*

* State Law References: Local planning agency, F.S. § 163.3174.

Sec. 62-151. Designation and establishment.

Pursuant to and in accordance with the provisions of F.S. ch. 163, pt. II (F.S. § 163.3161 et seq.), the Local Government Comprehensive Planning and Land Development Regulation Act, the county planning and zoning board is hereby designated and established as the local planning agency for the unincorporated areas of the county. The county planning and zoning board shall be designated as the local planning agency and shall also perform the responsibilities of the land development regulation commission under F.S. ch. 163, pt. II (F.S. § 163.3161 et seq.).

(Code 1979, § 14-3)


Sec. 62-152. Powers and duties; meetings; organization and funding.

(a) Duties. The local planning agency, in accordance with the provisions of F.S. ch. 163, shall:

(1) Assume the general responsibility for the conduct of the comprehensive planning program and the preparation of the comprehensive plan for the county.

(2) Coordinate the comprehensive plan of the county or elements or portions thereof with the comprehensive plans of other local governments and the state.

(3) Recommend the comprehensive plan of the county or elements or portions thereof to the board of county commissioners for adoption.

(4) Monitor and oversee the effectiveness and status of the comprehensive plan of the county and recommend to the board of county commissioners such changes in the comprehensive plan as may from time to time be required.
(5) Perform the responsibilities for the land development regulation commission as provided in F.S. ch. 163, pt. II (F.S. § 163.3161 et seq.).

(6) Hear appeals of administrative decisions or interpretations of the county comprehensive plan and presentation of claims of regulatory taking or abrogation of vested rights.

(b) Designation of agency or person to prepare comprehensive plan. The board of county commissioners, in cooperation with the local planning agency, may designate any agency, department, committee or person to prepare the comprehensive plan for the county, or any element thereof, under the supervision and direction of the local planning agency.

(c) Organization; rules and procedures. The initial and subsequent members of the local planning agency shall be appointed, shall select their officers and shall follow such rules and procedures as established for the county planning and zoning board or as established by any subsequent resolution or ordinance adopted from time to time by the board of county commissioners.

(d) Meetings and records to be public. All meetings of the local planning agency shall be open to the public, and all records of such agency shall be public records.

(e) Funding. The board of county commissioners shall appropriate funds at its discretion for salaries of staff, fees and expenses necessary in the conduct of the work of the local planning agency, and also establish a schedule of fees to be charged by the agency.

(Code 1979, § 14-4)


DIVISION 3.

PLANNING AND ZONING BOARD*

* Cross References: Boards, commissions and authorities, § 2-156 et seq.

Sec. 62-181. Creation; duties.

There is hereby created the planning and zoning board of the county, which shall also function as the local planning agency and the land development regulation commission. The planning and zoning board shall advise and assist the board of county commissioners on the following matters:

(1) Applications for amendments to the official zoning map.

(2) Proposed amendments to this chapter and amendments to or adoption of other ordinances or regulations relating to zoning and land use within the county. Failure of the board of county commissioners to obtain the advice and assistance of the planning and zoning board on such amendment or on such new ordinances or regulations shall not be interpreted or considered to affect the validity of such amendments or ordinances or regulations when adopted.
(3) Land use plans and other planning documents relating to zoning and land use within the county.

(4) Interpretations of conflicts within this chapter or conflicts because of the existence of other laws, regulations and ordinances relating to zoning and land use control within the county.

(5) Such other matters as requested from time to time by the board of county commissioners.

(Code 1979, § 14-20.60(A))

Sec. 62-182. Membership; appointment and term of members.

There shall be appointed to the planning and zoning board two members from each county commission district appointed by the applicable county commissioner and ratified by the board of county commissioners. There shall also be appointed to the planning and zoning board a member to represent the county school district. The school district representative shall be appointed by the school board. There shall also be appointed to the planning and zoning board a representative of Patrick Air Force Base who shall act on behalf of all military installations within the jurisdiction of the county. This military representative shall be appointed by the commanding officer of Patrick Air Force Base and shall be considered an ex officio non-voting member. The members shall be appointed for a term of one year, and each member should be a resident of the county commission district for which he is designated to serve. The term of appointment shall commence on January 1 of the year of appointment, and each member shall serve until his successor is appointed. Appointments to fill a vacancy shall be made by the county commissioner responsible for the initial appointment and ratified by the board of county commissioners, and the appointment shall be for the unexpired term. Members of the planning and zoning board shall serve at the pleasure of the board of county commissioners. The members shall be paid such compensation and actual expenses as provided by the board of county commissioners from time to time by resolution. No member of the planning and zoning board shall serve on the board of adjustment.

(Code 1979, § 14-20.60(B); Ord. No. 03-12, § 1, 3-4-03; Ord. No. 07-20, § 1, 5-8-07)

Sec. 62-183. Alternate members.

There shall be appointed to the planning and zoning board one alternate member from each county commission district, appointed by the applicable county commissioner and ratified by the board of county commissioners. The alternate members shall be appointed for a term of one year, and each member should be a resident of the county commission district for which he is designated to serve. The term of appointment shall commence January 1 of the year of appointment, and each member shall serve until his successor is appointed. Appointments to fill a vacancy shall be made by the county commissioner responsible for the initial appointment and ratified by the board of county commissioners. The appointment shall be for the unexpired term. Alternate members of the planning and zoning board shall serve at the pleasure of the board of county commissioners. The alternate members shall be paid such compensation and actual expenses as provided by the board of county commissioners from time to time by resolution. The alternate members shall attend regularly scheduled meetings of the planning and zoning board at the request of the zoning director. The alternate members shall be entitled to vote on any matter coming before the planning and zoning board if:

(1) The regular member residing in the same county commission district as the alternate is not in attendance.
The vote of an alternate member does not make the total vote on any matter exceed ten votes, regardless of the fact that both regular members from the same county commission district as the alternate are in attendance. The chairman, or in his absence the vice-chairman, shall designate which alternate member or members may vote if such designation is necessary to maintain a maximum of ten votes on any one item.

(Code 1979, § 14-20.60(C))

**Sec. 62-184. Officers; rules of procedure; quorum.**

(a) At the first meeting held in January of each year, or as soon thereafter as possible, the members of the planning and zoning board shall elect, by majority vote from its members, a chairman, vice-chairman and such other officers as deemed necessary. Such officers shall serve a term of one year. The chairman shall serve as the presiding officer at all meetings of the planning and zoning board.

(b) The planning and zoning board shall have the power to adopt from time to time its own rules of procedure. Such rules of procedure and any amendment thereto shall be effective only upon approval of the board of county commissioners. Upon such approval, a copy of such rules of procedure and any amendment shall be filed with the clerk of the board of county commissioners.

(c) Six members of the planning and zoning board shall constitute a quorum, and no action may be taken if less than six members are present and voting. A majority of such quorum shall be sufficient for formal action by the planning and zoning board.

(d) (1) If the county attorney or designee, the county manager or designee, or any member of the planning and zoning board determines that a zoning or CUP criteria or factual matter presented on a particular application warrants further staff evaluation or the need for additional information, the planning and zoning board may continue the hearing to a time certain to allow staff to assemble the requested information. All such requested information shall be prepared in report or written summary form and delivered to the applicant at least ten days prior to the date set for the continuation of the hearing. This rule shall apply in the same manner to the local planning agency under section 62-152(c), when the agency is considering any application for a comprehensive plan amendment, hearing appeals of administrative decisions or interpretation of the county comprehensive plan, or presentation of claims of regulatory taking or abrogation of vested rights.

(2) The applicant must submit any new evidence, not presented to the planning and zoning board, at least two weeks prior to the board of county commissioners meeting. Failure to do so may result in a continuation of the public hearing.

(Code 1979, § 14-20.60(D); Ord. No. 97-51, § 1, 12-9-97)

**Sec. 62-185. Records; regular and special meetings.**

(a) The zoning official shall serve as secretary to the planning and zoning board and shall be the custodian of all records of the planning and zoning board. The minutes and all records of the planning and zoning board are hereby declared to constitute public records.
The regular meeting dates shall be established from time to time by the board of county commissioners. Special meetings of the planning and zoning board may be called by the zoning official, by the chairman of the planning and zoning board, or by a majority of the members of the planning and zoning board. Notice of special meetings shall be given to each member of the planning and zoning board at least 24 hours prior to such special meeting.

Any owner of real property in the county may request a special public hearing where unusual or peculiar hardship exists. The discretion on whether or not to call a special public hearing shall be made by the zoning official or the board of county commissioners. The owner of real property requesting such special public hearing shall accompany his application with a minimum fee established by resolution of the board. Notice of these special meetings shall be given to each member of the planning and zoning board at least 24 hours prior to such special meeting.

Sec. 62-186. Abolition of executive session.

All meetings, discussions and deliberations of the planning and zoning board shall be at a public meeting. The holding of any closed or executive sessions of the planning and zoning board where members of the public are excluded or prohibited from commenting is hereby abolished.


DIVISION 4.

BOARD OF ADJUSTMENT*

* Cross References: Boards, commissions and authorities, § 2-156 et seq.

Sec. 62-211. Generally.

The board of county commissioners hereby establishes a board of adjustment, which shall, in appropriate cases and subject to appropriate conditions and safeguards, grant variances to the terms of this chapter, except for section 62-102, articles III, IV, V, VII, VIII, X, XI, XII, XIII, division 4 and article XV of this chapter, where such variances are in harmony with the general purpose and intent of such provisions and in accordance with general or specific rules therein contained. The members of the board of adjustment shall serve without compensation, but shall be paid actual expenses incurred in performance of their duties as members of the board of adjustment, which shall not exceed allowances as prescribed by state law. The board of adjustment shall operate as provided in this division.

Sec. 62-212. Membership; appointment, term and compensation of members; alternate members.

(a) The board of adjustment shall consist of one member and one alternate from each county
commissioner's district, each to be appointed for a term of one year. The term of appointment shall commence on January 1 of the year of appointment, and each member shall serve until his successor is appointed. Appointments to fill a vacancy shall be made by the board of county commissioners for the unexpired term only. Members of the board of adjustment shall serve at the pleasure of the board of county commissioners. The members shall be paid such compensation and actual expenses as provided by the board of county commissioners from time to time by resolution. No member of the board of adjustment shall serve on the planning and zoning board.

(b) The chairman shall designate those alternates who are to vote if the number of alternate members exceeds the number of absent regular members.

(Code 1979, § 14-20.64(A); Ord. No. 93-16, § 1, 6-22-93)

Sec. 62-213. Meetings; records.

(a) Meetings of the board of adjustment shall be held at the call of the zoning official and at such other times as the board of adjustment may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board of adjustment shall be open to the public. The board of adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board of county commissioners and shall be a public record.

(b) Any owner of real property in the county may request a special public hearing where unusual or peculiar hardship exists. The discretion on whether or not to call a special public hearing shall be made by the zoning official or the board of county commissioners. The owner of real property requesting such special public hearing shall accompany the application with a fee established by resolution of the board. Notice of these special meetings shall be given to each member of the board of adjustment at least 24 hours prior to such special meeting.

(Code 1979, § 14-20.64(B); Ord. No. 99-07, § 3, 1-28-99)


Sec. 62-216. Powers.

The board shall have the power to authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, so that the spirit of this chapter shall be observed and substantial justice done.

(Code 1979, § 14-20.64(E); Ord. No. 97-39, § 10, 10-7-97; Ord. No. 00-60, § 4, 12-5-00)

Sec. 62-217. Reserved.

Editors Note: Ord. No. 00-60, § 5, adopted December 5, 2000, repealed § 62-217, which pertained to required vote and derived from Code 1979, § 14-20.64(F).
Sec. 62-218. Judicial review of decisions; rehearing of variances by board.

Any person or persons jointly or severally aggrieved by any decision of the board of adjustment may, within 30 days after the date of the public hearing at which the decision was rendered, but not thereafter, apply to a court of competent jurisdiction for appropriate relief. The board shall not rehear a variance once decided, unless an error in substantive or procedural law is found following the decision, or unless the board makes a finding based on a presentation by the applicant that new evidence, not discoverable by the applicant prior to the initial hearing, is found. A different or more effective presentation or clarification of the same evidence or matters considered at the initial hearing shall not be grounds for a rehearing before the board of adjustment.

(Code 1979, § 14-20.64(G); Ord. No. 00-60, § 6, 12-5-00)


DIVISION 5.

VARIANCES

Sec. 62-251. Application.

Any person owning an interest in any real property may apply to the board of adjustment for a variance from the provisions of article VI of this chapter, pertaining to zoning, or article IX of this chapter, pertaining to signs. The application shall be accompanied by a fee established from time to time by the board of county commissioners. The application shall be in such form as approved by the board of county commissioners, and shall contain the following information:

(1) The name of the owner of the particular real property shall be included.

(2) If the applicant is other than all the owners of the particular property, written consent signed by all owners of the particular real property shall be attached.

(3) The application shall contain the legal description of the particular real property, accompanied by a certified survey of that portion of the map maintained by the property appraiser reflecting the boundaries of the particular real property.

(4) The application shall contain the current zoning classification, special use classification, and any specified conditions or conditional use designation as recorded on the official zoning maps.

(5) The application shall contain the variance requested from the provisions of this chapter, plus the basis for the request.

(Code 1979, § 14-20.65(A); Ord. No. 98-12, § 1, 2-26-98)

Sec. 62-252. Public hearing; notice requirements.

Upon receipt of an executed application pursuant to this division, the zoning official shall forthwith schedule a hearing on the application before the board of adjustment. Notice of the time and place of the public hearing shall be given to the applicant at least 15 days prior to the public hearing. Notice of the time and place
of the public hearing on the application shall be published once, at least 15 days prior to the public hearing, in a newspaper of general circulation within the county. Such notice shall contain the name of the applicant, the legal description of the affected property, the existing zoning classification, special use classification or conditional use designation and the requested variance from the provisions of this chapter. In addition, a notice containing such information shall be posted in the county courthouse in Titusville, Florida, by county officials, and a notice containing such information, excluding the legal description but including total affected acreage, shall be posted by the applicant for the variance on the affected property at least 15 days prior to the hearing. If the property abuts a public road right-of-way, the notice shall be posted in such a manner as to be visible from that road right-of-way. An affidavit signed by the owner or applicant evidencing posting of the affected real property must be received by the zoning division prior to the time that such matter is heard by the board of adjustment. Failure to provide such affidavit prior to the hearing shall result in tabling the application for one meeting, at cost to the applicant, or denial of the request. In addition, written notice shall be given to the appropriate airport manager by the zoning official relative to any variance requested from the provisions of article VI, division 6, subdivision II, of this chapter, pertaining to airport restrictions. It shall be unlawful for any person to remove the notice containing such information from the affected property or from the county courthouse in Titusville, Florida. Any person found guilty of violating this section shall be deemed guilty of an offense, and shall be punished by a fine not to exceed $500.00 or by imprisonment in the county jail for a period not to exceed 60 days, or by both such fine and imprisonment.

(Code 1979, § 14-20.65(B); Ord. No. 97-49, § 3, 12-9-97)

State Law References: Penalty for ordinance violations, F.S. § 125.69.

Sec. 62-253. Prerequisites to granting of variance.

(a) A variance may be granted when it will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship; provided, specifically, however, that personal medical reasons shall not be considered as grounds for establishing undue hardship sufficient to qualify an applicant for a variance. Economic reasons may be considered only in instances where a landowner cannot yield a reasonable use and/or reasonable return under the existing land development regulations. In order to authorize any variance from the terms of this chapter, the board of adjustment shall find all of the following factors to exist:

(1) That special conditions and circumstances exist which are not applicable to other lands, structures or buildings in the applicable zoning classification;

(2) That the special conditions and circumstances do not result from the actions of the applicant;

(3) That granting the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this chapter to other lands, buildings or structures in the identical zoning classification;

(4) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of this chapter and will constitute unnecessary and undue hardship on the applicant;

(5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure; and
(6) That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such use variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

(b) In no case shall the board of adjustment grant a variance which will result in a change of land use that would not be permitted in the applicable zoning classification.

(Code 1979, § 14-20.65(C); Ord. No. 95-50, § 1, 10-19-95)

Sec. 62-254. Judicial review of decisions; rehearing by board.

Any person or persons jointly or severally aggrieved by any decision of the board of adjustment may, within 30 days after the date of the public hearing at which the decision was rendered, but not thereafter, apply to a court of competent jurisdiction for appropriate relief. The board shall not rehear a variance once decided unless an error in substantive or procedural law is found following the decision, or unless the board makes a finding based on a presentation by the applicant that new evidence, not discoverable by the applicant prior to the initial hearing, is found. A different or more effective presentation or clarification of the same evidence or matters considered at the initial hearing shall not be grounds for a rehearing before the board of adjustment.

(Code 1979, § 14-20.65(D))

Sec. 62-255. Imposition of conditions.

In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter and any ordinance enacted by the board of county commissioners. The board of adjustment may also, as a condition of approval, require compliance with any site plan or other specification submitted by the applicant when it has relied upon such site plan or specifications in granting the variance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of section 62-1254. Variances granted from a specific requirement of this chapter shall be in full force only as long as that specific requirement is in effect. Furthermore, the board of adjustment may prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed or both.

(Code 1979, § 14-20.65(E))

Secs. 62-256--62-300. Reserved.

DIVISION 6.

APPEALS

Sec. 62-301. Appeal procedure.

Appeals to the board of county commissioners may be taken by any person aggrieved by the decision or interpretation of any administrative officer rendered under this chapter, except for section 62-102, articles III, IV, V, VII, VIII, X, XI, XII, XIII, division 4 and article XV of this chapter. Such appeal shall be taken within 30 days from the date of such decision or interpretation by filing with the officer from which the appeal is taken and with the board of county commissioners a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board of county commissioners all the papers
constituting the record upon which the action appealed from was taken. Appeals of decisions of an administrative officer shall be subject to the same procedures as specified in division 5 of this article. (Ord. No. 00-60, § 7, 12-5-00)


An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of county commissioners, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of county commissioners or by a court of competent jurisdiction on application, on notice to the officer from whom the appeal is taken, and on due cause shown. The board of county commissioners shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the matter within a reasonable time. Upon the hearing, any party may appear in person or by an agent, who must have written authorization from the party, or by attorney. (Ord. No. 00-60, § 8, 12-5-00)


The board of county commissioners shall have the following powers:

(1) The board shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter, except section 62-102, articles III, IV, V, VII, VIII, X, XI, XII, XIII, division 4 and article XV of this chapter.

(2) Upon hearing such appeals, the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination made by such administrative official, and may make any necessary order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken.

(3) Upon hearing such appeals, the board's decision shall not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, so that the spirit of this chapter shall be observed and substantial justice done. (Ord. No. 00-60, § 9, 12-5-00)

Sec. 62-304. Required vote.

The concurring vote of three members of the board of county commissioners shall be necessary to reverse any order, requirement, decision or determination of any administrative official. (Ord. No. 00-60, § 10, 12-5-00)

Sec. 62-305. Reasonable accommodation standards and procedures.

Reasonable accommodation. It is the policy of the county to provide fair access to housing for persons
with disabilities and all other persons protected by the Federal Fair Housing Act, including providing reasonable accommodation in the application of the zoning regulations governing residential uses pursuant to federal and state law.

(1) The persons requesting relief must demonstrate that the requested accommodation is appropriate and that, without the accommodation, they would be denied the opportunity to enjoy housing of their choice in the community of their choice. Once this standard is met, the burden shifts to the county to determine whether the requested accommodation is unreasonable.

(2) In making a determination as to whether a requested accommodation is reasonable, the following standards shall be applied:

   a. Whether the requested accommodation imposes an undue financial or administrative burden on county services, such as but not limited to, law enforcement, utilities, public works, traffic safety, public safety and public transportation; or

   b. Whether the requested accommodation requires a fundamental alteration of the ordinance, zoning regulations, comprehensive plan and the neighborhood; or

   c. Whether the requested accommodation undermines legitimate purposes and effects of existing zoning.

(3) The following factors shall be weighed in considering reasonable accommodation:

   a. Special needs created by the disability;

   b. Potential benefit that can be accomplished by the requested modification, which may include:

      1. Opportunity to enjoy support, security, location, services, proximity to work or friends provided in a group home in the community of choice;

      2. Opportunity to plan a residential community with special amenities;

   c. Potential impact on surrounding uses;

   d. Physical attributes of the property and structures thereon;

   e. Choice of alternative accommodations which may provide an equivalent level of benefit; and

   f. Whether, in the case of a determination involving a single family dwelling, the household would be considered a single housekeeping unit if it were not using special services that are required because of the disabilities of the residents.

   g. Other considerations when evaluating requests for reasonable accommodation:
1. Character of the neighborhood and zoning classification (residential or non-residential);

2. Residential character of the house (consistency of interior and exterior with single-family usage); and

3. Parking needs of residents.

(4) Procedures for evaluating reasonable accommodation.
   
a. Requests for reasonable accommodation shall follow the application and public hearing procedure set forth in Article II, Division 6 of this chapter.

   b. In the event that a request for reasonable accommodation is not decided within 60 days of the date of application, the request shall be automatically granted. This time period may be extended upon agreement of both parties.

(Ord. No. 2003-03, § 1, 1-14-03)


ARTICLE III.

COMPREHENSIVE PLAN*


The 1988 county comprehensive plan shall consist of the following elements containing directives, goals, objectives, policies, implementation strategies and data and analyses, glossary, monitoring procedures and appendices (attachment A):

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(Code 1979, § 14-61; Ord. No. 99-60, 11-30-99; Ord. No. 08-44, § 3(Exh. B), 11-6-08; Ord. No. 08-45, § 3(Exh. B), 11-6-08; Ord. No. 09-04, § 3(Exhs. A, B), 2-5-09; Ord. No. 09-05, § 3(Exhs. A, B), 2-5-09; Ord. No. 09-09, § 3(Exhs. A, B), 3-10-09; Ord. No. 09-11, § 3(Exhs. A, B), 4-9-09)

### Sec. 62-502. Amendments.

(a) The comprehensive plan may be amended in accordance with the procedures established by state statute.

(b) Any party may request consideration of an amendment to the comprehensive plan and shall submit the following information to the planning and development services department, on a form provided by the county, and pay a fee established by resolution by the board of county commissioners from time to time:

1. Request to change the text of the comprehensive plan. Text shall include any goal, objective, policy, implementation strategy, directive and any supporting data and analysis, including maps, figures and tables.
   a. Identification of the particular element of the plan on which the request is based;
   b. Citation of the existing language which is proposed to be changed;
   c. Proposed rewording of the existing language or the wording of proposed new text; and
   d. A written statement explaining the rationale and the appropriate data and analysis necessary to support the proposed change.

2. Request to change the future land use.
   a. Identification of the existing future land use designation;
   b. Requested future land use and/or service sector designation;
   c. Written statement explaining the rationale for the proposed change;
   d. General location of the subject property;
e. Complete legal description of the subject property;

f. Certified survey of the subject property;

g. Copy of the most recent warranty deed; and

h. Notarized statements from all property owners listed on the warranty deed who are authorizing another party to act on their behalf as the applicant.

(3) Application deadline. The deadlines for applications requesting an amendment to the comprehensive plan shall be at 4:30 p.m. on the last business day of June and December of every year.

(c) The local planning agency and the board of county commissioners shall consider applications accepted from the private sector pursuant to the application deadlines established in subsection (b)(3) of this section and changes proposed by county staff, citizen resource group, or other county advisory body.

(d) Proposed amendments to the comprehensive plan, as advertised, shall be available for inspection by the public pursuant to the board of county commissioners Resolution No. 88-270.

(Code 1979, § 14-61.1; Ord. No. 98-12, § 2, 2-26-98; Ord. No. 2002-01, § 1, 1-8-02)

State Law References: Amendment of comprehensive plan, F.S. §§ 163.3184, 163.3187.

Sec. 62-503. Inclusion of port authority master plan.

The Canaveral Port Authority's port master plan is hereby incorporated into the coastal management element of the 1988 county comprehensive plan pursuant to F.S. § 163.3178. The act of incorporating does not constitute adoption, or a finding of consistency with the coastal management element of the 1988 county comprehensive plan, nor does it infer implementation and enforcement responsibilities on behalf of the board of county commissioners.

(Code 1979, § 14-62)

Sec. 62-504. Legal status.

(a) After and from the effective date of the ordinance from which this article is derived, and all amendments thereto, all development undertaken by and all actions taken in regard to development orders of the board of county commissioners shall be consistent with the elements of the 1988 county comprehensive plan adopted in this article and as amended.

(b) The board of county commissioners shall be the sole authority for enacting or implementing the provisions of the comprehensive plan, unless otherwise delegated to a specific designee.

(c) All land development regulations enacted or amended shall be consistent with the elements of the county comprehensive plan adopted by this article and as amended, and any land development regulations existing at the time of adoption which are not consistent with the adopted comprehensive plan shall be amended so as to be consistent. During the interim period when the provisions of the adopted plan and the land development regulations are inconsistent, the provisions of the adopted comprehensive plan shall govern any action taken in regard to an application for a development order. From the effective date of the ordinance from
which this article is derived, no land development regulations, land development code or amendment thereto shall be adopted by the board of county commissioners until such regulation, code or amendment has been referred to the local planning agency for review and recommendation as to the relationship of such proposal to the 1988 comprehensive plan. The recommendation of the local planning agency shall be made within a reasonable time, but no later than two months after the proposal is referred to the agency. If no recommendation is made within the time limitation provided, the board of county commissioners may then act on the adoption of the proposal. If the board of county commissioners receives a recommendation from the agency at any time prior to the expiration of the two-month period, the board of county commissioners may take action on the recommendation.

(d) For purposes of this section, the terms "land development regulations" and "regulations for the development of land" shall include zoning regulations, subdivision regulations, building and construction regulations, or other regulations controlling the development of land within the unincorporated areas of the county.

(e) It is the specific intent of this article that the 1988 county comprehensive plan and subsequent amendments shall have the legal status set forth in F.S. § 163.3194, as amended. No public or private development of land within the unincorporated areas of the county shall be permitted, except in conformity with the elements of the 1988 county comprehensive plan adopted in this article.

(f) The adoption of this article and any amendment thereto shall not affect the continued processing of, or the ability to approve, development permit applications for property being developed pursuant to:

1. Article VIII of this chapter, applying to site development plans, and article VII of this chapter, applying to the subdivision of land, where such site development plan applications or subdivision plat and associated engineering plans are complete and have been submitted or approved, and all applicable fees paid, on or before the effective date of the ordinance from which this article is derived or any amendment thereto, provided that when work or activities are authorized they are pursued in the timely manner required by this chapter;

2. Article VI, division 4, subdivision V, of this chapter, applying to planned unit development phases, where a phase’s final development plan is complete and has been submitted or approved, and all applicable fees paid, on or before the effective date of the ordinance from which this article is derived or any amendments thereto, provided that when work or activities are authorized they are pursued in the timely manner required by this chapter; or

3. Chapter 22, applying to the construction of buildings, where a construction building permit application is complete and has been submitted or approved, and all applicable fees paid, on or before the effective date of the ordinance from which this article is derived or any amendment thereto, provided that when work or activities are authorized they are pursued in the timely manner required by this chapter.

(Code 1979, § 14-63)


Sec. 62-505. Administration.

The planning and development services department director or his designee shall be responsible for the
Sec. 62-506. Appeals generally.

The county local planning agency shall hear appeals relating to any administrative decision or determination concerning implementation or application of the comprehensive plan's provisions, and shall submit recommendations to the board of county commissioners for approval or denial. The board of county commissioners shall establish procedures and provide proceedings and times for appeals. The growth management department director or his designee shall be the secretary to the local planning agency. (Code 1979, § 14-60)

Sec. 62-507. Comprehensive plan interpretation appeal procedure; presentation of claims for regulatory takings, Bert Harris Act, or vested rights claims.

(a) *Generally.* The board of county commissioners shall hear appeals relating to any administrative decision or interpretation concerning the implementation of the 1988 county comprehensive plan, as amended, and the regulations contained in article X of this chapter, as well as any Bert Harris claim or claim that temporary or permanent taking of property has occurred. As to appeals involving the comprehensive plan, if so requested by the property owner the local planning agency may hear the appeal, take public comment and make a recommendation to the board of county commissioners as to the appropriateness of the interpretation of the plan or decision implementing the plan. The board of county commissioners shall hold a second public hearing and shall make the final decision approving or disapproving the administrative decision or interpretation. A special master shall be appointed by the board of county commissioners to hold a quasi-judicial hearing and issue a proposed order recommending the grant or denial of vested rights on applications for vested rights filed by persons claiming such rights against the county. Property owners alleging a taking of property or abrogation of vested rights or appealing an administrative decision or interpretation must affirmatively demonstrate the merits of their claim by exhausting the administrative action provided in this section. If an ordinance reiterates the language or intent of a comprehensive plan provision addressed by an appeal under this section, the decision of the board of county commissioners relating to the comprehensive plan provision shall also apply to the affected ordinance. However, in no event shall this section be substituted for or used to bypass the variance and appeal procedures established under article II of this chapter.

(b) *Application.*

(1) If any party aggrieved by an administrative decision; application of a new regulation resulting in an alleged inordinate burden; interpretation; alleged taking; or abrogation of vested rights wishes to take a claim or an appeal to the board of county commissioners or, in a vested rights case, to an appointed special master. An application for consideration of the claim shall, unless otherwise specified by law, be filed with the county within 30 calendar days from the date of rendition of
the original adverse written decision or interpretation giving rise to the claim. The first written decision or interpretation of the administrative official giving rise to the appeal, takings claim or vested rights claim that specifies the precise basis for the decision and the supporting rationale underlying the decision shall be the only rendition of the decision or interpretation that qualifies for review under this section.

(2)  
a. Claims of a taking are limited solely to extreme circumstances rising to the level of a potential denial of rights under the constitutions of the United States and the state. The procedures provided in this section for demonstrating such a taking are not intended to be utilized routinely or frivolously, however, after considering a takings claim the county commission determines that no taking has occurred the commission's decision shall constitute a ripening decision that the applicant may accept as the county's final decision for the purposes of seeking de novo judicial review of a takings claim.

b. The property owner or the attorney for the property owner shall exercise due diligence in the filing and argument of any sworn statement, administrative remedy or other claim for a taking, abrogation of vested rights or Bert Harris Act claim. The signature of the property owner or the attorney for the property owner upon any document in connection with a claim of taking, abrogation of vested rights or Bert Harris Act claim shall constitute a certificate that the person signing has read the document and that to the best of his knowledge it is supported by good grounds and that it has not been presented solely for delay. The property owner and the attorney for the property owner shall have a continuing obligation throughout the proceedings to correct any statement or representation found to have been incorrect when made or which becomes incorrect by virtue of changed circumstances. If a claim of taking, Bert Harris Act claim or abrogation of vested rights is:

1. Based upon material misrepresentation of facts that the property owner or the attorney for the property owner knew or should have known was not true; or

2. Frivolous or filed solely for the purposes of delay, the appropriate county board, special master or agency shall make such a finding and may dismiss, deny or, in the case of a special master, recommend denial of the application or pursue any remedy or impose any penalty provided by law or ordinance.

c. Takings claims will be reviewed by applying recognized judicial criteria for determining the existence or non-existence of a taking under state and federal constitutional law. Bert Harris Act claims will be reviewed under the standards and procedures described in F.S. § 70.01 or any successor or amended version of such statute.

(3) The application shall be accompanied by a fee established by resolution of the board of county commissioners from time to time. The application shall contain the following information:

a. The name, address and telephone number of the person making the appeal.

b. The names of the owners of the affected parcel.
c. The citation of the specific provision or provisions, if any, of applicable ordinances, the comprehensive plan or of article X of this chapter to which the administrative decision or interpretation is related and from which the appeal or claim results.

d. A copy of the written request for an administrative decision or interpretation, if any, and the written action describing the nature of the decision or interpretation giving rise to the appeal or claim. Either the written action or the application shall include the name of the administrative officer who made the decision or interpretation and the date of the decision or interpretation. As to interpretations of the county comprehensive plan, decisions of the county manager or designee, shall be appealable. As to the regulations contained in article X of this chapter, the decisions of the county manager or designee shall be appealable.

e. A sworn statement from the aggrieved party or property owner describing the basis of the appeal or claim. The sworn statement shall be accompanied by copies of any contracts, letters, appraisals, reports or any other documents, items or things upon which the applicant's claim is based. A list of the names and addresses of any witnesses which the applicant proposes to present in support of the claim and a summary of the testimony of each witness is also required. Supplemental or newly discovered evidentiary or documentary support for a claim may be filed until seven days before any scheduled meeting or hearing at which the claim or appeal will be considered.

(c) Public hearing; notice requirements.

(1) Upon receipt of the completed application for the appeal or presentation of claim, the county manager or his authorized designee shall schedule a public hearing before the local planning agency (at the discretion of the property owners) and the board of county commissioners or, in the case of a vested rights application, forward the application to a special master designated to hear the claim. Notice of the date, time and place of the public hearing(s) or special master hearing shall be provided to the applicant and the public as provided in subsection (c)(2) of this section.

(2) Notice of the nature of the appeal or claim and the date, time and place of the public hearings for the appeal shall be published twice: once not less than 14 days prior to the date of the local planning agency hearing, if one has been requested by the applicant, and the second at least five days prior to the local planning agency hearing. Notice of the special master hearing shall be published once at least 14 days prior to the date set for the hearing. All advertisements shall be placed in a newspaper of general circulation within the county. Such notice shall also contain the name of the applicant or claimant and the citation of the specific comprehensive plan provision or the ordinance on which the administrative decision or interpretation and the appeal is based, or a general summary of the claim made if a taking of property or abrogation of vested rights is alleged.

(d) Criteria for consideration of vested rights. The following criteria shall be considered by the special master in review of a vested rights claim. Upon a determination that the applicant has demonstrated
compliance with the vested rights criteria below by a preponderance of substantial competent evidence and upon a determination that granting vested rights will not create imminent peril to public health, safety or general welfare of the residents of the county, the special master shall forward a proposed order recommending that the county commission grant vested rights, with or without conditions. However, if the application is not supported by substantial competent evidence demonstrating compliance with the criteria below, the special master shall forward a proposed order recommending that the county commission deny the vested rights application.

(1) The vested rights criteria to be considered and applied by the special master are as follows:

a. There is an act or omission of the county provided, a zoning or rezoning action in and of itself does not guarantee or vest any specific development rights.

b. The property owner acted in good faith reliance on the county's act or omission, provided failure to act within the time requirements of this chapter may negate a claim that the owner acted in good faith upon some act or omission of the county or that the development has continued in good faith under F.S. § 163.3167(8).

c. The property owner substantially changed position in reliance upon the act or omission of the county to the extent that the obligation and expense of the change of position would be highly unjust or inequitable so as to destroy the right acquired provided the following are not considered development expenditures or obligations that would qualify an applicant for vested rights: legal expenses, expenditures not related to design or construction, taxes or expenditures for acquisition of the land.

(2) Existing single-family residences utilized as permanent residences and established prior to the comprehensive plan adoption on September 9, 1988, even if inconsistent with the zoning code, may be considered for vested rights.

(3) Projects with vested status will be treated as nonconforming as described in chapter 62, article VI, division 2, subdivision II, section 62-1181.

(4) Notwithstanding the entry of a special master's order granting vested rights, all development proposed by the applicant receiving the favorable vested rights order must comply with the concurrent requirements of the comprehensive plan.

(5) Within 45 days of completing a vested rights hearing, the special master or support staff shall forward a copy of the record and a proposed order to the county commission. The proposed order shall contain the following:

a. Findings of fact with record citations. The special master's findings of fact shall be presumed to be correct and the burden is on the party disputing a finding of fact to demonstrate that the findings of fact are not supported by substantial competent evidence or are clearly erroneous;

b. Proposed legal conclusions addressing the criteria for vested rights set forth in this ordinance. Proposed legal conclusions will be presumed to be correct and the burden is
on the party disputing the proposed conclusion of law to demonstrate that the special master has misinterpreted or misapplied the applicable law. However, the board of county commissioners may reject any legal conclusion if, after reviewing the applicable ordinance criteria as applied to facts, the board has a reasonable, differing interpretation as to how the ordinance criteria apply to the facts;

c. A recommendation that vested rights be granted; granted with conditions; or denied.
d. For the purposes of this subparagraph, parties shall mean the applicant, any co-applicant and the county.

(6) The board of county commissioners shall consider the proposed vested rights order as an agenda item at a meeting which should be held within 30 days after the date of receipt of the proposed order in accordance with the following procedures:

a. No evidence will be taken by the county commission and the board shall make its decision based solely upon the record, findings of fact and the oral argument of parties to the proceeding, which shall be limited to ten minutes per party. If a party attempts to introduce new evidence, the board shall remand the proceeding to the special master for review of that evidence.

b. Any party, staff, or person wishing to submit written argument in support of or against the proposed order must submit written argument at least 14 days prior to the date upon which the proposed order will be considered.

c. Based upon the record, the ordinance and the findings of fact set forth proposed order, the board shall either move to grant vested rights; grant vested rights with conditions; or deny vested rights. In so doing, the board shall either adopt the special master order or enter its own order within 30 days of the date the motion is voted upon.

(7) An applicant who disagrees with a vested rights decision of the board of county commissioners may take an appeal of that decision by petition for writ of certiorari to the circuit court filed within 30 days of rendition of the board's order. An applicant who disagrees with a decision of the board of county commissioners on a takings claim may, as an alternative to and in lieu of de novo judicial review, elect to take an appeal of that decision by petition for writ of certiorari to the circuit court filed within 30 days of rendition of the board's order.

(8) Vested rights by consent. The board of county commissioners hereby authorizes the special master to administratively grant consent vested rights to applicants, in a consent agenda format, without the review or approval of the county commission and without conducting a public hearing or evidentiary hearing if the following standards are met:

a. The special master finds, from a review of the application submitted and supporting materials provided by county staff, including the consent provided for in subsection b., that the criteria for vested rights set forth in subsection 62-507(d)(1) have been met;
b. The applicant and the county, through its county manager or department director:

1. Have expressed agreement in writing that the criteria set forth in subsection 62-507(d)(1) have been met, and

2. Have provided an executed consent, in writing, to either the grant of vested rights, or the grant of vested rights with conditions that are reasonably required to assure as much consistency with the comprehensive plan or land development regulations as is practically or economically feasible based upon the magnitude of the applicant's detrimental financial reliance; and

c. No person has appeared at the special magistrate hearing in opposition to the application for vested rights.

d. The claim can not involve a use that is not permitted within the property's comprehensive plan or zoning classification.

e. A setback or building square footage calculation can not be decreased/increased by over 50 percent.

f. Building height can not be considered as a consent item.

g. The county manager may waive or reduce the application fee to cover only actual application processing costs if the applicant is granted consent vested rights and provides evidence that the application fee would impose an unreasonable financial hardship.

(e) Presumed vested status. The following categories shall be presumptively vested and shall not be required to file an application to establish or preserve their vested rights status.

(1) Nonconforming lots defined in section 62-1188.

(2) Development pursuant to:

a. Article VIII of this chapter, applying to site development plans, and article VII of this chapter, applying to the subdivision of land, where such site development plan applications or subdivision plan and associated engineering plans are complete and have been submitted or approved, and all applicable fees paid, on or before the effective date of the ordinance from which article III is derived or any amendment thereto, provided that when work or activities are authorized they are pursued in the timely manner required by this chapter;

b. Article VI, division 4, subdivision V of this chapter, applying to planned unit development phases, where a phase's final development plan is complete and has been submitted or approved, and all applicable fees paid, on or before the effective date of the ordinance from which article III is derived or any amendments thereto, provided that when work or activities are authorized they are pursued in the timely manner required by
this chapter; or

c. Chapter 22, applying to the construction of buildings, where a construction building permit application is complete and has been submitted or approved, and all applicable fees paid, on or before the effective date of the ordinance from which article III is derived or any amendment thereto, provided that when work or activities are authorized they are pursued in the timely manner required by this chapter.

(f) Criteria for amendments to vested site development plans and subdivision plans.

(1) Where a site development plan or subdivision plan has been vested, and the comprehensive plan has subsequently been amended so that the vested project is no longer consistent with the comprehensive plan or plan amendment, the county may consider an approval to amend the site development plan or subdivision plan based upon the following criteria:

a. The site development plan shall be deemed to be active, and the application for amendment shall be made prior to the expiration date of the site development plan approval.

b. The application shall require sworn information relevant and material to a determination of modification, including, but not limited to:

1. A detailed description of the existing or pending vested rights project, including a detailed description of the particular development in question.

2. A detailed description of the proposed change.

3. A detailed comparison of the impacts on facilities and services for which the comprehensive plan establishes level of service standards for both the vested development and the proposed modified development.

4. A detailed comparison of the impacts on the environment.

5. A detailed analysis of the compatibility of the proposed modified development with surrounding land uses and the character of the area.

6. A complete itemization of the approvals and permits encompassed by the vested development as compared with those encompassed by the proposed modified development.

c. The requested amendment shall reduce the impacts of the site development plan by no less than 30 percent of one or more of the public services and facilities included within the concurrency review; or there shall be a reduction in the impacts to protected natural resources; or the requested amendment shall provide for innovative engineering plans that provide for a safer traffic design; or provide for an increase of more than ten percent for storage of stormwater retention and detention; or provide for an increase of more than
ten percent for preservation of native vegetation; or the requested amendment shall provide for further compatibility with the surrounding land uses and the character of the area. In no case shall an amendment be approved which results in an increase of impacts to public facilities and services, or protected natural resources.

d. The requested amendment shall be consistent with all applicable land development regulations, and the requirements of a specified zoning classification(s) as identified by the county, and shall bring the project into closer compliance with the comprehensive plan and provide for further compatibility with the surrounding land uses and the character of the area.

(2) The request for amendment of the site development plan or subdivision plan shall be considered by the board of county commissioners in public hearing after adequate public notice. The board of county commissioners shall make the final decision granting or denying the request for amendment. The property owner may request review by the local planning agency in order to make recommendations to the board of county commissioners.

(3) The request for amendment of the site development plan or subdivision plan shall be accompanied by a fee to be established by the board of county commissioners.

(4) Upon a determination of approval to amend, the amended site plan or subdivision plan shall be submitted to the land development division for review and approval pursuant to chapter 62.

(g) Termination of vested status.

(1) After notice is given by the County, any vested development not pursued or completed within time limits established by this chapter, shall have its vested rights status terminated by operation of law and the permits upon which the development was authorized shall become null and void, unless, within 30 days after notification from the county that vested rights are terminated or that permits upon which the development was authorized are nullified, the owner requests a hearing at which it is established by clear and convincing evidence that the termination of vested rights status or nullification of permits upon which the development was authorized would result in a substantial financial loss as a result of improvements to the land that were made within the immediately preceding five years in reliance upon the vested rights status previously granted. Any extensions allowed under this chapter must be received prior to the expiration of the permit. Upon termination of vested status, the issuance of new permits will require that the development authorized under the permit conform to current codes, rules, regulations even if demolition is necessary and infrastructure is in place.

(2) After a hearing with notice to the vested rights holder, a vested rights determination or amendment pursuant to section 62-507 may be terminated upon a showing by the county of an imminent peril to public health, safety or general welfare of the residents of the county unknown at the time of approval.

(3) A vested rights determination or amendment pursuant to section 62-507 may be set aside by the board upon petition of a person adversely affected by the determination and after a hearing at
which a showing is made by clear and convincing evidence that the approval was issued based upon false, inaccurate or misleading evidence or information.

(Ord. No. 04-37, § 1, 8-24-04; Ord. No. 07-54, § 1, 10-23-07)


Sec. 62-508. Procedure for filing verified complaint regarding development order.

(a) Any affected party, as defined by F.S. § 163.3213, which alleges that any development order is inconsistent with the county comprehensive plan shall file a verified complaint pursuant to F.S. ch. 163 with the chairman of the board of county commissioners, and provide a copy to the director of the comprehensive planning division. The complaint shall provide:

(1) The name, address and telephone number of the person or persons making the appeal.

(2) The citation of the specific provision of the comprehensive plan on which the legislative action was based.

(3) If applicable, a copy of the verbatim minutes of the meeting at which the local government took the action upon which the verified complaint is based.

The verified complaint shall set forth the facts upon which the complaint is based and the relief sought by the complaining party.

(b) Pursuant to F.S. ch. 163, the verified complaint shall be filed no later than 30 days after the allegedly inconsistent action has been taken by the board of county commissioners. The local government receiving the verified complaint shall respond within 30 days after receiving the complaint. Thereafter, the filing requirements of F.S. ch. 163 shall control. Amendments to F.S. ch. 163 which affect the procedure or time for filing and responding to such verified complaints shall prevail over the procedures and timeframes stated in this section.

(c) Upon receipt of the verified complaint, the growth management director or the director's designee shall present the verified complaint to the board of county commissioners at the next available scheduled meeting. A fee to be established by resolution of the board of county commissioners shall not be required for processing the verified complaint. The response of the board of county commissioners shall be provided to the complaining party within 30 days of receipt of the verified complaint by the chairman of the board of county commissioners, or its designee.

(d) If a settlement agreement is sought pursuant to F.S. ch. 163, pt. II (F.S. § 163.3161 et seq.), a public hearing shall be required pursuant to the provisions of F.S. § 163.3164(17). If a settlement agreement is sought, signatures shall be obtained from all parties. Under the settlement agreement, the parties shall waive all rights to further appeal of the county's action in state or federal courts. Pursuant to any settlement agreement, the board of county commissioners shall act as appropriate to rezone or take other action regarding the issuance or rescission of a development order.

(Code 1979, § 14-66)
Sec. 62-509. Community commercial and neighborhood commercial boundary extensions.

(a) Request for an extension.

(1) Required information. The property owner or his designee shall request in writing a community commercial or a neighborhood commercial boundary extension and shall provide the following information in writing to the county:

a. The name and address of the property owner;

b. The name and address of the applicant, if different than the property owner;

c. A complete legal description of the subject property;

d. A survey or property appraiser’s map of the subject property;

e. An explanation of the boundary extension requested;

f. Notarized statements from all property owners listed on the warranty deed who are authorizing someone other than themselves to act on their behalf as the applicant.

The required fee, if any, shall also be submitted.

(2) Courtesy notice A courtesy notice shall be distributed to all neighboring property owners within 500 feet of the subject property. The written courtesy notice shall contain the following information, at a minimum:

a. A legal description of the property;

b. A general location description of the property;

c. The date of the courtesy notice;

d. The name and address of the comprehensive planning division director or other individual to whom comments must be sent; and

e. The dates, times and locations of the public hearings in which the request will be heard by the local planning agency and board of county commissioners.

(3) Legal advertisement. The community commercial or neighborhood commercial boundary extension shall be advertised within a newspaper of general circulation as defined in F.S. ch. 50. The advertisement shall contain the following information, at a minimum:

a. A legal description of the property;
b. A general location description of the property;

c. The name and address of the county department or other individual to whom comments must be sent.

(b) **Review procedure.** The community commercial or neighborhood commercial boundary extension shall be subject to the review of the local planning agency and to the review and approval by the board of county commissioners.

(c) **Appeals.** Appeals to a decision of the board of county commissioners shall be processed consistent with adopted county procedures for such appeals.

(d) **Fees.**

(1) When a request for a community commercial or neighborhood commercial boundary extension is processed and heard in public hearing in conjunction with a rezoning request, no additional fee shall be charged, except those fees required for readvertising or renotification of adjacent property owners if required by an action of the applicant, to cover the cost of such notice.

(2) When a request for a community commercial or neighborhood commercial boundary extension is not processed and heard in public hearing in conjunction with a rezoning request, the applicant shall be charged a fee consistent with the cost associated with the request, as specified in the planning division or zoning division fee schedule, as appropriate. An additional fee may be required if readvertising or renotification of adjacent property owners is required due to an action of the applicant, to cover the cost of such notice.

(Ord. No. 2002-01, § 2, 1-8-02)


**Sec. 62-510. West Canaveral Groves area.**

(a) **Determination of West Canaveral Groves area.** The West Canaveral Groves area which is the subject of the provisions of this section is defined as all land lying within Sections 8, 17, 20, 29, Township 24, Range 35, south of SR 528 and north of SR 520, herein referred to as the West Canaveral Groves area.

(b) **Status of existing permanent structures.**

(1) Existing permanent structures are those permanent structures which are located within the West Canaveral Groves area, and have been identified to be in existence as of December 9, 1994 based upon certification on or before January 30, 1995 from the growth management director. Permanent structures shall include site built homes, manufactured homes and park trailers, used either as permanent or seasonal residences which shall be authorized and accepted as permitted single-family residential structures provided the owner complies with all conditions of this section, including, but not limited to, dedication of road rights-of-way.

(2) Reserved.
In the event that an existing permanent structure is destroyed, it may only be reconstructed consistent with the requirements of the applicable zoning classification. In addition, all existing permanent structures shall be deemed to be consistent with the provisions of any land clearing of the county, and shall not be required to undergo additional concurrency review.

The issuance of a building permit or other development order does not guarantee or assure that telephone service, electrical service, cable television or other private or public utilities will be provided to the structure.

(c) **Conditions for authorization and acceptance of existing permanent structures.** In order for any permanent existing structure, certified as required in subsection (b)(1) above to be issued a certificate of completion and approval of electrical service connection, the existing permanent structure shall meet all applicable federal, state and county regulations and codes in effect at the time of application.

1. The issuance of a building permit or other development order does not guarantee or assure that telephone service, electrical service, cable television service, or other private or public utilities will be provided to the existing permanent structure.

2. The finished floor elevation shall be determined by the county based upon the estimated elevation for the crown of the roadway, when paved, upon which the structures fronts and upon the requirements established by the Federal Emergency Management Agency requirements.

3. Variances to the finished floor elevation may be granted or denied by the county, based upon certification by a state registered professional engineer that the structure will not flood or have any adverse effect on either the subject property or adjacent properties. The required engineering certification shall be based upon, and shall include a drainage plan and stormwater analysis considering the 25-year, 24-hour storm event, as a minimum design criterion. Additional analysis may be requested by the county in the event that an existing structure cannot be shown to meet the criteria above, alternative drainage improvements could be considered to address flooding of the subject property or adjacent property. Variance shall not be granted in violation of Federal Emergency Management Agency (FEMA) regulations.

(d) **Conveyance of road rights-of-way.** No structure shall be authorized and accepted as an existing permanent structure and issued a certificate of completion, unless the road rights-of-way adjacent to the property has been donated to the county.

(e) **Status of existing temporary structures.**

1. Recreational vehicles (except park trailers), tents, and other temporary structures, used either as permanent or seasonal residences, shall not be considered to be permanent structures for purposes of this section.

2. All temporary structures, which are not structures accessory to a permanent structure and consistent with applicable county codes shall be removed within 120 days of December 12, 1995. The use of recreational vehicles (except park trailers), tents and other temporary structures
as residences must be discontinued within 120 days of December 12, 1995.

(f) *New development within West Canaveral Groves.*

(1) All new structures developed within West Canaveral Groves area after December 12, 1995 shall meet all current procedures, policies and regulations in force at the time of application for a building permit and onsite sewage disposal permit. No building permit or onsite sewage disposal system permit shall be issued by the County, unless the road rights-of-way adjacent to the property has been donated to the county.

(2) Reserved.

(3) The issuance of a building permit or other development order does not guarantee or assure that telephone service, electrical service, cable television or other private or public utilities will be provided to the structure.

(g) *Status of property in relation to municipal service benefit unit and municipal service taxing unit.* Nothing is this section shall be construed to exempt any property owner within the West Canaveral Groves areas, as defined in this section, from participating in a municipal services benefit unit (MSBU) or a municipal services taxing unit (MSTU) affecting real property within the West Canaveral Groves area, which was duly established by the board of county commissioners at any time prior to or after December 12, 1995.

(h) *Enforcement actions.*

(1) Nothing in this section shall be construed as a waiver of the county's right to initiate enforcement actions under all applicable codes and ordinances under the jurisdiction of the county or other proceedings provided by law.

(2) The county shall have the authority to enforce compliance consistent with provisions of this section by appropriate legal action in a court of competent jurisdiction and/or by enforcement through the county code enforcement.

(3) No delay or failure on the part of the county to exercise any right or remedy or preclude the county from the exercise thereof, at any time during the continuation of any event of violation.

(i) *Permits required by other agencies.* Nothing in this section shall be construed to eliminate the need for property owners to meet all applicable federal, state or regional regulations and codes which are required by the administering agency.

(Ord. No. 94-26, §§ 1--9, 12-12-94; Ord. No. 95-55, §§ 1--9, 12-12-95; Ord. No. 98-63, § 1, 12-8-98; Ord. No. 2000-08, § 1, 2-1-00; Ord. No. 2001-34, § 1, 7-24-01)


ARTICLE VI.

ZONING REGULATIONS*
DIVISION 1.

GENERALLY

Sec. 62-1101. Short title.

This article shall be known and may be cited as the Brevard County Zoning Regulations.
(Code 1979, § 14-20.01)

Sec. 62-1102. Definitions and rules of construction.

For the purpose of this article, the following terms shall have the meaning set forth in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

Accessory building or use means a building, structure or use on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure, provided the building, structure or use shall be constructed after or concurrently with the principal structure.

(1) Accessory buildings or structures include but are not limited to private garages, storage sheds, carports, greenhouses, gazebos, cabanas, utility buildings/rooms, verandas, glass rooms, porches, screened porches or awnings, swimming pools and screened enclosures, and private residential boat docks with up to two slips for use of the occupants of the principal residential structure. Buildings or structures secondary and incidental to agricultural uses include, but are not limited to stables, barns, paddock areas and storage areas. Accessory buildings or structures may have a full or half bath; but may not have living quarters or a kitchen, unless such structure is a guesthouse consistent with section 62-1932.

(2) Accessory uses include a child or adult day care center accessory to a church, a golf driving range accessory to a golf course, and the package sales of alcoholic beverages accessory to a convenience store. Pursuant to subsection 62-2100.5(1)(f), one single-family garage apartment is accessory to a single-family residence in multi-family zoning classifications. Pursuant to subsection 62-2100.5(2), horses and agricultural pursuits are accessory to a principal residence.

(3) Except where otherwise provided in this section, an addition which is attached to a principal structure shall not be considered an accessory building, but shall be considered part of the principal structure. "Attached" for the purpose of this regulation means that the addition is integrated visually, structurally and architecturally with the principal structure, contains a common roof with similar design to the principal structure, and permits access between the principal structure and the addition either internally or under the common roof. If there is a connection between the addition and the principal structure which is not enclosed but is
comprised solely of the common roof, then the addition shall be considered part of the principal structure if the length of the connection does not exceed the length of the addition by more than 50 percent (or 20 feet, whichever is less). Otherwise, the addition shall be considered a detached accessory structure. "Enclosed" for the purpose of this regulation means an area under a roof which has solid walls at least four feet in height around its entire circumference, or which is 100 percent screened from floor to ceiling, such that the enclosed inside space is clearly separated from the outside space.

Air curtain incinerator (a type of solid waste management facility defined in chapter 94, article I of this Code) means a portable or stationary combustion device that directs a plane of high velocity forced draft air through a manifold head into a pit with vertical walls in such a manner as to maintain a curtain of air over the surface of the pit and a recirculating motion of air under the curtain.

Alley means a public right-of-way or passageway, less than 30 feet in width, which usually abuts the rear of the premises, or upon which service entrances or buildings abut, not generally used as a thoroughfare or for general traffic and not otherwise officially designated as a street.

Alteration means any change in the arrangement of a building; any work affecting the structural parts of a building; or any change in wiring, plumbing or heating and air conditioning systems.

Aquaculture means the cultivation, production, and raising of the natural products of water, including associated activities such as landing, processing and transporting of shellfish. For the purposes of this chapter, aquaculture shall be divided into three categories:

Case I. Product is brought on-shore (landed) from a lease and transferred from that point to an off-site market.

Case II. Product is grown on site (i.e., hatchery or nursery) and transferred to the property owner's lease. On parcels having a commercial or industrial zoning classification as described below, the product may also be sold to the customer directly from the site.

Case III. Product is brought on-shore and then is further processed on site (depuration) before being transferred off site.

Aquaculture Case I and Case III are permitted in BU-2 or industrial classifications. Aquaculture, Case II is permitted in BU-1, BU-2 or industrial zoning classifications. All cases are permitted in AU, PA and AGR classifications.

Aquaculture operations means activities related to the hatchery, nursery and maintenance of the product, including tanks, sludge application areas, settling facilities wet storage areas of containers, culture containers, activities related to the cultivation and maintenance of marine algae or other food stocks. The setbacks for aquaculture operations shall not include intake and discharge structures.

Assigned resident means any person residing in a residential social service facility as a result of being elderly, handicapped or family deprived, and having been assigned to that facility in accordance with licensing restrictions of the state department of health and rehabilitative services. For purposes of this subsection, the
term "family deprived" shall mean abused, neglected or abandoned children, dependent adults or adults who are incapable of living alone due to age or infirmity and who are unable to reside with family members. The following persons shall not be considered as assigned residents: any person meeting the criteria for involuntary placement under F.S. ch. 394; any person who has been convicted of a felony, or entered a plea of guilty or nolo contendere to, or has been found not guilty by reason of insanity under F.S. § 776.08; or any person who has been convicted of, or entered a plea of guilty or nolo contendere to, or been found not guilty by reason of insanity of any sex offense under F.S. § 917.012.

Assisted living facility (ALF) means a structure in which the owner or operators are subject to licensing and approval by the state, whether operated on a profit or nonprofit basis. Such facilities may provide lodging, food and one or more personal services for unrelated adults and shall not be regulated or operated by or associated with any jail, prison or correctional facility or system. Generally, such facilities shall have more than 14 clients and must be licensed by the state as an assisted living facility. If a facility is not licensed by the state, such facility must be approved by the county.

Automobile repair, major means repairs of a nature that usually cannot be done quickly and which will encompass more highly skilled work. Such repairs include removal of the engine head or pan, engine transmission or differential. Often this work is necessary as a result of a major component failure or an accident. These types of repairs cannot be done while the customer waits, and will often take more than one day to complete. Such repairs include but are not limited to:

- Accident repairs.
- Automotive machine shops.
- Framework and frame straightening.
- Grinding valves, cleaning carbon or removing the head of engines or crankcases.
- Major engine repair, replacement, rebuilding or reconditioning.
- Paint and body work.
- Radiator recoring and rebuilding.
- Replacement of body parts and fenders.
- Tire recapping.
- Transmission and differential repair, replacement, or rebuilding.
- Welding.

Automobile repair, minor means repairs of a nature that can usually be done quickly with minimum noise, odor or other negative impacts. This includes preventative maintenance or replacement of easily accessible parts that routinely wear out. This does not include removal of the engine head or pan, engine
transmission or differential. These types of repairs can be often done while the customer waits, and usually will not take more than one day to complete. Such repairs include but are not limited to:

Air conditioning maintenance and refrigerant replacement.

Audio installation and repairs.

Brake pads, shoes, rotors and drums replacement.

Chassis lubrication.

Electrical components repair and replacement.

Fuel injection systems and carburetor replacement.

Fuel pumps and fuel lines.

Ignition systems, sparkplugs, and batteries.

Motor oil, engine cooling and lubrication, brake fluid, transmission and other fluid replacement.

Mufflers, tailpipes, water hoses, fan belts, headlights and light bulbs, floor mats, seat covers, wipers and wiper blades, and replacement of grease retainers and wheel bearings.

Rustproofing.

Shock absorbers or other suspension systems replacement.

Tire replacement, repair and servicing, but no recapping.

Tuning engines, with the exception of grinding valves, cleaning carbon or removing the head of engines or crankcases.

Washing, polishing and detailing.

Wheel balancing and alignment.

Windshield, window replacement.

Wiring repairs.

Automotive sales and service facilities means the site used for sale or storage of new and used automobiles, service stations, paint and body repair shops and automotive repair garages, including the sales and servicing of any automotive component. No storage of junk or wrecked motor vehicles, other than the temporary storage of those motor vehicles awaiting repair, shall be permitted. A minimum of 75 percent of the motor vehicles shall be operable and readily accessible to the public for inspection and operation. For purposes
of this subsection, temporary storage of junk or wrecked motor vehicles shall mean that the vehicle may remain on the site for a length of time not to exceed 120 days in any calendar year.

*Bar and cocktail lounge* mean any place in the business of selling and dispensing alcoholic beverages of any type, or any place where any sign is exhibited or displayed indicating that alcoholic beverages are obtainable within or thereon, and where such beverages are consumed on the premises.

*Barn* means a building for the housing of farm animals and storage of farm-related products, feed, equipment, machinery or fleets of vehicles or aircraft.

*Biomedical waste incinerator* (a type of solid waste management facility defined in chapter 94, article I of this Code) means a combustion apparatus, furnace or other device used for igniting, incinerating or burning biomedical waste to a temperature high enough and for a period long enough to ensure destruction of all pathogenic organisms and render such waste noninfectious and harmless.

*Bluff line* means an ambulatory line which shifts with shoreline changes signifying the edge of a marine cliff or bluff or a steep bank located beside a river, ravine, plain or ocean, or the broad, steep face of a bank or headland.

*Board of adjustment.* See article II, division 4, of this chapter.

*Boardinghouse* means a building, other than an apartment building, hotel, motel, motor lodge or restaurant, where meals, lodging, or lodging and meals are provided for fair compensation for three or more persons.

*Boatbuilding* means the process of building, constructing, manufacturing or assembling water vessels within a substantial building.

*Boundary of classification* means the centerline of a street or right-of-way, or the centerline of the alleyway between the rear or side property lines, or, where no alley exists, the rear or side property lines of all lots, bordering on any zone limits or any zone boundary shown on the official zoning map.

*Breezeway/visual corridor.*

(1) *Oceanfront breezeway/visual corridor* means a corridor across the full depth of oceanfront properties which shall be reserved to ensure unrestricted movement of ocean breezes and to provide visual access to the ocean. The corridor shall include all land from the mean low-water line to State Road A1A, or other dedicated public right-of-way running parallel to the ocean, whichever lies closer to the ocean, and shall include a minimum of 30 percent of subject property's width. The width of the corridor shall be measured as described in section 62-2105. Notwithstanding any other provision of this article to the contrary, this minimum 30 percent breezeway/visual corridor requirement shall include all oceanfront properties, except single-family residential. Single-family residential structures on the oceanfront shall continue to be subject to State of Florida Department of Environmental Protection guidelines establishing a 60 percent coverage of the shore-parallel width of the property, pursuant to F.S. ch. 161.053, "Coastal Construction and Excavation" and Florida Administrative Code Chapter 16B-33.008.
(2) **Riverfront breezeway/visual corridor** means a corridor across the full depth of riverfront properties, which shall include all land from the mean low-water line to a distance of 250 feet, or the distance to the closest dedicated public right-of-way running parallel to the water, whichever distance is less, and shall include a minimum of 30 percent of the subject property's width. The width of the corridor shall be measured as described in section 62-2105. Notwithstanding any other provision of this article to the contrary, this minimum 30 percent breezeway/visual corridor requirement shall include all riverfront properties, except single-family residential.

**Building** means any structure constructed or used for residence, business, industry or other private or public purposes, including structures that are accessory to such uses, provided such structures are in compliance with the Standard Building Code. This shall include but not be limited to single-family dwellings, sheds, garages, carports, storerooms and other stationary structures.

**Building height.**

(1) Where a building or structure is constructed with a flat roof, the height of the building or structure shall be the vertical distance measured from the average elevation of the finished development grade of the building site to the finished elevation of the flat roof of the uppermost story, excluding elevator or mechanical equipment screens.

(2) Where a building or structure is constructed with a hip roof or gabled roof, the height of the building or structure shall be the vertical distance measured from the average elevation of the finished development grade of the building site to the highest bearing point of the roof trusses or roof joists of an acceptable slope, which slope shall not exceed 45 degrees or 12-on-12, provided that any habitable space located within the confines of the acceptable slope shall be solely for the use of the occupants of the floor immediately below and not used as a separate occupancy. Church steeples, bell towers, or other similar features customarily used to identify a church shall be excluded from the height restriction, as long as the height at the top of the identifying feature as measured from finished development grade does not exceed 200 percent of the maximum height or height threshold.

(3) Where one level of parking is provided under any principal building, excluding single family homes, building height shall be measured from the elevation of the lowest point of the structure of the first habitable floor to a point defined in either subsection (1) or (2) of this definition; provided, however, that setbacks, breezeway/visual corridor and fire protection requirements under this article shall be based on building height as measured from the average elevation of the finished development grade of the building site.

**Building line.** Compliance with setbacks shall be determined by measuring from any projection of the structure or any vertical support of a covered roof section to the nearest point of the lot line.

**Building site** means the ground area of a building or buildings together with all open spaces surrounded by said building or buildings under the same ownership.

**Captive wildlife** means animals of a species not usually domesticated in the United States, and requiring
permitting or licensing for possession by the State of Florida Fish and Wildlife Conservation Commission as Class I or Class II wildlife or poisonous or venomous reptiles per F.S. §§ 372.86 or 372.922, or Rule 68A-6.002, F.A.C.

Certified survey. A survey, sketch, plan, map or other exhibit is said to be certified when a written statement regarding its accuracy or conformity to specified standards is signed and sealed by a registered surveyor licensed by the state.

Civic, philanthropic or fraternal organizations means:

1. A group of people formally organized to pursue goals or activities for a common nonprofit interest or purpose, usually cultural, religious, or social, with regular meetings and usually characterized by certain membership qualifications, supported by the payment of regular periodic fees and dues, and a constitution and/or bylaws;

2. A nonprofit, humanitarian organization involved in an active effort to promote human welfare; or

3. An organization that promotes fellowship among its members and is devoted to the principle of volunteer community service.

Community center means a building used for recreational, social, educational, and cultural activities, usually owned by a nonprofit organization such a homeowners association, located in the same neighborhood as and operated solely for the benefit of its resident membership.

Composting facility (defined in chapter 94, article I of this Code) means a solid waste management facility where solid waste is processed using composting technology. Processing shall be limited to vegetative debris generated from land clearing activities. The vegetative debris may be processed by physically turning, windrowing, aeration or other mechanical handling. Simple exposure of organic matter to the elements resulting in a natural decay, with little or no mechanical handling, is considered disposal and for the purpose of this chapter would not be considered a composting facility. Composting of other materials shall be performed under the conditional use requirements of the solid waste management facility.

Conditional use. See division 5 of this article.

Contractors. NAICS 235.

County means the unincorporated areas of Brevard County, Florida.

County zoning regulations means those regulations relating to land use and control adopted by ordinance by the board of county commissioners under the authority of various state and local laws.

Court. A street court is a concave lateral extension of the primary street pavement with a turning radius of not less than 35 feet and a depth which may range upward to a maximum of 70 feet.

Development rights means the number of residential dwelling units that a specific parcel of real property can generate or yield given a zoning classification's gross density provision.
**Duplex** means a residential building designated for or occupied by two families, with the number of families in residence not exceeding the number of dwelling units provided.

**Dwelling, multiple-family** means a residential building designed for or occupied by more than two families, with the number of families in residence not exceeding the number of dwelling units provided.

**Dwelling, single-family** means a private residence building used or designed for use as a home or residence, in which the use and management of all sleeping quarters and all appliances for sanitation, cooking, ventilation, heating and lighting are designed primarily for the use of one family unit. All rooms within the building must have internal access, and the building shall have only one kitchen and one electrical meter, unless otherwise provided in this section. No other structure located on the lot may contain a kitchen except where otherwise provided in this section. Shelters that are not designed and constructed in compliance with Brevard County, State and other applicable development codes for a single-family dwelling, such as tents, lean-tos, and sheds, are prohibited from use as a residence on a temporary or permanent basis. A second electrical meter on a single-family zoned lot for detached accessory structures or docks shall be permitted where the accessory structure is located more than 100 feet from the residence or where the boat dock is located more than 100 feet from the residence or where the boat dock is separated from the residence by a public right-of-way.

**Farmer's stand** means a roadside stand operated by the landowner of agriculturally zoned property to sell produce grown on that site to the general public.

**Fireworks** means any combustible or explosive composition or substance or combinations of substances or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, or any article containing any explosives or flammable compound or any tablets or other device containing any explosives or flammable compound or any tablets or other device containing any explosive substance, as defined by Chapter 791.01(4)(a), Florida Statutes (2003). "Fireworks" does not include sparklers approved by the division of the state fire marshal of the Department of Financial Services pursuant to Chapter 791.013, Florida Statutes (2003), novelties, trick noisemakers, toy pistols, or other devices in which paper caps containing twenty-five hundredths grains or less of explosive compound or mixture are used, as defined by Chapter 791.01(4)(b) and (c), Florida Statutes (2003). Wholesale fireworks sales shall require IU-1 zoning, whereas retail sales of items not so defined as fireworks shall be permitted in the BU-1 and BU-1-A classifications.

**Fish camps** are commercial activities located near adjacent water bodies for the purpose of supporting recreational activities. Fish camps provide immediate access to water bodies. Facilities provided at fish camps may include boat ramps supported by slips and piers extending into the water body. Fish camps may also sell items normally bought at convenience stores, examples are such items as prepackaged food and beverages together with specialty items associated with fishing or other water-type recreational uses. Fish camps may have other accessory uses which provide services to boaters and/or fishermen which may include bait and tackle shops and accessory restaurants as limited by section 62-1835.4.5.

**Floor area** means the sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the centerlines of walls separating two attached buildings. The required minimum floor area within each classification shall not apply to accessory structures.
**Floor area ratio (FAR)** is computed by dividing the gross floor area of all buildings on a lot by the area of that lot.

**Foster home** means a dwelling unit in which the owners or operators are subject to licensing and approval by state department of health and rehabilitative services, and where the owners or operators live permanently and provide full-time care and supervision to a maximum of five assigned residents who are unrelated to the owners or operators. The maximum number of assigned residents shall be reduced by one for each minor child, natural or adopted, of the foster parents.

**Frontage** means the distance measured along a road right-of-way which provides access to the property, or the distance measured along a major water body. If a lot fronts both on a road right-of-way and a major water body, the definition set out under Lot, double-frontage shall apply.

**Garage, private** means a structure not larger than 600 square feet in area, unless otherwise provided in this article, for the private use of the owner or occupant of the principal building on a lot or for the use of his family or domestic employees for the storage of noncommercial motor vehicles, and which has no public shop or mechanical service in connection therewith.

**Group home** means a facility in which the owners or operators are subject to licensing and approval by the state department of children and families, and where the owners or operators provide basic care, personal services and supervision necessary to meet the physical, emotional and social needs of assigned residents. A group home shall house no more than 14 assigned residents. Group homes shall be categorized by levels, according to the number of assigned residents residing on the premises, as follows:

1. **Level I:** No more than six assigned residents.
2. **Level II:** Seven to 14 assigned residents.

**Guesthouse** means living quarters within a detached accessory building located on the same premises as the main building, to be used for housing members of the family occupying the main building or their temporary guests. Such quarters shall be subject to the provisions of section 62-1932, shall have no separate utility meters, and shall not be rented or otherwise used as a separate dwelling.

**Hazardous waste facility** means any building, site, structure, or equipment at or by which hazardous waste, which is generated off-site, is transferred to, disposed of, stored, or treated and required to obtain an operating permit for a hazardous waste treatment, storage and/or disposal facility by the Florida Department of Environmental Protection.

**Heavy industry** means the manufacture of goods under the following NAICS codes: 21-Mining, 322-Paper Manufacturing, 324-Petroleum and Coal Products, 325-Chemical Manufacturing, 311611, 311615-Slaughtering of Animals or Poultry, 31611-Leather Tanning, 3221-Pulp or Paper Mills, 32531-Fertilizer, 32732-Ready-mix Concrete, 336-Transportation Equipment, outdoors, and 2211-Electric Power Generation.

**Hotel and motel** mean a building designed or used to provide lodging, or boarding and lodging, to the public, for transients, tourists or persons of shortterm residence, in which there are six or more guestrooms, with limited or no kitchen facilities being offered, and with the building being open to the general traveling public, as
opposed to the customary purpose and use of a boardinghouse or lodginghouse, apartment building or multiple-family dwelling.

**Independent living facility (ILF)** means a residential structure having at least 16 living units designed and operated to house adults over 55 years of age and their spouses, while providing meals, transportation, and 24-hour security, and other personal services, but not on-site medical services. Such facilities may not be subject to state licensing and may be operated either on a profit or nonprofit basis. Such facilities shall not be regulated or operated by or associated with any jail, prison or correctional facility or system.

**Industry** means the manufacture of goods under the following NAICS codes: 311-Food (except 311611 and 311615), 312-Beverages, 313-Textile Mills, 314-Textile Product Mills, 315-Apparel Manufacturing, 316-Leather and Allied Products (except 31611), 321-Wood Products, 323-Printing and Related Support Activities, 326-Plastics and Rubber, 327-Nonmetallic Mineral Production (except Ready-mix Concrete 32732), 331-Primary Metals, 332-Fabricated Metals Products, 333-Machinery, 334-Computer and Electronic Products, 335-Electrical Equipment, 336-Transportation Equipment indoor manufacture, 337-Furniture and Related Equipment, 339-Miscellaneous Manufacturing. Utilities; 2212-Natural Gas Distribution above ground facilities, 2213-Water, Sewer, and other Utilities. Underground utilities or overhead distribution lines for power are not considered a land use.

**Junkyard** means an open area where any waste, used or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. The term includes the activity commonly known as an auto wrecking yard.

**Kennel, pet** means the keeping of any pet or pets, regardless of number, for sale, breeding, boarding or treatment purposes, except in an animal hospital, animal grooming parlor or pet shop, as permitted by this article.

**Kitchen** means a room or area within a room whose primary purpose is to store, prepare and cook food. A kitchen will have a refrigerator to store food, counter space and a sink to prepare food, and a stove and/or range to cook food.

**Land alteration** means any land alteration, excavation or private lake as defined in article XIII, division 4 or 5, of this chapter.

**Landfill** means a solid waste disposal facility, which is an area of land or an excavation where wastes are or have been placed for disposal for which a permit issued by the Florida Department of Environmental Protection is required. This term does not include:

(a) Land application sites where reclaimed water, effluents or wastewater residuals are applied to the land through spray irrigation, land spreading, or other methods;

(b) A surface impoundment for the treatment and disposal of stormwater or wastewater; or

(c) An injection well into which fluids are injected, by gravity flow or under pressure.
**Learning center** means a private organization that provides personalized instructional services to students of any age, where the student/teacher ratio does not exceed 3:1.

**Living area** means the minimum internal area of a residential building as measured by its outside dimensions, exclusive of carports, porches, sheds and attached garages. However, living area may include up to 25 percent of an enclosed garage or screened porch under the primary roof, but not to exceed ten percent of the minimum living area requirement of the applicable residential zoning classification. Living area shall be usable and shall have a minimum ceiling height of seven feet.

**Lot** means a parcel of land shown on a recorded plat, or any piece of land described by a deed recorded in the official records book of the county. The mean high-water line of major natural water bodies will be used in computing lot size and density and the establishment of setbacks for waterfront property in tidal areas. The ordinary high-water level shall be utilized in nontidal areas.

**Lot, corner** means any lot situated at the junction of and abutting on two or more intersecting streets. If the angle of intersection of the centerlines of two streets is more than 135 degrees, the lot fronting on the intersection is not a corner lot. A lot fronting only one named street curving around it (as described in Figure 1) is considered a corner lot if the street abuts two adjacent lot lines and if the intersection of the centerlines of the street is 135 degrees or less.

**Lot coverage** means that portion of any lot, parcel or tract of land which is covered by all structures.

**Lot depth** means that distance between the midpoints of straight lines connecting the foremost points of the side lot lines in the front and the rearmost points of the side lot lines in the rear. To determine the rearmost points of side lot lines for irregular lots, see the definition for rear lot line set forth in this section.

**Lot, double-frontage.** A double-frontage or through lot is defined as a lot that has frontage on two streets. The applicable front setback requirement shall apply to both frontages, regardless of which line the landowner elects as the front line, except as provided for within subsection 62-2109(d). (See also Lot line, front.)

**Lot, interior** means any lot which is not a corner lot.

**Lot, key** means an interior lot so subdivided or situated as to have its side lines coincide with the rear lot lines of adjacent lots on either or both of its sides.
**Lot line, front.** In the case of a lot abutting upon only one street, the front lot line is the line separating such lot from the right-of-way line of the street. In the case of double-frontage lots, easement lots, and flag lots, one such line shall be elected by the owner to be the front lot line for the purpose of this article. The front lot line may be the frontage along a major water body.

**Lot line, rear.** The rear lot line is that boundary which is opposite and most distant from the front lot line. In the case of a rear lot line in which such lot line is more than 20 degrees from parallel to the front lot line, the rear lot line shall be that assumed line parallel to the front lot line, the length of which shall not be less than 50 percent of the required lot width.

**Lot line, side.** A side lot line is any lot boundary line not a front lot line or a rear lot line. A side lot line separating a lot from a street is an exterior side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

**Lot width** means the distance between straight lines connecting the front and rear lot lines at each side of the lot, drawn perpendicular to parallel side lot lines, or, if not parallel, measured across the rear of the minimum required front yard as established by the front setback. The following exceptions apply:

1. The width between side lot lines at the front lot line shall not be less than 72 percent of the required lot width.
2. In the case of lots on the turning circle of culs-de-sac or courts, the distance as measured using the chord length between the side lot lines at the intersection with the front lot line shall not be less than 67 percent of the required lot width. If the lot is one-half acre or greater in size, the lot width on culs-de-sac or courts shall not be required to exceed 60 feet and shall not be required to have the minimum lot width at the building setback line.
3. In appropriate circumstances as provided in this article, lot width may be measured on the basis of actual frontage on a road right-of-way or street rather than perpendicular to the side lot lines as provided in this definition, when the property abuts a road right-of-way or street existing prior to the adoption of the ordinance from which this article is derived. In order for lot width to be determined based on actual frontage within the confines of the lot, the acute angle created by the front property line and the parallel side lot lines shall be no less than 60 degrees and the obtuse angle created shall be no greater than 120 degrees. In these instances, the front property line shall be determined by drawing a straight line between the front most points of the side lot lines where they intersect the road right-of-way or street.

**Marina** means a facility or structure which provides mooring, docking, anchorage, fueling, repairs or other services for watercraft. Docks accessory to single-family uses are exempt from this definition.

1. **Residential/recreational marina** means community docks serving subdivisions, condominiums or private organizations having three to 30 slips, inclusive. No fueling, wastewater pumpout or repair facilities are associated with these marinas.
2. **Commercial/recreational marina** means facilities having greater than 30 slips or any marina
which has fueling, wastewater pumpout or repair facilities serving recreational interests.

(3) **Commercial/industrial marina** means facilities serving largely commercial interests. Fueling facilities, repair, wastewater pumpout facilities and commercial sale of fish, including loading and shipping activities, are permitted within this category.

**Materials recovery facility** (defined in F.S. § 403.703 [1997]) means a solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of such materials.

**Medical clinic** means medical facilities for the diagnosis and treatment of outpatients.

**Mining and smelting operations.**

(1) Mining involves the excavation of solid minerals, including but not limited to clay, gravel, phosphate, lime, shell and shells (excluding live shellfish), stone and sand, from any mine, quarry, pit or other real property, when the mine, quarry, pit or other real property is under common ownership involving a minimum size of 50 acres; except the definition of mining does not include the following:

a. Earth-moving operations which are incidental to agricultural pursuits.

b. Site preparation and finish grading for permitted uses.

c. Dredging activity under necessary approved permits.

d. Construction and maintenance of drainage canals when such activities are approved by the county engineer.

e. Earth-moving operations which are a part of county-approved construction, such as subdivision improvements or excavations for a structure approved under a valid building permit.

f. Installation of utilities.

g. Excavation relating to the accessory use of land and drainage when the excavation is to be refilled upon completion of the excavation, such as excavation relating to the placement of septic tanks and drainfields and grave-digging operations.

h. Construction of swimming pools under a valid building permit.

i. Excavation related to foundations of any building or structure done under a valid building permit.

j. Excavation where no excavated materials are sold, whether directly or indirectly, or transferred from one parcel of land to any noncontinuous parcel of land.
k. Land alterations.

(2) Smelting operations include activities relating to the processing, by any means, of any materials excavated from any real property located within or outside of the county. This definition shall apply notwithstanding the fact that the materials are transported to the site of the smelting operations from another noncontiguous parcel of property.

Mobile home means a modular unit which is designed for temporary or permanent single-family residential use and which is mobile as defined by F.S. ch. 320, and is built on an integral chassis with an attached running gear. A mobile home shall be constructed to comply with federal mobile home construction and safety standards promulgated by the United States Department of Housing and Urban Development. All mobile homes used for residential purposes shall have a license from the state division of motor vehicles pursuant to F.S. ch. 320. Further, all regulations contained in F.S. ch. 319 shall apply. If a mobile home is no longer eligible for a title certificate under F.S. ch. 319, the structure shall no longer be considered a mobile home. This definition does not include modular units defined as travel trailers in this section.

Modular coach means a modular unit residential building, either a mobile home as defined in F.S. ch. 320, or a modular factory-built mobile housing unit that falls under the jurisdiction of the state department of community affairs under the Housing Act of 1971. The unit may have parts and sections fabricated and assembled as a complete unit at a central plant and moved to a permanent site, or component parts may be fabricated in one area and assembled as a complete structure permanently upon a site. Units may have wheels and axles when transported to the site but are intended to remain permanent structures once located or assembled on a site.

Modular factory-built home means a modular unit residential building comprised of one or more dwelling units, or habitable rooms or component parts thereof, which is either wholly manufactured or is in substantial part constructed in central manufacturing facilities and bears the approval of the state department of community affairs under the provisions of the Housing Act of 1971. However, this term does not apply to mobile homes as defined by F.S. ch. 320.

Motel. See Hotel.

Mulching facility means a facility where landclearing debris is mechanically chipped or ground for landscaping material, landfill cover or fuel.

NAICS codes means classifications established by the North American Industrial Classification System (NAICS). Some uses will be defined only by their NAICS classification.

Nonconforming use. See division 2, subdivision II, section 62-1181, of this article.

Non-governmental organization (NGO) means a non-profit organization conducting life science, ocean, coastal and marine research, or environmental science research in partnership with a government entity.

Office and research means office buildings and research facilities (NAICS 5417, 54138).
Open space, usable common.

(1) Usable common open space means a total amount of improved usable area including outdoor space permanently set aside and designated on a site development plan as recreational or open space for use by the landowners or residents of a development. Such usable space may be in the form of active or passive recreational areas, including but not limited to playgrounds or tot lots, golf courses, beach frontage, nature trails, lakes, bikeways or community recreational facilities with such amenities as a swimming pool, tennis courts and shuffleboard courts. The usable common open space shall be improved to the extent necessary to complement the residential uses, meet the minimum needs of the residents, and contain compatible and complimentary structures for the benefit and enjoyment of the landowners or residents. For the designation of usable common open space per the percentage-of-site requirement of an applicable zoning classification, the following shall be excluded (except under certain conditions defined in this definition), but exclusions are not necessarily limited only to these areas and facilities:

a. All easements and drainage facilities.

b. Parking areas, including all pavement areas, grassed median strips or areas, and parking space grassed island separators.


d. Private streets, roads and driveways.

e. Minimum setback areas.

f. Spacing between all structures.

g. A structure's space envelope, defined as an area lying within 7 1/2 feet of any exterior wall of the structure. The structure space envelope shall be shown by dotted lines on the site development plan.

h. Open space areas having a width of less than 40 feet or a size of less than 4,000 square feet, unless such areas are specifically improved for recreational use as set forth in this subsection.

(2) The zoning division director may, however, accept all or portions of easements, setback areas and spacings between structures (in excess of minimums) as active usable common open space, provided the following conditions are met:

a. All proposed facilities to be located in such areas shall be compatible with the active and passive recreational facilities examples stated in this subsection;

b. Facilities shall not represent an inordinate, unjustifiable amount of superficial low-cost facilities such as picnic tables and nature trails which are placed indiscriminately and have little definable function within the context of the site's natural amenities or
recreational and open space needs of the development's future residents;

c. The proposed facilities or activities shall not interfere with the primary function of the easements, setbacks or structure spacings; and

d. No facility shall lie within the space envelope of any proposed structure.

(3) The zoning division director may also accept areas located within designated parking areas, provided each area has a minimum size of 2,000 square feet and a minimum width of 30 feet for a trapezoidal or trapezium shape, or either a minimum 25-foot base or a 50-foot height for a triangular shape.

(4) In any residential project requiring common recreation and open space, active recreation shall be provided at a rate that varies with the density of the project according to the following table. The remainder of the required total common usable recreation and open space requirement may be devoted to passive recreation.

<table>
<thead>
<tr>
<th>Density (units per acre)</th>
<th>Active Recreation (acres per 100 units)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than or equal to 10</td>
<td>1.5</td>
</tr>
<tr>
<td>More than 10 and less than or equal to 15</td>
<td>1.0</td>
</tr>
<tr>
<td>More than 15</td>
<td>0.5</td>
</tr>
</tbody>
</table>

(5) The exclusion of water bodies which are in whole or part drainage easements may be waived by the board of county commissioners after adequate measures are provided which guarantee in perpetuity a level of water quality acceptable for recreational purposes. Private navigable canals shall not be utilized in fulfilling the common open space requirement beyond that which is allowed for water bodies as provided in this definition.

(6) In the PUD zoning classification, if golf courses are used to partially fulfill common open space requirements, such areas may not exceed 60 percent of the required open space. Where a golf course is utilized to partially fulfill the open space requirement, other facilities to meet the active residential needs of children and adults shall be provided. All water areas included as part of the open space requirement, other than private canals, shall be permanent water bodies and shall be improved with docks or piers and shall have a three to one minimum sloped edge extending at least 20 feet into the water areas and planted with grass and maintained around all sides so not to harbor mosquitoes, insects and rodents, unless it is determined by an environmental review of the water body that such slope or improvements would be detrimental to the ecology of such water body site. A slope of three to one shall be utilized with seawalls.

**Orphanage** means one or more buildings used for the semipermanent 24-hour care of orphans or other children deprived of parental care, operated by a public agency or a philanthropic or charitable organization, but shall not include a foster home or correctional institution, or commercial enterprises operated by such organization or any party acting on its behalf.

**Overriding public benefit** means the result of a development action by a private propertyowner that substantially preserves, restores or enhances those natural functions which define and make up the
Conservation/Environmental Area I classification provided for by the conservation and coastal zone protection elements of the county comprehensive plan. An overriding public benefit shall include but not be limited to proposals which preserve, restore or enhance the floodplain, wetland or prime aquifer recharge functions and provide for dedication of associated lands to the county or other acceptable public entity or agency.

_Parking lot_ means an area or plot of ground used for the storage or parking of motor vehicles either for compensation or to provide an accessory service to a business, industrial or residential use.

**Passive recreation.** Recreation uses are considered passive where very minimum alteration of vegetation, topography or other native features is necessary, and the actual use and enjoyment of the site amenities requires only a small amount of physical effort by an individual. Activities which are considered passive include but are not limited to hiking, nature observation, primitive camping, nonmotorized boating, shelling, swimming, picnicking, archeological or historic preservation, and hunting or fishing as provided for by the state fish and game laws. Site alterations which are considered acceptable for passive activities are exemplified by boardwalks, picnic areas, wildlife feeding areas, outdoor educational displays, observation stations, archaeological or historic markers, and paths and trails for walking or hiking. Areas which may be considered for passive recreation areas include wetlands and associated uplands, wildlife habitats, floodplains, vegetative communities including native vegetation to meet landscaping requirements, water bodies and aquifer recharge areas.

**Performance Overlay District** means a geographically defined area that encompasses one or more underlying zones and that imposes additional requirements above that required by these underlying zones. "Performance Overlay District (POD)" shall impose additional requirements upon any industrial use seeking to locate within the POD. These additional requirements would surpass the underlying zoning classification requirements and any other regulation that was less stringent than those listed in the POD.

_Pets_ means those animals and fowl normally domesticated in the United States, typically obtained at pet shops, and kept in or around the home for pleasure rather than utility, e.g., dogs, cats, canaries, mynahs, parrots, parakeets, fish, rabbits and rodents and excluding animals defined by the state as class I or class II wildlife, as set forth in Rule 68A-6.0022(2), F.A.C. Pets are permitted in any GU or residential zoning classification unless otherwise prohibited in section 62-2108, pertaining to farm animals and fowl.

_Plant nursery_ means a full service retail sales establishment which sells plants that are purchased wholesale from off site. Accessory items can include packaged fertilizer, seed, mulch, and topsoil, as well as other packaged items commonly associated with a retail plant nursery, as long as such items are stored inside of a solid or screened structure. However, the sale or outside storage of bulk items, and/or the on-site storage of commercial vehicles or heavy equipment, shall be prohibited in the BU-1 or agricultural zoning classifications, except with a conditional use permit for "plant nursery (with outside bulk storage of mulch, topsoil, etc.)" in BU-1 as provided in section 62-1942, or a "landscaping business" in the agricultural classifications as provided in section 62-1837. A BU-2 or Industrial zoning classification is otherwise required for such use.

_Private heliports_ shall apply to all sites used or intended to be used for the landing and take-off of private helicopters for residential purposes.

_Professional office_ means a building providing office space for use by a person or persons engaged in an occupation generally classified as being professional in nature, including but not limited to the following:
appraisers, architects, attorneys, accountants, engineers, doctors, dentists, osteopaths, chiropractors, optometrists, realtors and other similar or related professions. Specifically excluded from such use is the display, sale, storage and delivery of goods and merchandise.

*Public benefit* means the result of a development action by a private property owner that preserves, restores or enhances the floodplain, wetland or aquifer recharge functions; or a proposal that substantially enhances the compatibility of land uses or alleviates the public's burden regarding capital expenditures for essential services in the area of a transfer district.

*Public building* means a structure owned and operated by a municipality, county, state or federal government or any agency thereof and utilized for a public service or purpose.

*Recovered materials* (defined in F.S. § 403.703 [1997]) means metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the solid waste stream for sale, use or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal. Recovered materials as described above are not solid waste.

*Recovered materials processing facility* (defined in F.S. § 403.703) means a facility engaged solely in the storage, processing, resale or reuse of recovered materials. Such a facility is not a solid waste management facility if it meets the conditions of F.S. § 403.7045(1)(F).

*Residential social service facility (RSSF)* means a governmental, nongovernmental, nonprofit or for-profit facility providing an alternative to institutional placement, in which a caretaker provides 24-hour-a-day care to assigned residents at a location separate and apart from the assigned resident's own parents, relatives or guardians, and assists such assigned residents to the extent necessary for them to participate in normal activities and to meet the demands of daily living. Residential social service facilities shall include foster homes, family shelter homes, group homes, adult congregate living facilities, and treatment and recovery facilities, as defined in this section.

*Resort dwelling* means any single family dwelling or multifamily dwelling unit which is rented for periods of less than 90 days or three calendar months, whichever is less, or which is advertised or held out to the public as a place rented for periods of less than 90 days or three calendar months, whichever is less. For the purposes of this chapter, a resort dwelling is a commercial use. For the purposes of this definition, subleases for less than 90 days are to be considered separate rental periods. This definition does not include month-to-month hold-over leases from a previous lease longer than 90 days.

*Right-of-way line.* The right-of-way line shall be considered a property line, and all front setback requirements provided in this article shall be measured from the right-of-way line. Side and rear yard depths shall be measured from property lines, except that the depth for corner lots shall be controlled by the right-of-way of the side street.

*Roadside stand* means any motor vehicle, stall, building, tent, counter or other method or device which is being utilized for the temporary display, storage or sale of any type of goods or services and which shall not exceed 30 feet.
**Screened porch** (as used in subsections 62-1340(5), 62-1341(5), 62-1342(5), and 62-1446(d)) means non-conventionally built screened rooms, typically with aluminum frames and roofs, which cannot be enclosed into living area. The reduced rear setback provision in these sections is not intended to apply to conventionally built screened rooms, having permanent roofs and supporting posts and beams that are structurally similar to the residence, which could later be enclosed to permanent living spaces.

**Self storage mini-warehouse** means a fully enclosed building having individual compartmentalized units, bays or lockers which are to be used only as storage space for customer's personal property.

**Setback** means the minimum horizontal distance between the lot line and the building line. When two or more lots under one ownership are used, the exterior property lines shall be used in determining setbacks.

**Shipyard** means the use of property for the building, constructing, manufacturing, assembling, repairing, maintaining or overhauling of water vessels outside of a substantial structure.

**Shopping center** (as used in section 62-1906(4)) means a community commercial shopping center in a BU-1 or BU-2 zoning classification, having at least 21,800 square feet of floor area, an anchor retail tenant, and space for other retail users. The complex shall be used primarily for retail uses as opposed to professional, medical, office, warehouse or other use.

**Sign.** See article IX of this chapter.

**Single-family attached residential** means a multiple residential unit structure that is architecturally and characteristically compatible with single-family detached residential lifestyles. These residential characteristics include architectural styles which share a common wall. Each residential unit shall be contiguous to and have direct access to a designated yard, and have its own entrance separate from any other unit within the same structure.

**Skateboard ramp** means a curved or flat surface, elevated on one or more sides, for the use of skateboards, bikes or other nonpowered wheeled vehicles in the performance of various maneuvers.

**Solid waste disposal facility** means any solid waste management facility which is the final resting place for solid waste including landfills, incineration facilities that produce ash from the process of incinerating municipal solid waste.

**Solid waste management facility** (defined in F.S. § 403.703 [1997]) means any solid waste disposal area, volume reduction plant, transfer station, materials recovery facility, or other facility, the purpose of which is resource recovery or the disposal, recycling, processing or storage of solid waste, including biomedical waste and construction and demolition debris. The term does not include recovered materials processing facilities which meet the requirements of F.S. § 403.7046, except the portion of such facilities, if any, that is used for the management of solid waste.

**Special use** means a special use permit previously issued by the board of county commissioners under section 25 of the county zoning regulations between October 1, 1967, and August 2, 1973. Existing uses that were established under special use permits shall be considered non-conforming uses, unless they are listed as
permitted uses in the zoning classification within which they are located. If the use permitted by a special use permit has not been established, or has been discontinued or abandoned pursuant to sections 62-1182 and 62-1183, the special use permit shall be considered invalid.

*Story* means that portion of a building included between the surface of any floor and the surface of the next floor above it, or, if there be no floor above it, then the space between such floor and ceiling next above it.

*Structure* means anything constructed or erected, the use of which requires rigid location on the ground, or attachment to something having permanent location on the ground, including but not limited to supporting walls, signs, covered screened enclosures and any other covered area; provided, however, neither a fence, nor a non-supporting wall acting as a screen or fence, nor an elevated boardwalk shall be considered a structure for the purpose of setbacks.

*Telephone switching facilities.* Telephone switching facilities utilizing a standardized unmanned building requiring only one parking space and occupying less than 300 square feet are exempt from site plan requirements and minimum square footage requirements in all zoning classifications.

*Tenant dwelling* means a single-family dwelling to be used by yearround employees, on the basis of one dwelling unit per five acres of land, provided such dwellings are accessory to the principal use of the land. A tenant dwelling may be a mobile home pursuant to the requirements of section 62-1843.

*Townhouse* means a single-family dwelling unit constructed in a series or group of attached units with property lines separating such units.

*Transfer of development rights (TDR)* is used to describe the severing of development rights from a specific parcel of real property and transferring the development rights to another separate and specific parcel of real property, or to another portion of the same parcel of real property.

*Transfer station* (defined in F.S. § 403.703 [1997]) means a site the primary purpose of which is to store or hold solid waste for transport to a processing or disposal facility.

*Transportation* means the facilities for land, air, or water transportation NAICS codes: 481-Air, 482-Rail, 483-Water, 485-Transit and ground passenger, 486-Pipelines, 485-Transit and ground passenger is not an industrial use and is regulated by the applicable zoning classification where permitted.

*Treatment and recovery facility* means a secure or nonsecure facility which provides residential rehabilitation services, including room and board, personal care and intensive supervision in casework with emphasis on treatment and counseling services. Such facility may include an outpatient component, and shall include but not be limited to psychiatric residential treatment programs, drug and alcoholic rehabilitation programs, group treatment centers, and group treatment centers for status offenders. Such facility shall be licensed by the state department of health and rehabilitative services as a treatment and recovery facility. If such facility is not licensed by the state department of health and rehabilitative services, it must be approved by the county division of health and social services.

*Trucking.* NAICS 484.
**Unincorporated areas** means any land in the county not lying within the boundaries of a duly incorporated village, town or municipality.

**Variance.** See article II, division 5, section 62-251, of this chapter.

**Volume reduction plant** means a solid waste management facility which incinerates, pulverizes, compacts, shreds, and bales, composts, or otherwise accepts and processes solid waste for recycling or disposal.

**Waste disposal.** NAICS 562.

**Waterfront.** Any site shall be considered as waterfront property provided any or all of its lot lines abut on or are contiguous to any body of water, including a creek, canal, bay, ocean, river or any other body of water, natural or artificial, not including a swimming pool, whether the lot line is a front lot line, a rear lot line or a side lot line.

**Worship, place of** means a building that by design and construction is primarily intended for conducting organized religious services, including associated accessory uses such as schools, day care facilities, recreational facilities, meeting halls, and counseling.

**Yard** means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward.

(Code 1979, § 14-20.04; Ord. No. 93-26, § 1, 11-10-93; Ord. No. 95-03, § 1, 1-26-95; Ord. No. 96-46, § 7, 10-22-96; Ord. No. 97-46, § 2, 12-2-97; Ord. No. 98-03, § 2, 1-29-98; Ord. No. 98-11, § 1, 2-26-98; Ord. No. 98-28, § 1, 4-30-98; Ord. No. 99-07, § 5, 1-28-99; Ord. No. 99-33, § 1, 5-6-99; Ord. No. 99-45, § 1, 8-12-99; Ord. No. 2000-03, § 1, 1-11-00; Ord. No. 2000-07, § 1, 1-25-00; Ord. No. 2000-30, § 1, 5-9-00; Ord. No. 2000-50, § 2, 10-31-00; Ord. No. 00-51, § 2, 10-31-00; Ord. No. 01-07, § 5, 2-20-01; Ord. No. 01-020, § 1, 4-24-01; Ord. No. 01-63, § 1, 10-2-01; Ord. No. 2001-71, § 1, 11-1-01; Ord. No. 02-014, § 1, 3-19-02; Ord. No. 2002-42, § 1, 8-27-02; Ord. No. 2002-49, § 1, 9-17-02; Ord. No. 2002-58, § 1, 11-12-02; Ord. No. 02-62, § 1, 12-17-02; Ord. No. 2003-03, § 2, 1-14-03; Ord. No. 03-30, § 1, 7-22-03; Ord. No. 03-39, § 1, 8-12-03; Ord. No. 04-17, § 2, 5-6-04; Ord. No. 04-29, § 1, 8-5-04; Ord. No. 2005-25, §§ 1, 2, 5-19-05; Ord. No. 05-27, § 1, 5-19-05; Ord. No. 06-003, § 1, 1-10-06; Ord. No. 06-21, § 1, 4-25-06; Ord. No. 06-26, § 1, 5-4-06; Ord. No. 06-36, § 1, 5-24-06; Ord. No. 06-37, § 1, 7-11-06)

**Sec. 62-1103. Interpretation; conflicting provisions.**

The provisions of this article shall be held to be the minimum requirements adopted for the promotion of the general public health, safety and welfare of the people of the county. In the event of conflicting provisions, the more restrictive provisions of this article or any other regulations adopted by the county shall apply.

(Code 1979, § 14-20.02)

**Sec. 62-1104. Conforming title designations for previous zoning regulations.**

(a) Any reference in those subparagraphs and sections of the county zoning regulations of October 1, 1967, as amended, incorporated in this article by reference, to the zoning director, building and zoning official, building and zoning authority or any other similar description of any administrative official, is hereby deemed a reference to the zoning official.
(b) Any reference in those subparagraphs and sections of the county zoning regulations of October 1, 1967, as amended, incorporated in this article by reference, to the zoning board, is hereby deemed a reference to the planning and zoning board.
(Code 1979, § 14-20.63; Ord. No. 93-17, § 2, 6-22-93)

Sec. 62-1105. Penalty.

It shall be unlawful for any person to violate the provisions of this article or to use any land, structure or building in violation of any provision of this article. Any person found guilty of violating this section shall be deemed guilty of an offense, and shall be punished by a fine not to exceed $500.00 or by imprisonment in the county jail for a period not to exceed 60 days, or by both such fine and imprisonment. Each separate day that a violation exists or continues shall be deemed a separate offense for the purposes of this section. Any penalties pursuant to F.S. ch. 162 or chapter 2, article VI, division 2, may be pursued.
(Code 1979, § 14-20.66)

State Law References: Penalties for ordinance violations, F.S. § 125.69.

Sec. 62-1106. Additional remedies.

If any building or structure is erected, constructed, altered, repaired or maintained or any building, structure or land is used in violation of the provisions of this article, the proper authorities of the county, in addition to the remedies otherwise provided for in this article, may institute any appropriate action or proceeding to prevent such violations in a court of competent jurisdiction.
(Code 1979, § 14-20.67)

Sec. 62-1107. Severability.

If any section, paragraph, subdivision, clause, sentence or provision of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder of this article, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.
(Code 1979, § 14-20.68)

Sec. 62-1108. Purpose and intent.

(a) It is the purpose and intent of this article to consolidate the power, authority, procedure and regulations contained in various local laws relating to the county, and regulations and ordinances enacted and adopted by the board of county commissioners, into a uniform and comprehensive ordinance relating to the establishment of comprehensive zoning regulations and land use controls.

(b) This article is adopted in recognition of the established zoning regulations of the county enacted under the authority of various local laws and, except as such regulations are specifically amended in this article, is not intended to affect the force or validity of such regulations and ordinances and the comprehensive zoning and land use regulations promulgated under the authority of such local laws. The intent of the board of county commissioners is to continue the land use and zoning regulations and comprehensive zoning previously established in the county under the consolidated and comprehensive procedures, powers and regulations
The uniform, comprehensive and consolidated procedures, powers and regulations contained in this article are intended to provide for the promotion of the general public health, safety, comfort and welfare; to provide for the division of the unincorporated areas of the county into zoning classifications; to regulate, determine and establish the height, size, location, relocation, erection, construction, repair, alteration and use of buildings and other structures within each district or zoning classification; to establish and control the use of land within each zoning classification for trade, industry, manufacturing, agriculture, residence and other specified uses; to determine, establish and control the use of bodies of navigable and nonnavigable waterways for trade, industry, residence, recreation and other specified uses; to establish and control the density of population; to control the size of yards, courts and open spaces to provide for adequate light and air; to secure safety from fire, flood, panic and other dangers; to ensure that adequate provisions are established to provide for transportation, drainage, sanitation, water supply, sewerage, other public utilities, schools, recreational facilities and further public requirements; and to prescribe penalties for the violation of this article.

(Code 1979, § 14-20.03)


DIVISION 2.

ADMINISTRATION AND ENFORCEMENT

Subdivision I.

General Provisions

Sec. 62-1151. Amendments to official zoning map--Amendments initiated by property owner.

(a) Application; fee. Any owner of real property may file an application for an amendment to the official zoning map to designate the particular real property a different zoning classification or conditional use from the use designated on the official zoning map under the provisions of this section. The application may be accompanied by a fee established from time to time by the board of county commissioners, and shall contain the following information and documents:

1. The name of the owner of the particular real property.
2. If the applicant is other than all the owners of the particular property, written consent signed by all owners of the particular real property.
3. The legal description of the particular real property, accompanied by a certified survey or that portion of the map maintained by the county property appraiser reflecting the boundaries of the particular real property.
4. The current zoning classification and special use classification, with any specified conditions or conditional use designation, as recorded on the official zoning maps.
(5) The requested zoning classification or conditional use classification that constitutes an amendment to the official zoning maps.

(6) A recorded warranty deed.

(7) All commercial and industrial rezoning requests shall include a certified wetlands delineation and habitat description to be provided by the applicant or their designee. If the county natural resources management office, utilizing the best available data including, but not limited to, the National Wetland Inventory Maps, aerial photographs and the Brevard County Soil Survey, determines that no wetlands exist on-site, a waiver of such delineation requirements may be granted from that office. If a wetland delineation is required, it shall be performed by an environmental professional while utilizing the Florida Land Use, Cover and Forms Classification System (FLUCCS) to describe the wetland habitat on site.

**Environmental professional** An individual with at least two years of experience in describing on-site environmental conditions and habitat types. Said individual shall also provide proof of completion of a USCOE wetlands delineation or equivalent course. A thorough knowledge of the following publications and issue areas including, but not limited to, the Florida Wetland Delineation Manual, Brevard County Soil Survey, plant identification, surface water classification, floodplain delineation, and listed species identification is required.

(b) **Notice of hearing before planning and zoning board.** Upon receipt of the executed application, the zoning official shall forthwith schedule a hearing on the application before the planning and zoning board. Notice of the time and place of the public hearing shall be given to the applicant at least 15 days prior to the date of the public hearing. Notice of the time and place of the public hearing on the application shall be published once, at least 15 days prior to the public hearing, in a newspaper of general circulation within the county. The notice shall contain the name of the applicant, the legal description of the affected property, the existing zoning classification, special classification or conditional use designation, the requested amendment to the official zoning maps, and the time and place of the public hearing on the consideration of the application by the board of county commissioners. In addition, a notice containing such information shall be posted in the county courthouse in Titusville, Florida, by county officials, and a notice containing such information, excluding the legal description but including total acreage, shall be posted by the applicant on the affected property at least 15 days prior to the public hearing. If the property abuts a public road right-of-way, the notice shall be posted within ten feet of the right-of-way and in such a manner as to be visible from that road right-of-way. An affidavit signed by the owner or applicant evidencing posting of the affected real property must be received by the zoning office prior to the time that such matter is heard by the planning and zoning board. If the property does not abut a road right-of-way or a traveled access, thereby causing the property to be normally inaccessible, posting of the property may be waived by the zoning official upon receipt of an affidavit from the property owner attesting to the property's inaccessibility. Failure to provide either of such affidavits prior to the hearing shall result in tabling the application for one meeting, at cost to the applicant, or denial of the request. It shall be unlawful for any person to remove the notice containing such information from the affected property or from the county courthouse in Titusville, Florida. Any person found guilty of violating this section shall be deemed guilty of an offense, and shall be punished by a fine not to exceed $500.00 or by imprisonment in the county jail for a period not to exceed 60 days, or by both such fine and imprisonment.

(c) **Conduct of hearing before planning and zoning board; recommendation of approval or denial.** At the designated public hearing, the planning and zoning board shall hear the applicant on the proposed
amendment to the official zoning maps, and shall hear members of the general public. The planning and zoning board shall have the power to establish such rules of procedure for the orderly conduct of the public hearing as the circumstances of the consideration of each application warrant. During the public hearing, the applicant may be present in person and by counsel, and the applicant has the right to present evidence in support of his position and to cross examine adverse witnesses whose testimony is offered at the hearing. The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

1. The character of the land use of the property surrounding the property being considered.
2. The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
3. The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
4. The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
5. The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.

The minutes of the planning and zoning board shall specify the reasons for the recommendation of approval or denial of each application.

(d) Public hearing before board of county commissioners. At the public hearing before the planning and zoning board, the time and place of the public hearing of each application by the board of county commissioners shall be announced. The board of county commissioners, at the public hearing, shall deny or grant each application for amendment to the official zoning maps based upon a consideration of the recommendation of the planning and zoning board and those factors specified in subsection (c) of this section. The board of county commissioners shall have the right at the public hearing to deny or approve each application for amendment to the official zoning maps, regardless of whether the planning and zoning board has made a specific recommendation on such application. An additional board of county commission public hearing will be required for each industrial use seeking to locate within a Performance Overlay District (POD) unless the applicant seeking a POD for a shopping center has an industrial use/client already identified, then the approval of the POD and the use could occur concurrently at the same public hearing.

(e) Limitations on tabling and subsequent applications. No application for an amendment to the official zoning maps for a particular parcel of property, or part thereof, shall be tabled more than once by the planning and zoning board as a result of the action or request of the applicant. Further attempts by the applicant to table such application shall be deemed a withdrawal of the application, subject to the provisions and limitations of this subsection. No application for an amendment to the official zoning maps for a particular
parcel of property, or part thereof, shall be received by the zoning director until the expiration of six calendar months from the date of denial of an application for an amendment to the official zoning maps for such property or part thereof, provided, however, that the board of county commissioners may specifically waive the waiting period based upon a consideration of the following factors:

1. The new application constitutes a proposed zoning classification or conditional use of different character from that proposed in the denied application.

2. Failure to waive the six-month waiting period constitutes a hardship to the applicant resulting from mistake, inadvertence or newly discovered matters or considerations.

(f) Stay of enforcement proceedings. Any person accused of the violation of the provisions of this chapter where a zoning change or the granting of a conditional use permit would nullify the violation may apply to the planning and zoning board requesting such zoning change or conditional use permit. Such application shall stay all enforcement proceedings until such application is heard by the planning and zoning board and the board of county commissioners and a decision is rendered, unless the board of county commissioners specifically authorizes legal action to enforce this chapter. This stay of proceedings shall in no event be construed to allow completion of construction or continuation of any activity which has been cited for a violation of this Code. All such cited activities shall be specifically prohibited from continuing until further action by the board of county commissioners is taken which authorizes such activities, or until administrative or judicial proceedings authorize the continuance of such activities. If the cited prohibited activity is not ceased by the violator during the pendency of these proceedings, any stay of enforcement proceedings shall be lifted.

(g) At any time during the rezoning review process, including at the public hearing, the applicant may agree to a condition which restricts the use of the property under consideration to a specific use or range of uses permitted within the applicable zoning classification being applied for. In the event the board of county commissioners approves the imposition of such a condition, the rezoning resolution and the official county zoning map shall set forth the approved zoning classification and a notation indicating the specific uses for which approval has been granted.

(h) If indicated in the advertised notice for public hearing and, if based upon substantial and competent evidence, it is determined that the requested zoning classification should not be approved, the planning and zoning board may recommend and the board of county commissioners may approve a classification which is more intense than the existing classification, but less intense than the classification which was requested. The board may impose such a classification without the agreement of the applicant; however, if the applicant is not the owner, and the applicant was not given the authority to accept a lesser zoning, then the item is to be tabled to the following meeting for the owner to determine whether they are willing to withdraw the request with no additional expense to the owner.

(Code 1979, § 14-20.61; Ord. No. 96-48, § 1, 10-24-96; Ord. No. 97-49, § 4, 12-9-97; Ord. No. 98-12, § 4, 2-26-98; Ord. No. 2000-50, § 1, 10-31-00; Ord. No. 2001-65, § 1, 10-16-01; Ord. No. 06-39, § 1, 7-11-06)

State Law References: Zoning amendments, F.S. § 125.66(5), (6); penalty for ordinance violations, F.S. § 125.69.

Sec. 62-1152. Same--Amendments initiated by board of county commissioners.

(a) Procedure for initiation. On its own motion and without the consent of any owner of the affected property, the board of county commissioners may, by resolution, initiate a consideration of an amendment to the official zoning maps of any property within the county. The resolution shall describe the property to be
(b) Enactment procedure; notice. Enactment of ordinances or resolutions initiated by the board of county commissioners or its designee which rezone private real property shall be enacted pursuant to the following procedures:

(1) In cases in which the proposed rezoning involves less than five percent of the total land area of the county, the board of county commissioners shall direct its clerk to notify by mail each real property owner whose land the governmental agency will rezone by enactment of the ordinance or resolution and whose address is known by reference to the latest ad valorem tax records. The notice shall state the substance of the proposed ordinance or resolution as it affects that propertyowner, and shall set a time and place for one or more public hearings on such ordinance or resolution. The notice shall be given at least 30 days prior to the date set for the public hearing, and a copy of such notice shall be kept available for public inspection during the regular business hours of the office of the board of county commissioners. The board of county commissioners shall hold a public hearing on the proposed ordinance or resolution and may, upon the conclusion of the hearing, immediately adopt the ordinance or resolution.

(2) In cases in which the proposed rezoning involves five percent or more of the total land area of the county, the board of county commissioners shall provide for public notice and hearings as follows:

a. The board of county commissioners shall hold two advertised public hearings on the proposed ordinance or resolution. Both hearings shall be held after 5:00 p.m. on a weekday, and the first shall be held approximately seven days after the day that the first advertisement is published. The second hearing shall be held approximately two weeks after the first hearing, and shall be advertised approximately five days prior to the public hearing. The day, time and place at which the second public hearing will be held shall be announced at the first public hearing.

b. The required advertisement shall be no less than one-quarter page in a standard size or tabloid size newspaper, and the heading in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper of general paid circulation in the county and of general interest and readership in the community, not one of limited subject matter, pursuant to F.S. ch. 50. It is the legislative intent that, whenever possible, the advertisement shall appear in a newspaper that is published at least five days a week unless the only newspaper in the community is published less than five days a week. The advertisement shall be in the following form:

NOTICE OF ZONING CHANGE
The _name of local governmental unit_ proposes to rezone the land within the area shown in the map in this advertisement.

A public hearing on the rezoning will be held on _date and time_ at _meeting place_.

The advertisement shall also contain a geographic location map which clearly indicates the area covered by the proposed ordinance or resolution. The map shall include major street names as a means of identification of the area.

c. In lieu of publishing the advertisements as set out in this subsection, the board of county commissioners may mail a notice to each person owning real property within the area covered by the ordinance or resolution.

(c) **Conduct of hearing.** The public hearing before the planning and zoning board on a proposed amendment to the official zoning maps initiated by the board of county commissioners under this section shall be conducted in the manner and based upon the considerations specified in subsections 62-1151(c) and (d).

(Code 1979, § 14-20.62)


**Sec. 62-1153. Administrative waiver of setback requirements by zoning official.**

(a) In all residential zoning classifications, side, rear and front setbacks may be partially waived by the zoning official under the following conditions:

1. The waiver shall only apply to setbacks imposed by the applicable zoning classification or section 62-2123 pertaining to swimming pools and screened enclosures.
2. The waiver shall not exceed ten percent of the required minimum setback or setbacks as specified in subsection (a)(1), except as provided in subsection (a)(7).
3. The waiver shall not, in the opinion of the zoning official, have an adverse effect on the neighborhood or general welfare of the area.
4. The waiver shall apply only to the principal structure or an accessory structure.
5. Total structural coverage of the lot area shall not exceed 50 percent of the total lot area.
6. In the TRC-1 zoning category, the 50 percent structural coverage requirement shall not apply.
7. The setback waiver request may be considered up to 20 percent of one setback only if the request is the result of an error discovered during construction of a one-story residence under a valid building permit.

(b) Applicants for the administrative waiver of setback requirements shall submit a letter to the zoning official setting forth the specific request and the need therefor. The letter shall have the following
documents attached thereto:

(1) A signed affidavit from all abutting property owners who will be most directly affected by the requested waiver indicating no objection to the requested waiver of setback.

(2) Verification by certified survey of existing setbacks, and the percentage of the total structural coverage on the lot.

(c) Failure of the applicant to obtain signatures of all abutting property owners will require a public hearing before the board of adjustment for a variance. For the purposes of this section, the term "abutting" does not include lots that touch at only one point.

(d) Denial of the request for an administrative waiver under the provisions of this section may be appealed to the board of adjustment under the provisions of section 62-214.

(Code 1979, § 14-20.59(B); Ord. No. 93-17, § 1, 6-22-93; Ord. No. 96-07, § 1, 3-5-96; Ord. No. 09-10, § 1, 3-24-09)

Sec. 62-1154. Administrative waiver of lot size, width or depth requirements by zoning official.

(a) Pursuant to section 62-1188(6), the owner of a lot, parcel or tract of land may request a waiver of minimum lot size, width or depth if the lot does not meet the minimum size, width or depth required by the zoning classification or is inconsistent with the residential density designation of the comprehensive plan and the owner cannot prove nonconforming status. Application for this waiver shall meet the following criteria:

(1) The waiver shall not exceed ten percent of the required minimum lot size, width or depth as required in the specific zoning classification.

(2) The waiver shall not, in the opinion of the zoning official, be inconsistent with the general lot sizes in the neighborhood or have an adverse affect on the neighborhood or general welfare of the area.

(b) Applicants for the administrative waiver of lot requirements shall submit a letter to the zoning official setting forth the specific request and the need therefor. The letter shall have the following documents attached thereto:

(1) A signed affidavit from all abutting property owners indicating no objection to the requested waiver of lot size, width or depth requirements.

(2) Verification by certified survey of existing lot size and dimensions.

(c) Failure of the applicant to obtain signatures of all abutting property owners shall require a public hearing before the board of adjustment for a variance. For the purposes of this section, the term "abutting" does not include lots that touch at only one point.

(d) Denial of the request for an administrative waiver under the provisions of this section may be appealed to the board of adjustment under the provisions of section 62-214.
Sec. 62-1155. Zoning approval for business tax receipt; approval of home occupations.

(a) **Zoning approval for business tax receipt.** Whenever any person, firm or corporation requests a zoning verification from the zoning division in order to obtain a business tax receipt, the zoning official is authorized to require adequate proof of ownership of the property in question. The information required is that deemed necessary by the zoning official to ensure that the proposed business will operate from the location given by the applicant. Such documentation may include copies of the deed to the property, a letter from the owner of record consenting to the applicant's proposed business on the owner's property, and copies of lease agreements, contracts or other pertinent data. Any person falsifying documents or providing false information for the purpose of obtaining zoning approval for a business tax receipt shall be subject to prosecution and a fine not to exceed $500.00 or imprisonment in the county jail for a period not to exceed 60 days, or both such fine and imprisonment.

(b) **Approval of home occupations.**

(1) For purposes of this section, a home occupation is defined as any occupation where work is performed in the home in connection with which there is no commodity sold upon the premises, no more than one person employed other than a member of the immediate family residing upon the premises, and no mechanical equipment used except such as is normal in a residence or might be used incidental to hobbies (such as small drills, sanders, etc.). A nonilluminated window or wall sign of one square foot or less may be permitted. Such home occupations are permitted in all of the residential zoning classifications. The principal use and appearance of the structure shall continue to be that of a residence.

No home occupation shall produce traffic, noise, smoke, dust, odors, vibration, heat, glare, fumes, electrical interference or other nuisance, in amounts detectable to normal sensory perception, beyond that which is common to a residential area. No toxic or combustible materials shall be stored on site. All work activities and all storage of products, equipment or materials shall be conducted entirely from inside an interior space.

Home occupations include architects, accountants, dental lab technicians, engineers, real estate brokers, real estate appraisers, interior decorators, fishing guides, computer generated work such as graphics, programming, desktop publishing and typesetting; domiciliary activities, insurance claim adjusters and other professional services, sales promotions and demonstrations of personal items that are identified with single-family uses, cottage industries as defined below, and other similar occupations as determined by the zoning official, providing that in no way to be construed as wholesale or warehousing.

Occupations such as doctors, chiropractors, massage therapists, home care nurses, psychologists, psychiatrists, therapists and veterinarians are permitted only if no patients are treated in the home. Such occupations shall make house calls only. Lawn care services are permitted as home occupations provided all equipment is stored in an enclosed structure. Landscaping, bail bondsmans, distributorships, contractors and the building trades shall not be considered home
occupations.

"Cottage industries" are defined as small scale or hobby manufacturing, assembly or production of handmade goods or products, on a scale accessory to and compatible with residential use, using machinery or equipment commonly found in the home or in a residential garage.

The zoning official may require a public hearing before the planning and zoning board or a favorable written petition from all property owners within 500 feet of the lot or parcel when in doubt of interpretation of the definition set out in this subsection with respect to any proposed occupation. Any home occupation that generates traffic through visitation in volumes that would require an off-street parking area for more than two motor vehicles is prohibited.

(2) A home occupation permit may be issued administratively or after public hearings as specified in subsection (b)(1). The public hearings shall require an application fee on the part of the applicant. The amount of such fee shall be set by resolution of the board of county commissioners.

Each license will be reviewed and renewed annually at the same time that business tax receipts are renewed. The grant or renewal of a license shall not be deemed to vest or otherwise entitle the licensee to continue a home occupation or cottage industry that is not in compliance with subsection (b)(1). In the event this section is repealed or amended, home occupations or cottage industries shall not be deemed to have vested status.

The application requirements shall be those specified in section 62-1151 for amendments to the official zoning map together with a description of the home occupation requested. The public hearing requirements shall be those specified in section 62-1151 for amendments to the official zoning map, except that the planning and zoning board shall make the final determination as to permissibility of the home occupation and no hearing shall be required before the board of county commissioners.

At the public hearing, the planning and zoning board may impose reasonable conditions to protect the surrounding community from adverse effects of the home occupation.

(3) Home occupations performed on parcels of land consisting of five acres or more may have one or more of the criteria waived by the zoning official, except that there shall be no waiver granted to the requirement that no more than one person be employed other than a member of the immediate family residing upon the premises.

(4) In all residential zoning classifications, where an existing single-family residential structure in excess of 8,000 square feet is located, such structure may be utilized for one or more of the following activities as a profit-making venture under this section, after a public hearing: civic fundraising events, private parties/dances, weddings, political fundraising events, civic and fraternal organizations functions or meetings. A public hearing shall be required as set forth in subsection (b)(1) of this section. The application for such public hearing shall include a list and description of all activities requested, and a site plan indicating the structure and the grounds, showing provision for parking areas commensurate with the activities specified.
(5) If at any time it is determined that the character of the home occupation has changed such that it is no longer within the scope and intent as originally approved, is not incidental to the primary use of the home as a residence, or is no longer compatible with the character of the neighborhood, as evidenced by code enforcement determination, the terms of the zoning use permit shall be deemed violated and the business tax receipt may be revoked administratively and deemed void. Upon such an occurrence, renewal of the zoning use permit is possible only by planning and zoning board action.

(Code 1979, § 14-20.39; Ord. No. 94-27, § 1, 12-12-94; Ord. No. 96-13, § 1, 3-26-96; Ord. No. 2002-61, § 1, 12-5-02; Ord. No. 2007-003, § 12, 13, 2-20-07)

Editors Note: Ord. No. 2007-003, §§ 12, 13, adopted February 20, 2007, changed the title of § 62-1155 from “Zoning approval for occupational license; approval of home occupations” to “Zoning approval for business tax receipt; approval of home occupations.”

State Law References: Penalty for ordinance violations, F.S. § 125.69.

Sec. 62-1156. Issuance of building permit for property abutting end of road right-of-way.

A building permit may be issued to property abutting the termination of a dedicated and accepted road right-of-way, regardless of whether the frontage is less than the required minimum frontage on a dedicated and accepted road right-of-way, under the following conditions:

(1) There must be compliance with all other provisions of this article or related sections of this Code;

(2) The frontage on the road right-of-way must be at least 50 percent of the width of the road right-of-way; and

(3) A turnaround must be constructed at the end of the road right-of-way by the property owner.

(Code 1979, § 14-20.43)

Sec. 62-1157. Submission of binding development plan in support of request for change of zoning or conditional use permit.

An applicant for a change of zoning or a conditional use permit may voluntarily submit a binding development plan in support of such change of zoning or conditional use permit.

(1) Basic requirements for a binding development plan are as follows:

a. The plan shall provide a legal description of the land subject to the restriction.

b. Where a concurrency issue is addressed by the binding development plan, the plan shall specify a time certain for performance by the property owner.

c. The plan shall provide a written description of the particular conditions, restrictions or requirements placed on the property prior to development.

d. The binding development plan shall also include a conceptual graphic representation,
when applicable, of the proposed development, depicting all restrictions stipulated in
subsection (1)c of this section.

e. Where a binding development plan is submitted, approval of the zoning action shall be
contingent upon the presentation of a final and complete binding development plan and
acceptance of the plan by the board of county commissioners.

f. If appropriate, the document should state the level of development permitted. The
document shall specify that no further development shall be permitted without a waiver
or release of the restrictions by the county. Any restriction stipulated in the binding
development plan shall not be less restrictive than requirements of existing codes and
regulations.

g. The document shall be recorded by the applicant in the public records of the county, and
a certified copy of the recorded document shall be supplied to the zoning division within
120 days of approval by the board of county commissioners. Approval of the zoning
action is not effective until such criteria are satisfied. If the applicant fails to record the
binding development plan prior to the expiration of 120 days from the date of approval
by the board of county commissioners, then the application will be considered to have
been withdrawn.

(2) Before entering into, amending or revoking a binding development plan, or amending, revoking
or removing an existing binding site plan where rezoning is not also under consideration, two
public hearings shall be held. The first public hearing shall be held by the local planning agency,
and the second public hearing shall be held by the board of county commissioners. The notice
requirements for rezoning of property contained in section 62-1151 shall apply. However, the
notice shall describe generally the proposed binding development plan or the proposed
amendment to the binding development plan rather than the proposed amendment to the official
zoning map which is referenced in section 62-1151.

(3) The public hearings described in subsection (2) of this section shall be conducted and the item
considered as required in section 62-1151 and the 1988 county comprehensive plan, as amended.
However, the review shall be of the proposed binding development plan or the proposed
amendment to the binding development plan rather than the proposed zoning classification
referred in section 62-1151.

(4) Existing binding site plans shall be treated as binding development plans insofar as they
are consistent with the 1988 county comprehensive plan, as amended, and more restrictive
ordinances of the county, and the plans shall continue to be binding on the applicant and his
assigns, heirs and successors in title or possession of the lot, tract or parcel of land. However, at
the time such binding site plans are amended, the plan shall be converted to the form of the
binding development plans required under this section.

(Code 1979, § 14-20.23; Ord. No. 98-56, § 1, 11-30-98)
Cross References: Business tax, § 102-26 et seq.

Sec. 62-1158. Certified survey requirement.
An applicant for a building permit, variance, or other administrative approval may be required to submit a certified survey prepared by a professional land surveyor, including but not limited to scaled fully dimensioned plot plans, boundary survey or as-built survey, to establish compliance with the county's zoning and land development regulations. 
(Ord. No. 2007-40, § 1, 8-21-07)


Subdivision II.

Nonconforming Uses

Sec. 62-1181. Definition.

For the purposes of this subdivision, the term "nonconforming use" is defined as the use of land or structures that was lawful prior to the effective date of the ordinance from which this article is derived or the county comprehensive plan, or the effective date of any amendments thereto, but is not now permitted within the applicable zoning classification or is not permitted under any provisions of this article or the county comprehensive plan or any amendment thereto. In order for a use of land or structures to be included within such definition, such use must have been permanent and continuous prior to the effective date of the ordinance from which this article is derived or the effective date of any amendment to this article. The casual, intermittent, temporary or illegal use of land or structures prior to the effective date of the ordinance from which this article is derived or the effective date of any amendment to this article shall not be sufficient to qualify such use for the privileges of this subdivision.
(Code 1979, § 14-20.38(A))

Cross References: Definitions generally, § 1-2.

Sec. 62-1182. Continuation generally; enlargement, expansion or modification.

(a) The use of land or structures qualifying as a nonconforming use as defined in this subdivision shall not be:

(1) Enlarged, extended, increased or expanded to occupy a greater area of land than was occupied upon the effective date of the ordinance from which this article was derived or the effective date of any amendment to this article, whichever date rendered such use nonconforming. However, any conforming structure on a substandard lot may be expanded to occupy a greater land area provided such expansion complies with all setback requirements and provided such expansion is not for living area.

(2) Reestablished if such nonconforming use of land or structures ceases or is discontinued for a period of 180 consecutive days, or for 18 cumulative months during any three-year period. However, nonconforming residential structures in residential zoning classifications and the GU classification may be reestablished.

(3) Enlarged, extended, increased or expanded by the erection of any additional structure that is not permitted in the applicable zoning classification or not permitted under any provision of this
article. However, on parcels of five acres or more devoted to nonconforming agricultural use, supporting structures of an agricultural nature may be erected. Such structures shall meet all setback requirements of the agricultural zoning classification.

(b) In addition to the provisions of subsection (a) of this section, structures qualifying as a nonconforming use as defined in this subdivision shall not be:

(1) Moved in whole or in part to any portion of the lot or parcel not occupied by such structures upon the effective date of the ordinance from which this article is derived or the effective date of any amendment to this article, whichever date rendered such use nonconforming.

(2) Enlarged, extended, increased or expanded in any manner unless such enlargement, extension, increase or expansion is specifically in conformity with the provisions of this article and does not increase the nonconformity of such use. Nothing contained in this subsection shall be construed to prohibit the ordinary repair and maintenance of nonconforming structures provided such repair does not increase the cubic content of the structures; result in the enlargement, extension, increase or expansion of the nonconforming use; or result in a cost of repair and maintenance in excess of 50 percent of the fair market value of the structures. Fair market value for the purposes of this section shall be deemed the valuation of such structure by the county property appraiser in his assessment for levying of ad valorem taxes for the year of the intended repair or maintenance.

(3) Rebuilt, repaired or replaced if such structures are destroyed or damaged by any cause and such damage exceeds 50 percent of the fair market value of such structure. Fair market value for the purpose of this section shall be deemed the valuation of such structure by the county property appraiser in his assessment for the levying of ad valorem taxes for the tax year in which such damage was sustained, and the estimate of the damage shall be established by the building official of the county. Except, condominium, duplex and single-family residential structures which are inconsistent with the comprehensive plan's future land use map series, or are nonconforming structures in residential and GU zoning classifications may be rebuilt at the original square footage if destroyed by fire, wind, flooding or any other similar act of God resulting in destruction of the structure beyond 50 percent of the fair market value. Should such structure be rebuilt, it shall either approach or, preferably, meet all setback requirements of the zoning classification if possible. This provision is not intended to apply where natural deterioration of the structure results in damage exceeding 50 percent of the fair market value of the structure or renders such structure unsuitable for human habitation pursuant to chapter 22 or the current Standard Housing Code as adopted by the board of county commissioners.

(4) Moved to any parcel of land not occupied by such structure upon the effective date of the ordinance from which this article is derived or the effective date of any amendment to this article, whichever date rendered such use nonconforming.

Structures, the use of which conforms with the zoning classification, but which are nonconforming due to setback, may be enlarged or expanded if the enlargement or expansion meets the required setbacks of the specific zoning classification.

(Code 1979, § 14-20.38(B), (C); Ord. No. 93-18, § 1, 6-22-93; Ord. No. 95-56, § 1, 12-12-95; Ord. No. 96-16, § 1, 3-28-96)
Sec. 62-1183. Abandonment.

If any nonconforming use of land or structures is abandoned or discontinued for a period of 180 consecutive days or for 18 cumulative months during any three-year period, the land or structure shall thereafter only be put to a use specifically in conformity with the provisions of the applicable zoning classification and any other provision of this article or amendment to this article, and the privileges of this subdivision shall be deemed forfeited for the land or structures. This provision shall not apply to any nonconforming residential structure in a residential or GU zoning classification, or to an agricultural use which has been seasonally discontinued as part of an on-going agricultural operation.
(Code 1979, § 14-20.38(D); Ord. No. 95-56, § 2, 12-12-95)

Sec. 62-1184. Discontinuation on damage to structure.

If any nonconforming structure is destroyed or damaged by any cause and such damage exceeds 50 percent of the fair market value of such structure, such structure shall thereafter only be put to a use specifically in conformity with the provisions of the applicable zoning classification and any other provision of this article or amendment to this article, and the privileges of this subdivision shall be deemed forfeited for such structure. Fair market value, for the purposes of this section, shall be deemed the valuation of such structure by the county property appraiser in his assessment for levying of ad valorem taxes for the tax year in which such damage was sustained. Exceptions to this section shall be as provided in section 62-1182(b)(3).
(Code 1979, § 14-20.38(E))

Sec. 62-1185. Discontinuation of land uses not having principal structure.

Any nonconforming use of land without a principal structure, including but not limited to use for storage of building supplies, unoccupied mobile homes, machinery, junk or vehicles, use for commercial animal purposes, and other similar uses, shall be discontinued within three years from the effective date of the ordinance from which this article is derived, or the effective date of any amendment to this article, whichever date rendered such use nonconforming. This provision shall not include nonconforming agricultural land uses.
(Code 1979, § 14-20.38(F); Ord. No. 95-56, § 3, 12-12-95)

Sec. 62-1186. Nonconforming mobile home parks.

Regardless of zoning classification, the replacement of a mobile home in a mobile home park that is nonconforming shall not be considered an enlargement, expansion, increase or extension of a nonconforming use and shall be permitted subject to the following conditions:

(1) Replacement or initial placement of a mobile home on a mobile home site pursuant to an approved site development plan, where the site development plan was filed and all applicable fees paid prior to September 8, 1988, shall be permitted, provided that a building permit is obtained prior to the placement of the unit.

(2) All other nonconforming mobile home parks shall be allowed to replace units based upon the following criteria:
a. A permit from the county building division shall be obtained prior to the replacement of any existing mobile unit.

b. A permit shall not be issued for a replacement unit until a dimensioned drawing on a boundary survey for the entire park is submitted to the land development division, identifying, locating and numbering all structures and mobile units. The boundary survey shall accurately reflect the current boundaries of the property. The property owner shall submit an affidavit attesting that the information reflected on the dimensioned drawing is true and correct to the best of his knowledge.

c. The minimum size for all replacement units shall be 500 square feet.

d. Recreational vehicles, pickup coaches, camping trailers, tents and other forms of temporary housing shall not be permitted unless the park has those amenities needed to ensure public health and safety as set forth in state statutes and Florida Administrative Code.

e. Replacement mobile homes and all extensions thereto shall be set back ten feet from all other structures and mobile homes, 25 feet from all public rights-of-way, three feet from the pavement edges of private roads within the park and 15 feet from the property lines of the park. Where the private road is not paved, the three-foot setback shall be measured from the edge of the road as shown on the approved survey or dimensioned drawing.

f. Existing parks which are nonconforming by design may only be extended, expanded or enlarged within the TR-3 zoning classification where redesign of the park will be in substantial conformance with the TR-3 requirements and, at a minimum, with the requirements of this section. Site plans of the existing park and the proposed redesign shall be submitted to the county for approval prior to any action or redesign. The creation of new mobile home sites resulting in the expansion, enlargement or extension of the existing park onto land not encompassed within the developed and zoned area depicted on the survey or dimensioned drawing shall not be permitted.

Notwithstanding the provisions of subsections (1) and (2) of this section, the replacement of a mobile home where the future land use map of the county comprehensive plan does not permit residential development shall be prohibited.

(Code 1979, § 14-20.38(G); Ord. No. 97-49, § 5, 12-9-97; Ord. No. 99-07, § 6, 1-28-99)

Sec. 62-1187. Replacement of trailer or mobile home not located in mobile home park.

The replacement of a trailer or mobile home which is not located within a mobile home park as provided in section 62-1186, used for residential purposes, that is a nonconforming use shall be deemed an enlargement, expansion, increase or extension of a nonconforming use and shall be prohibited under the provisions of this subdivision.

(Code 1979, § 14-20.38(H))

Sec. 62-1188. Nonconforming lots of record.
In any zoning classification in which dwellings, structures or buildings are permitted, notwithstanding limitations imposed by other provisions of the chapter, such dwellings, structures, buildings and customary accessory buildings as are permitted may be erected on any lot of record, provided that such lot of record met the requirements of the county comprehensive plan and zoning regulations at the time such lot was recorded or platted. Uses and buildings shall not be established on lots and parcels not qualifying as nonconforming lots of record unless relief is obtained through the board of adjustment, provided the zoning is consistent with the comprehensive plan. Nonconforming lots are subject to the following criteria:

(1) **Single family and duplex uses**: Buildings and uses may be established on such lots, provided the lot has a width of not less than 50 feet, a depth of not less than 75 feet, and an area of not less than 5,000 square feet.

(2) **All other uses**:

   a. **Multifamily, commercial and industrial uses**: Unless otherwise specified in this section, buildings and uses may be established on such lots, provided unless the lot has a width of not less than 60 feet, a depth of not less than 75 feet, and a lot area of not less than 6,000 square feet.

   b. **Mobile home uses (TRC-1, TR-1 and TR-2 zoning classifications)**: Buildings and uses may be established on such lots, provided the lot has a lot width of not less than 50 feet and a lot area of not less than 4,000 square feet. The setback requirements that were in existence at the time of the platting of the lot shall control for the purpose of setback requirements for the nonconforming lot.

   c. **Merritt Island Redevelopment Area**: Buildings and uses may be established on such lots, provided the lot has a width of not less than 50 ft., a depth of not less than 75 ft., and an area of not less than 5,000. This paragraph shall be limited to Plat Book 2, Page 78 (Merritt Winter Home Development) north of State Road 520, Plat Book 4, Page 69 (Sunnyside Tract Map 2) east of North Tropical Trail and Plat Book 5, Page 48 (Merritt Park Place).

(3) The provisions of subsections (1) and (2) of this section shall apply even though such lot fails to meet the requirements for lot area or lot dimensions, or both, that are generally applicable in the particular zoning classification, provided that setback requirements and other requirements not involving lot area or lot dimensions, or both, of the lot shall conform to the current regulations for the zoning classification in which such lot is located, except for the setback provisions for nonconforming lots in the TRC-1, TR-1 and TR-2 zoning classifications as set forth in subsection (2) of this section.

(4) If two or more lots or a combination of lots and portions of lots with contiguous frontage in single ownership are of record, and if all or part of the lots do not meet the requirements for lot width, lot area and lot depth as established in this section, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter. Where two or more nonconforming lots of record are combined for the purpose of requesting a new zoning classification which
would make the combined lots conforming as one parcel, the lots shall not be redivided subsequent to the rezoning except where such division would create lots consistent with all other provisions of the comprehensive plan and zoning regulations.

(5) Nonconforming lots also include those lots which were consistent with the comprehensive plan and zoning regulations at the time they were established and:

a. Are recorded in the official record books or plat books of the county;
b. Existed pursuant to a fully executed but unrecorded deed; or
c. Existed pursuant to a valid contract for deed or contract for purchase.

A lot, parcel or tract of land which is zoned AU, agricultural use, and is less than 2.5 acres in size may also be determined to be nonconforming if the lot, parcel or tract of land was recorded in a survey book prior to March 6, 1975. A lot, parcel or tract of land which is zoned GU, general use, and is less than five acres in size may also be determined to be nonconforming if the lot, parcel or tract of land was recorded in a survey book prior to May 20, 1975.

(6) The owner of a lot which is smaller than the minimum size required by this article or the comprehensive plan, and who cannot prove nonconforming status, may make application for a waiver of up to but not exceeding ten percent of the required lot size pursuant to section 62-1154.

(7) If a vacant lot becomes a nonconforming lot of record due to a comprehensive plan amendment which reduces its development potential, but the lot is undersized for the zoning classification necessary to bring its zoning into compliance with the comprehensive plan, then the lot may be administratively rezoned to a zoning classification with which its size complies regardless of that classification's relationship to the comprehensive plan, as long as the new classification does not permit more than one residential unit.

Where a vacant lot is administratively rezoned pursuant to this provision, such lot shall be permitted to build to the setbacks permitted by the zoning classification held prior to the administrative rezoning.

(8) Any nonconforming lot of record may be considered for rezoning to other zoning classifications consistent with the comprehensive plan.

(9) Any parcel having an existing use, pre-existing use (PEU), or an otherwise vested use that was conforming with its zoning classification at the time of a comprehensive plan adoption or amendment shall not be considered inconsistent with the future land use map series, unless so determined by the board of county commissioners pursuant to the criteria established in the future land use element of the comprehensive plan. The parcel will not be administratively rezoned and its zoning classification will be retained unless otherwise directed by the board of county commissioners pursuant to section 62-1152, or as provided below:

a. If the existing use, pre-existing use (PEU), or an otherwise vested use is of an intensity
that is consistent with a more restrictive zoning classification, then the parcel may be administratively downzoned to that more restrictive classification. Such classification shall be considered consistent with the future land use map, except as provided in subsection b. below.

b. The property owner may make use of the retained or downzoned classification pursuant to the regulations of this chapter unless and until he chooses to request and receives an amendment to the parcel's zoning consistent with the comprehensive plan.

(Code 1979, § 14-20.38(I); Ord. No. 98-27, § 1, 4-30-98; Ord. No. 98-40, § 1, 7-30-98; Ord. No. 99-25, § 1, 4-8-99; Ord. No. 2000-32, § 1, 5-9-00; Ord. No. 2005-03, § 1, 1-25-05)

Sec. 62-1189. Verification of nonconforming use status.

If a person seeks verification of nonconforming use status under this subdivision, the person shall provide to the zoning director such deeds, affidavits, photographs and other available documents as deemed necessary by the zoning division director for his administrative determination of nonconforming use status and compliance with the provisions of this subdivision. Where, upon review of the submitted documents, the zoning division director deems the documents insufficient to administratively approve and verify the nonconforming use status of the subject property or compliance with the provisions of this subdivision, the zoning director is authorized to schedule a hearing on the application for verification of nonconforming use status before the planning and zoning board for its consideration, as if the application were for an amendment to the official zoning map and following the procedures set forth in section 62-1151.

(Code 1979, § 14-20.38(J))

Sec. 62-1190. Procedure for mitigating a nonconformity.

(a) Many nonconformities have been in neighborhoods for a long time. Some may have only recently become nonconforming. In many instances, the use is an integral part of the neighborhood's function. The purpose of zoning is to protect neighborhoods. Therefore, if the community is comfortable with the particular use or structure, the classification "nonconformity" may not be what the community desires. Under such conditions, the use may be mitigated and made conforming to remove the stigma typically associated with the designation as a nonconforming use. This section's provisions for nonconforming uses, structures, or lots provide the procedures for making a nonconformity conform.

(b) Any nonconforming lot, use, or structure may apply for a conditional use permit for the lot, use, structure, or sign.

(c) In addition to the criteria for a conditional use approval set forth in section 62-1901, the applicant shall meet the following requirements:

(1) Demonstrate that the use, as conducted and managed, has minimal noncompatibilities that have been integrated into the neighborhood's function. Factors to evaluate this criteria include that:

a. The neighborhood residents patronize or are employed at the use (for nonresidential uses).
b. Management practices eliminate problems such as noise, waste materials, competition for on-street parking, or similar conflicts.

c. The use has a minimal history of complaints (including police or fire calls) against it.

d. The use has been maintained in good condition, or that the nonconformity represents a disincentive for such maintenance.

(2) The planning and zoning board shall review the application and recommend in writing, to the board of county commissioners, any conditions relative to the expansion of bufferyards, landscaping, or other site design. The review may also contain use limitations believed necessary to address any concerns that as a conforming use it might become a nuisance.

(3) The planning and zoning board shall submit to the board of county commissioners a list of all the property's nonconforming conditions.

(4) The planning and zoning board shall first determine that the use is generally integrated into the neighborhood and has minimal adverse impacts. Upon that finding, the LPA may recommend to the board of county commissioners, conditions as it deems necessary to ensure that the use remains a good neighbor.

(5) Sign mitigation shall not be permitted in any circumstance.

d. Upon board of county commission approval of a conditional use permit, the county manager or his/her designee shall have a notation placed on the official zoning maps stating that the property is a conditional use. Granting the conditional use makes the use, lot, or structure conform to the specifics of the conditional approval, eliminating the nonconformance.

(Ord. No. 2000-07, § 9, 1-25-00)

Editors Note: Prior to the reenactment of § 62-1190 by Ordinance No. 2000-07, Ordinance No. 95-47, § 1, adopted October 19, 1995, repealed § 62-1190 in its entirety. Formerly, such section pertained to preexisting use designation and derived from § 14-20.38(K) of the 1979 Code; Ord. No. 93-18, § 2, 6-22-93.

Sec. 62-1191. Amortization of pre-existing resort dwellings.

(a) Notwithstanding other provisions of subdivision 11, pre-existing resort dwellings shall cease operating as resort dwellings within six months from the effective date of this division, and shall thereafter be used in a manner consistent with the zoning classification applicable to the property where the resort dwelling is located. Pre-existing resort dwellings for the purpose of this section are those resort dwellings that have an active state permit or license for a resort dwelling from the department of business and professional regulation (DBPR) which was issued prior to the effective date of this division, or which paid state sales taxes for a transient rental prior to the effective date of this division. Uses that claim to be pre-existing resort dwellings shall qualify by providing a copy of their current DBPR permit or license or proof of paid state sales tax prior to the planning and zoning office prior to issuance of a business tax receipt by the county.

(b) Appeal process.

(1) Owners of pre-existing resort dwellings who cannot reasonably recover their allowable
unrecoverable costs within six months after the enactment of the ordinance may file an appeal to
a special magistrate appointed by the board of county commissioners on the grounds that the six-
month amortization period is insufficient with respect to an individual resort dwelling. Such
appeal shall be filed within 90 days from the effective date of this ordinance with the planning
and zoning office.

(2) The amortization period is to be determined by the following formula: Allowable unrecoverable
costs divided by annual resort dwelling income equals the number of amortization years or
fraction thereof.

(3) The presumed value for allowable unrecoverable costs is $6,000.00. The presumed value for
estimated annual income is $12,040.00. The resulting amortization period would be 0.5 years or
six months. In any appeal, the property owner has the burden of proof by preponderance of the
evidence that the presumed values for allowable unrecoverable costs and estimated annual
income are not reasonable as applied to an individual resort dwelling.

(4) Allowable unrecoverable costs means those costs that are specifically related to managing a
resort dwelling. Allowable unrecoverable costs must be costs incurred for the sole use in the
resort dwelling. Such cost include but are not limited to: costs associated with state licensure
(safety signs, fire extinguishers, etc.); kitchenware (silverware, pots, pans, dishes, etc); linens
and bedding (tablecloths, sheets, pillows, etc) and furniture (beds, couches, chairs, etc). Such
costs must have accrued within five years before the effective date of this division. Additionally,
such costs must be depreciated 20 percent per year.

(5) Allowable unrecoverable costs does not mean costs that add value to the property despite its use.
Such ineligible costs include but are not limited to: roofing repairs; landscaping, including
paying; pools, hot tubs and jacuzzis, room expansions; remodeling; and air conditioning systems.

(6) Annual resort dwelling income means the income received from rents of the resort dwelling
minus expenses incurred solely for operation of the resort dwelling. Expenses for operating the
resort dwelling include but not limited to: mortgage interest for actual rental periods;
commission to a rental agent; utilities, ordinary maintenance (not major repair); and cleaning
services. Expenses not directly related to the operation of the resort dwelling such as mortgage
interest for non-rental periods are not to be included in the calculation of resort dwelling income.

(7) In determining the amortization period, the special magistrate shall consider any bona fide
contracts enter into before the enactment of the ordinance for violation with the Impairment of
Contracts Clause, Article I, Section 10 of the Florida Constitution and adjust the amortization
period accordingly up to an additional six months.

(Ord. No. 05-27, § 5, 5-19-05; Ord. No. 2007-003, § 15, 2-20-07)


DIVISION 3.

ZONING MAPS AND CLASSIFICATIONS GENERALLY
Sec. 62-1251. Official zoning maps.

(a) The zoning classifications and special or conditional use designations on the official zoning maps within a zoning classification shall be restricted by the provisions of this chapter and the other land use regulations in force within the applicable zoning classification. The use of all land designated a special use on the official zoning maps shall be restricted by the provisions of this chapter and the conditions placed on the special or conditional use by the board of county commissioners.

(b) The zoning official of the county shall be custodian of the official zoning maps.

(c) The official zoning maps shall be amended by the zoning official within ten working days from the date of action by the board of county commissioners to reflect any amendments to the zoning classification, conditional use designation or designated special use applicable to any parcel of land within the county.

(d) The official zoning maps shall be amended only by resolution of the board of county commissioners under the procedure established in section 62-1151 or 62-1152. Each individual amendment shall be by a numbered resolution.

(e) No amendment to the official zoning maps shall be effective until the amendment has been designated and recorded by the zoning official on the official zoning maps. The official zoning maps shall be the final authority on the use restrictions applicable to any particular parcel of land.

(f) It shall be unlawful for any person other than the zoning official or his designated representative to alter, deface or write upon the official zoning maps of the county. Any person found guilty of violating this section shall be deemed guilty of an offense and shall be punished by a fine not exceeding $500.00 or by imprisonment in the county jail for a period not to exceed 60 days, or by both such fine and imprisonment. (Code 1979, § 14-20.57; Ord. No. 97-49, § 6, 12-9-97)

State Law References: Penalty for ordinance violations, F.S. § 125.69.

Sec. 62-1252. Interpretation of boundaries.

Where uncertainty exists as to the boundaries of zoning classifications 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 following railroad lines shall be construed to be midway between the main tracks.

(4) 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.

(5) Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (4) of this section shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by use of the scale on the zoning map.

(6) In cases where the actual location of physical features varies from that shown on the official zoning map, or in other circumstances not covered by subsections (1) through (5) of this section, the board of county commissioners shall interpret the zoning classification boundaries.

(7) All areas within the unincorporated areas of the county which are under water and are not shown as included within any zoning classification shall be subject to all of the regulations of the zoning classification which immediately adjoins the water area. If the water area joins two or more zoning classifications, the boundaries of each zoning classification shall be construed to extend into the water area in a straight line until they meet the other zoning classification.

(Code 1979, § 14-20.58)

Sec. 62-1253. Adoption of zoning classifications.

The use of all land within the unincorporated areas of the county shall continue to be controlled and restricted by the provisions of the zoning classification designated for such land on the official zoning maps. The term "zoning classification," as used in this section, is intended to mean the section of each zoning classification incorporated by reference in their entirety or in an amended form hereinafter.

(Code 1979, § 14-20.05; Ord. No. 99-07, § 7, 1-28-99)

Sec. 62-1254. Penalty for unauthorized use of land.

It shall be unlawful for any person to use any land in a manner not specifically permitted in the zoning classification applicable to such land, not permitted under the conditions applicable to a designated special use, or not permitted by a conditional use authorized under the provisions of this chapter, or contrary to any provision of this chapter. Any person found guilty of violating this section shall be deemed guilty of an offense and shall be punished by a fine not exceeding $500.00 or by imprisonment in the county jail for a period not to exceed 60 days, or by both such fine and imprisonment. Enforcement of this section may also be sought through the county code enforcement board.

(Code 1979, § 14-20.06)

State Law References: Penalty for ordinance violations, F.S. § 125.69.

Sec. 62-1255. Establishment of zoning classifications and consistency with comprehensive plan.

(a) Zoning classifications established. Within the unincorporated areas of the county, the following zoning classifications are hereby established, such zoning classifications being created under this article or being zoning classifications incorporated by reference under this article:

(1) Unimproved, agricultural and residential zoning classifications:

   a. General use zoning classification, GU.
b. Productive agricultural zoning classification, PA.

c. Agricultural zoning classification, AGR.

d. Agricultural residential zoning classification, AU.

e. Rural estate use residential zoning classification, REU.

f. Rural residential zoning classification, RR-1.

g. Suburban estate residential use zoning classification, SEU.

h. Suburban residential zoning classification, SR.

i. Estate use residential zoning classifications, EU, EU-1 and EU-2.


m. Single-family attached residential zoning classifications, RA-2-4, RA-2-6, RA-2-8 and RA-2-10.

n. Residential-professional zoning classification, RP.

(2) Multiple-family residential zoning classifications:

a. Low-density multiple-family residential zoning classifications, RU-2-4, RU-2-6 and RU-2-8.

b. Medium-density multiple-family residential zoning classifications, RU-2-10, RU-2-12 and RU-2-15.

c. High-density multiple-family residential zoning classification, RU-2-30.

(3) Mobile home residential and recreational vehicle park zoning classifications:

a. Rural residential mobile home zoning classifications, RRMH-1, RRMH-2.5 and RRMH-5.

b. Single-family mobile home zoning classifications, TR-1 and TR-1-A.

d. Mobile home park zoning classification, TR-3.

e. Single-family mobile home cooperative zoning classification, TRC-1.

f. Recreational vehicle park zoning classification, RVP.

(4) Planned unit development zoning classifications:

a. Planned unit development zoning classification, PUD.

b. Residential planned unit development zoning classification, RPUD.

(5) Commercial zoning classifications:

a. Restricted neighborhood retail commercial zoning classification, BU-1-A.

b. General retail commercial zoning classification, BU-1.

c. Retail, warehousing and wholesale commercial zoning classification, BU-2.

(6) Tourist commercial and transient commercial zoning classifications:


(7) Industrial zoning classifications:

a. Planned business park zoning classification, PBP.

b. Planned industrial park zoning classification, PIP.

c. Light industrial zoning classification, IU.

d. Heavy industrial zoning classification, IU-1.

(8) Special zoning classifications:

a. Environmental area zoning classification, EA.

b. Government managed land zoning classification, GML.

c. Institutional zoning classification, IN.

(b) Consistency of zoning classifications with comprehensive plan. The 1988 county comprehensive plan establishes specific future land use designations, which are depicted on the future land use map within the
future land use element. The future land use element also has policies and criteria which delineate how the various designations shall be applied. The zoning classifications depicted on the official zoning map of the county shall be consistent with the future land use map and the policies and criteria relating to the application of future land use designations on the future land use map.

(1) Future land use designations.

a. Residential. Residential uses include single-family detached, single-family attached, multiple-family, recreational vehicle park and mobile home developments.

1. Residential 30:
   
   A. Maximum, unless otherwise provide herein: 30 units per acre.

   B. Merritt Island redevelopment area: Development containing a mixture of uses: 50 units per acre per policy 1.3(B)(2) of the Future Land Use Element.

   C. Redevelopment district: 37.5 units per acre per policies 1.3(B)(1) and 11.2(F) of the Future Land Use Element.

   D. Planned unit development: 37.5 units per acre per policy 1.3(C) of the Future Land Use Element.

2. Residential 15:

   A. Maximum, unless otherwise provide herein: 15 units per acre.

   B. Redevelopment district: 18.75 units per acre per policy 11.2(F) of the Future Land Use Element.

   C. Planned unit development: 18.75 units per acre per policy 1.4(E) of the Future Land Use Element.

3. Residential 10:

   A. Maximum, unless otherwise provide herein: 10 units per acre.

   B. Redevelopment district: 12.5 units per acre per policy 11.2(F) of the Future Land Use Element.

   C. Planned unit development: 12.5 units per acre per policy 1.5(E) of the Future Land Use Element.

4. Residential 6:
A. Maximum, unless otherwise provide herein: 6 units per acre.

B. Redevelopment district: 7.5 units per acre per policy 11.2(F) of the Future Land Use Element.

C. Planned unit development: 7.5 units per acre per policy 1.6(D) of the Future Land Use Element.

5. Residential 4:

A. Maximum, unless otherwise provide herein: 4 units per acre.

B. Redevelopment district: 5 units per acre per policy 11.2(F) of the Future Land Use Element.

C. Planned unit development: 5 units per acre per policy 1.7(D) of the Future Land Use Element.

6. Residential 2:

A. Maximum, unless otherwise provide herein: 2 units per acre.

B. Redevelopment district: 2.5 units per acre per policy 11.2(F) of the Future Land Use Element.

C. Planned unit development: 2.5 units per acre per policy 1.8(D) of the Future Land Use Element.

7. Residential 1:

A. Maximum, unless otherwise provide herein: 1 unit per acre.

B. Redevelopment district: 1.25 units per acre per policy 11.2(F) of the Future Land Use Element.

C. Planned unit development: 1.25 units per acre per policy 1.9(D) of the Future Land Use Element.

8. Residential 1:2.5: 1 unit per 2.5 acres.

b. *Neighborhood commercial.* Appropriate uses within the neighborhood commercial designation are specified in the Future Land Use Element. Residential densities shall be subject to the conditions set forth in the Future Land Use Element.

c. *Community commercial.* Appropriate uses within the community commercial designation are specified in the Future Land Use Element. Residential densities shall be subject to the
conditions set forth in the Future Land Use Element.

d. **Planned industrial.** Appropriate uses within the planned industrial designation are specified in the Future Land Use Element.

e. **Heavy/light industrial.** Appropriate uses within the heavy/light industrial designation are specified in the Future Land Use Element.

f. **Agricultural.** Appropriate uses within the agricultural designation are specified in the Future Land Use Element. Residential densities shall not exceed one dwelling unit per five acres.

g. **Public facilities.** Appropriate uses within the public facilities designation are specified in the Future Land Use Element.

h. **Recreation.** Recreation uses include all public parks and recreational facilities.

i. **Public conservation.** Conservation land uses include lands under the ownership of the county, the St. Johns River Water Management District or other such agencies for the purpose of environmental protection and lands within the environmental area (EA) zoning classification. Residential densities shall not exceed one unit per 50 acres.

j. **Private conservation.** Conservation land uses include lands under private ownership and are zoned (EA) zoning classification. Residential densities shall not exceed one unit per ten acres.

k. **Developments of Regional Impact (DRI).** DRI land uses include lands that have an adopted Development Order pursuant to the requirements of Chapter 380, Florida Statutes, Chapters 9J-12 and 28-24 Florida Administrative Code and applicable local ordinances.

(2) **Consistency with future land use map.** The following table depicts where the various zoning classifications can be considered based upon the geographic delineation of future land uses on the future land use map and locational criteria defined in the policies of the future land use element of the 1988 county comprehensive plan. Where an application for a change of residential zoning classification is not consistent with the residential future land use map designation as depicted on the following table, the rezoning may be considered if the applicant limits the project to a density equal to or less than the maximum density threshold for the subject property.

EXHIBIT A. CONSISTENCY OF ZONING CLASSIFICATIONS WITH FUTURE LAND USE MAP SERIES
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Land Use Designations

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<th>Explanation</th>
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<tr>
<td>Agric--Agriculture</td>
<td>NC--Neighborhood Commercial</td>
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<tr>
<td>Res 1:2.5--Residential (one unit per 2.5 acres)</td>
<td>CC--Community Commercial</td>
</tr>
<tr>
<td>Res 1--Residential (one unit per acre)</td>
<td>PI--Planned Industrial</td>
</tr>
<tr>
<td>Res 2--Residential (two units per acre)</td>
<td>H/L--Heavy/Light Industrial</td>
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<tr>
<td>Res 4--Residential (four units per acre)</td>
<td>PUB--Public Facilities</td>
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<td>Res 6--Residential (six units per acre)</td>
<td>REC--Recreation</td>
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<td>Res 10--Residential (ten units per acre)</td>
<td>PR CON--Private Conservation</td>
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<td>Res 15--Residential (fifteen units per acre)</td>
<td>PUB CON--Public Conservation</td>
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<td>Res 30--Residential (thirty units per acre)</td>
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</table>

Explanation of Symbols

Y--Yes, classification may be considered.

Y*--Yes, classification may be considered, if permitted by Policy 2.13 of the Future Land Use Element.

Y**--Yes, classification may be considered if use is transitional, per Policy 2.14 or if permitted by Policy 2.17 of the Future Land Use Element, as applicable.

N--No, classification may not be considered.

(Code 1979, § 14-20.07; Ord. No. 99-07, § 8, 1-28-99; Ord. No. 2000-38, § 1, 8-1-00; Ord. No. 2002-01, § 4, 1-8-02; Ord. No. 04-29, § 2, 8-5-04)


DIVISION 4.

REGULATIONS FOR SPECIFIC CLASSIFICATIONS

Subdivision I.

General Provisions

Sec. 62-1301. Review of use (ROU).

The review of use (ROU) procedure will be utilized following a finding by the zoning director that doubt exists concerning whether a particular contemplated use of property is permissible in a commercial, tourist commercial or industrial zoning classification. Whenever the contemplated use is in the nature of or is similar to permitted uses specified in this article but is such that the zoning director determines that a question of doubt exists as to the permissibility of the contemplated use, then the review of use (ROU) shall be initiated by the applicant for the use submitting an application to the planning and zoning board for its approval or disapproval of the contemplated use. The review of use (ROU) procedure may also be utilized where a use is
requested which is specifically listed in a higher zoning classification, but the scope of the intended use is so limited that it should not require the higher classification and proposed use seems to be in harmony with the purpose and intent of the existing classification. The review of use (ROU) procedure shall also be utilized for approving all conditional uses in the heavy industrial, IU-1, zoning classification. The public hearing requirements shall be those specified in section 62-1151 for amendments to the official zoning map, except that the planning and zoning board shall hold the public hearing and make a recommendation to the board of county commissioners, and the recommendation shall be placed on the board of county commission's consent agenda for approval, modification, or rejection. An application for approval of a review of use (ROU) by the planning and zoning board shall contain a description of the contemplated use, and any size limitations, conditions or other matters relevant to the contemplated use to be reviewed. The application should describe any similarities in scale or character with the uses specifically permitted in the zoning classification. Nothing contained in this section shall be construed as providing any person with a right to appeal to the planning and zoning board or the board of county commissioners if the zoning director finds that doubt exists concerning a contemplated use in the commercial, tourist or industrial zoning classifications, if the zoning official denies a particular use of property in the commercial, tourist or industrial zoning classifications as not permitted by this article. The fee for applying for approval of a review of use (ROU) shall be established by resolution of the board of county commissioners.

(Code 1979, § 14-20.56; Ord. No. 96-47, § 1, 10-24-96)


Subdivision II.

Unimproved, Agricultural and Residential

Sec. 62-1331. General use, GU.

The GU general use zoning classification encompasses rural single-family residential development, or unimproved lands for which there is no definite current proposal for development, or land in areas lacking specific development trends.

(1)  Permitted uses.

   a.  Permitted uses are as follows:

       Single-family detached residential dwelling.

       Parks and public recreational facilities.

       Private golf courses.

       Foster homes.

   b.  Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):
Group homes, level I, subject to the requirements set forth in section 62-1835.9.

Preexisting use.

Private parks and playgrounds.

Resort dwellings.

Temporary living quarters during construction of a residence.

(2) **Accessory buildings or uses.** Accessory buildings and uses customary to residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) **Conditional uses.** Conditional uses are as follows:

Agricultural pursuits.

Change of nonconforming agricultural use.

Land alteration (over five acres and up to 30 acres).

Private heliports (section 62-1943.5).

Recreational facilities.

Substantial expansion of a preexisting use.

Towers and antennas.

(4) **Minimum lot size.** An area of not less than five acres is required, having a minimum width of 300 feet and a minimum depth of 300 feet.

(5) **Setbacks.**

a. Structures shall be set back not less than 25 feet from the front lot line, not less than 15 feet from the side lot lines, and not less than 20 feet from the rear lot line. On a corner lot, the side street setback shall be not less than 15 feet. If the corner lot is contiguous to a key lot, then the side street setback shall be not less than 25 feet.

b. Accessory buildings shall be located to the rear of the front building line of the principal building or structure and shall be set back not less than 15 feet from the side lot lines and not less than 15 feet from the rear lot line.

(6) **Minimum floor area.** Minimum floor area is 750 square feet of living area.

(7) **Maximum height of structures.** Maximum height of structures is 35 feet.

Sec. 62-1332. Productive agricultural, PA.

The purpose of the PA productive agricultural zoning classification is to recognize those areas in the county that are agriculturally productive. Their function is of great physical and economic value to the county, and therefore such areas should be afforded a high level of protection. This classification will have its principal application in the citrus grove and cattle ranch areas of the county; however, any area in the county meeting the requirements of this section can be considered for this zone. Emphasis will be placed on areas that are agriculturally intensive, and development in these areas will be kept to a minimum.

(1) **Permitted uses.**

a. Permitted uses are as follows:

Mobile home residential dwelling.

One single-family dwelling unit.

Tenant dwellings: Where there are 40 or more acres under the same ownership, one tenant dwelling unit is permitted for each five acres, not to exceed ten tenant dwelling units in total. Tenant dwelling units shall be set back 200 feet from all property under different ownership.

All agricultural pursuits. The sale of products produced on the property and any other agricultural produce may be sold from roadside stands as provided in chapter 86, article IV.

Raising and grazing of farm animals, fowl raising and beekeeping.

Nurseries and horticultural pursuits.

Parks and public recreational facilities.

Pet kennels.

b. **Permitted uses with conditions.** Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Group homes, level I, subject to the requirements set forth in section 62-1835.9.

Preexisting use.
Resort dwellings.

Temporary living quarters during construction of a residence.

Tenant dwellings: Mobile home.

(2) *Accessory buildings or uses.* Accessory buildings and uses customary to residential and agricultural uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) *Conditional uses.* Conditional uses are as follows:

- Change of nonconforming agricultural use.
- Citrus packing houses and processing plants.
- Development rights receipt and transfer.
- Dude ranches.
- Farmers' market.
- Farmers supply stores.
- Guesthouses or servants' quarters without kitchen facilities.
- Land alteration (over five acres and up to 30 acres).
- Private heliports (section 62-1943.5).
- Roadside stands.
- Substantial expansion of a preexisting use.
- Temporary medical hardship mobile homes.
- Towers and antennas.
- Veterinary hospital, clinic and related offices.
- Zoological parks.

(4) *Minimum lot size.* An area of not less than five acres is required, having a minimum width of 300 feet and a minimum depth of 300 feet.
(5) **Setbacks.**

a. Structures shall be set back not less than 100 feet from the front lot line, not less than 50 feet from the side lot lines, and not less than 50 feet from the rear lot line.

b. A structure for housing farm animals, fowl or bees shall be located 50 feet from property under different ownership and a minimum separation distance of 300 feet from any existing (non-agricultural) single-family residential zoning classification.

(6) **Minimum floor area.** Minimum floor area is 600 square feet of living area.

(7) **Maximum height of structures.** Maximum height of structures is 35 feet for residential structures and 45 feet for accessory structures.

Sec. 62-1333. Agricultural, AGR.

The AGR agricultural zoning classification encompasses lands devoted primarily to productive agricultural pursuits and rural single-family residential development. This zoning classification also implements the county's future land use policies which require low-intensity uses and low-density development in the rural area to prevent urban sprawl.

(1) **Permitted uses.**

a. Permitted uses are as follows:

Single-family detached residential dwelling.

Mobile home residential dwelling.

Tenant dwellings: Where there are 20 acres or more of land under the same ownership, one tenant dwelling unit is permitted for each five acres, not to exceed a total of ten tenant dwellings.

Agricultural pursuits, including the packing and processing of commodities raised on the premises. The sale of products produced on the property and any other agricultural produce may be sold from roadside stands as provided in chapter 86, article IV.

Raising and grazing of animals.

Bed and breakfast inns.
Dude ranches, with a minimum site size of 40 acres.

Landscaping businesses.

Parks and public recreational facilities.

Pet kennels.

Plant nurseries and sale of plants raised on the premises.

Private golf courses.

Foster homes.

b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Fish camps.

Group homes, level I, subject to the requirements set forth in section 62-1835.9.

Power substations, telephone exchanges and transmission facilities.

Preexisting use.

Private parks and playgrounds.

Resort dwellings.

Temporary living quarters during construction of a residence.

Tenant dwellings: Mobile home.

(2) **Accessory buildings or uses.** Accessory buildings and uses customary to residential and agricultural uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) **Conditional uses.** Conditional uses are as follows:

Airplane runways.

Boarding of horses and horses for hire.

Change of nonconforming agricultural use.

Composting facility.

Development rights receipt and transfer.

Farmers' markets.

Guesthouses or servants' quarters, without kitchen facilities.

Hog farms.

Land alterations (over five acres and up to 30 acres).

Parking of recreational vehicles accessory to fish camps.

Private heliports (section 62-1943.5).

Roadside stands.

Security mobile homes.

Single-family residential second kitchen facility.

Skateboard ramps.

Substantial expansion of a preexisting use.

Temporary medical hardship mobile homes.

Towers and antennas (see division 5, subdivision III, of this article).

Veterinary hospital, office or clinic.

Zoological parks.

(4) Minimum lot size. An area of not less than five acres is required, having a minimum width of 200 feet and a minimum depth of 300 feet.

(5) Setbacks.

a. Primary structures shall be set back not less than 25 feet from the front lot line, not less than 15 feet from the side lot lines and not less than 20 feet from the rear lot line. On corner lots, both street frontages shall be subject to the front yard setback.

b. Accessory structures shall be set back not less than 15 feet from the side and rear lot lines
and shall be located behind the front building line of the principal structure.

c. Setbacks for barns and stalls are as follows:

   1. *Front:* 125 feet from the front lot line.

   2. *Side:* 50 feet from the side lot line.

   3. *Rear:* 50 feet from the rear lot line.

(6) *Minimum floor area.* Minimum floor area is 750 square feet of living area.

(7) *Maximum height of structures.* Maximum height of structures is as follows:


   b. Structures accessory to an agricultural use: 45 feet.

Sec. 62-1334. Agricultural residential, AU.

The AU agricultural residential zoning classification encompasses lands devoted to agricultural pursuits and single-family residential development of spacious character.

(1) *Permitted uses.*

   a. Permitted uses are as follows:

   Single-family detached residential dwelling.

   All agricultural pursuits, including the packing, processing, and sales of commodities raised on the premises as provided in chapter 86, article IV.

   Raising and grazing of animals.

   Dude ranches, with a minimum area of 40 acres. Barns or stables shall be 200 feet from any property line.

   Fowl raising and beekeeping.

   Parks and public recreational facilities.
Plant nurseries.

Private golf courses.

Private camps.

Foster homes.

b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Fish camps (section 62-1835.4.5).

Group homes, level I, subject to the requirements set forth in section 62-1835.9.

Landscaping business (section 62-1837).

Mobile home residential dwelling (section 62-1837.7.5).

Power substations, telephone exchanges and transmission facilities (section 62-1839).

Preexisting use (section 62-1839.7).

Private parks and playgrounds (section 62-1840).

Resort dwellings.

Temporary living quarters during construction of a residence.

Tenant dwellings: Mobile homes (section 62-1843).

Tenant dwellings: One unit is permitted for each five acres of land under the same ownership. Tenant dwellings must be 100 feet from property of different ownership (section 62-1842.5).

(2) **Accessory buildings or uses.** Accessory buildings and uses customary to residential and agricultural uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) **Conditional uses.** Conditional uses are as follows:

Airplane runways (section 62-1905).

Bed and breakfast inns (section 62-1912).
Boarding of horses and horses for hire (section 62-1913).


Change of non-conforming agricultural use.

Composting facility.

Farmers’ market (section 62-1929).

Guesthouses or servants’ quarters, without kitchen facilities (section 62-1932).

Hog farms (section 62-1934).

Land alteration (over five acres and up to 30 acres) (section 62-1936).

Private heliports (section 62-1943.5).

Roadside stand (section 62-1945.5).

Security mobile homes.

Single-family residential second kitchen facility.

Skateboard ramps (section 62-1948).

Substantial expansion of a preexisting use (section 62-1949.7).

Towers and antennas (see division 5, subdivision III of this article and section 62-2129) (section 62-1953).

Veterinary hospital, office or clinic, pet kennels (section 62-1956).

Zoological parks (section 62-1960).

(4) Minimum lot size. An area of not less than two and one-half acres is required, having a minimum width of 150 feet and a minimum depth of 150 feet.

(5) Setbacks.

a. Structures shall be set back not less than 25 feet from the front lot line, not less than ten feet from the side lot lines, and not less than 20 feet from the rear lot line. If a corner lot is contiguous to a key lot, then the side street setback shall be not less than 25 feet.

b. Accessory buildings shall be located to the rear of the front building line of the principal building and shall be set back not less than 15 feet from the side lot lines and not less
than 15 feet from the rear lot lines.

c. Setbacks for barns and stalls are as follows:
   1. Front: 125 feet from the front lot line.
   2. Side: 50 feet from the side lot line.
   3. Rear: 50 feet from the rear lot line.

(6) Minimum floor area. Minimum floor area is 750 square feet of living area.

(7) Maximum height of structures. Maximum height of structures is as follows:
   a. Residential structures: 35 feet.
   b. Structures accessory to an agricultural use: 45 feet.

Sec. 62-1334.5. Agricultural rural residential, ARR.

The ARR agricultural rural residential zoning classification encompasses lands which may be devoted to a mixture of agricultural pursuits and large lot residential development with a rural character. This zoning classification may be utilized within areas that meet six or more of the following criteria:

1. "Paper" subdivisions which have not been approved by the board of county commissioners as a subdivision;
2. Lot sizes are one acre or greater in size;
3. Contain existing permanent structures, as defined by section 62-510, which have been constructed without obtaining permits from the county;
4. The county has adopted an ordinance specifically establishing standards for development within the area;
5. Characterized by a mixture of manufactured housing and site built homes;
6. Infrastructure may be inadequate, or in need of significant improvement; or
7. A community development block grant target area.
(1) *Permitted uses:*

a. Permitted uses are as follows:

- Single-family detached residential dwelling.
- Manufactured homes.
- Modular homes.
- Tenant dwellings: One unit is permitted for each five acres of land under the same ownership. Tenant dwellings must be 100 feet from property of different ownership.
- Foster homes.

b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

- Group homes, level I, subject to the requirements set forth in section 62-1835.9.
- Power substations, telephone exchanges and transmission facilities.
- Preexisting use.
- Resort dwellings.
- Temporary living quarters during construction of a residence.

(2) *Accessory buildings or uses.* Accessory buildings and uses customary to residential and agricultural uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5). Additional accessory uses are as follows:

a. All agricultural pursuits, including packing and processing, and sales of commodities raised on the premises as provided in chapter 86, article IV.

b. Fowl raising and beekeeping.

c. Plant nurseries.

d. Raising and grazing of animals.

(3) *Conditional uses.* Conditional uses are as follows:

Boarding of horses and horses for hire, with a minimum of 2 1/2 acres.
Guesthouses or servants' quarters, without kitchen facilities.

Land alteration (over five acres and up to 30 acres).

Roadside stands.

Security mobile homes.

Single-family residential second kitchen facility.

Substantial expansion of a preexisting use.

Temporary medical hardship mobile homes.

(4) **Minimum lot size.** An area of not less than one acre is required, having a width of not less than 125 feet and a depth of not less than 200 feet.

(5) **Setbacks.**

a. Setbacks for structures, except barns, paddocks and stalls as described below, are as follows:

   1. Front: 15 feet from the front lot line.
   2. Side: Ten feet from the side lot lines.
   3. Rear: Ten feet from the rear lot line.

   On a corner lot, the side street setback shall be not less than ten feet. If a corner lot is contiguous to a key lot, then the side street setback shall be not less than 15 feet.

b. Setbacks for barns, paddocks and stalls are as follows:

   1. Front: 50 feet from the front lot line.
   2. Side: 25 feet from the side lot lines.
   3. Rear: 25 feet from the rear lot line.

(6) **Minimum floor area.** Minimum floor area is 700 square feet of living area.

(7) **Maximum floor area of additions to principle structures.** No limit to the maximum floor area of attached additions to mobile homes.

(8) **Maximum floor area of accessory structures.** No limit to the maximum floor area of accessory
The REU rural estate use zoning classification is devoted to lands which are predominantly low-density residential areas that provide a transition from rural agricultural uses and suburban residential areas.

(1) **Permitted uses.**

a. Permitted uses are as follows:

   One single-family detached residential dwelling.

   Foster homes.

   Parks and public recreational facilities.

b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

   Group homes, level I, subject to the requirements set forth in section 62-1835.9.

   Power substations, telephone exchanges and transmission facilities.

   Preexisting use.

   Private parks and playgrounds.

   Resort dwellings.

   Temporary living quarters during construction of a residence.

(2) **Accessory buildings or uses.** Accessory buildings and uses customary to residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) **Conditional uses.** Conditional uses are as follows:

   Bed and breakfast inn.

   Change of nonconforming agricultural use.
Farm animals and fowl.

Guesthouses or servants' quarters, without kitchen facilities.

Land alteration (over five acres and up to 30 acres).

Private heliports (section 62-1943.5).

Recreational facilities.

Residential/recreational marina.

Single-family residential second kitchen facility.

Skateboard ramp.

Substantial expansion of a preexisting use.

Towers and antennas, noncommercial.

(4) *Minimum lot size.* An area of not less than two and one-half acres is required, having a minimum width of 200 feet and a minimum depth of 200 feet.

(5) *Setbacks.*

a. Principal structures shall be set back not less than 30 feet from the front lot line, not less than 15 feet from the side lot lines, and not less than 20 feet from the rear lot line. If a corner lot is contiguous to a key lot, then the side street setback shall not be less than 25 feet.

b. Accessory structures shall be located to the rear of the front building line of the principal building or structure and set back not less than 15 feet from side and rear lot lines.

c. Setbacks for barns and stalls are as follows:

1. *Front:* 125 feet from the front lot line.

2. *Side:* 50 feet from the side lot line.

3. *Rear:* 50 feet from the rear lot line.

4. Stalls or barns for housing horses shall not be permitted within 100 feet of any existing residence under different ownership.

(6) *Minimum floor area.* Minimum floor area is 1,200 square feet of living area.
(7) **Maximum height of structures.** Maximum height of structures is 35 feet.

**Sec. 62-1336. Rural residential, RR-1.**

The RR-1 rural residential zoning classification encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings, and at the same time permits uses which are conducted in such a way as to minimize possible incompatibility with residential development.

(1) **Permitted uses.**

a. Permitted uses are as follows:

One single-family dwelling.

Parks and public recreational facilities.

Private golf courses.

Foster homes.

Sewer lift stations.

b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Group homes, level I, subject to the requirements set forth in section 62-1835.9.

Power substations, telephone exchanges and transmission facilities.

Preexisting use.

Private parks and playgrounds.

Resort dwellings.

Temporary living quarters during construction of a residence.

(2) **Accessory buildings or uses.** Accessory buildings and uses customary to residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) **Conditional uses.** Conditional uses are as follows:
Bed and breakfast inn.

Change of nonconforming agricultural use.

Farm animals and fowl.

Guesthouses or servants’ quarters, without kitchen facilities.

Land alteration (over five acres and up to ten acres).

Recreational facilities.

Residential/recreational marina.

Resort dwellings.

Single-family residential second kitchen facility.

Skateboard ramps.

Substantial expansion of a preexisting use.

Towers and antennas, noncommercial (see division 5, subdivision III, of this article and section 62-2129).

(4) *Minimum lot size.* An area of not less than one acre is required, having a width of not less than 125 feet and a depth of not less than 125 feet.

(5) *Setbacks.*

a. Structures shall be set back not less than 25 feet from the front lot line, not less than ten feet from the side lot lines, and not less than 20 feet from the rear lot line. On a corner lot, the side street setback shall be not less than 15 feet. If a corner lot is contiguous to a key lot, then the side street setback shall be not less than 25 feet.

b. Accessory buildings shall be located to the rear of the front building line of the principal building, and shall be set back not less than 15 feet from the side and rear lot lines.

c. Setbacks for barns and stalls are as follows:

1. *Front:* 125 feet from the front lot line.

2. *Side:* 50 feet from the side lot line.

3. *Rear:* 50 feet from the rear lot line.
4. Stalls or barns for housing horses shall not be permitted within 100 feet of any existing residence under different ownership.

(6) **Minimum floor area.** Minimum floor area is 1,200 square feet of living area.

(7) **Maximum height of structures.** Maximum height of structures is 35 feet.

Sec. 62-1337. Suburban estate residential use, SEU.

The SEU suburban estate residential use zoning classification encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings.

(1) **Permitted uses.**

   a. Permitted uses are as follows:

   One single-family detached residential dwelling.

   Parks and public recreational facilities.

   Private golf courses.

   Foster homes.

   Sewer lift stations.

   b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

   Group homes, level I, subject to the requirements set forth in section 62-1835.9.

   Preexisting use.

   Power substations, telephone exchanges and transmission facilities.

   Private parks and playgrounds.

   Resort dwellings.

   Temporary living quarters during construction of a residence.
(2) **Accessory buildings or uses.** Accessory buildings and uses customary to residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) **Conditional uses.** Conditional uses are as follows:

- Bed and breakfast inn.
- Change to nonconforming agricultural use.
- Guesthouses or servants' quarters, without kitchen facilities.
- Horses, mules, goats and barns.
- Land alteration (over five acres and up to ten acres).
- Recreational facilities.
- Recreational/residential marina.
- Resort dwellings.
- Single-family residential second kitchen facility.
- Skateboard ramps.
- Substantial expansion of a preexisting use.
- Towers and antennas, noncommercial (see division 5, subdivision III, of this article and section 62-2129).

(4) **Minimum lot size.** An area of not less than one acre (43,560 square feet) is required, having a width of not less than 125 feet and having a depth of not less than 200 feet.

(5) **Setbacks.** (Also see special waterfront setbacks.)

   a. Structures shall be set back not less than 25 feet from the front lot line, not less than 15 feet from the side lot lines, and not less than 20 feet from the rear lot line. On a corner lot, the side street setback shall be not less than 15 feet. If a corner lot is contiguous to a key lot, then the side street setback shall be not less than 25 feet.

   b. Accessory buildings shall be located to the rear of the front building line of the principal building, and no closer than 15 feet to the rear and side lot lines, but in no case within the setback from a side street, with a minimum spacing of five feet.

(6) **Minimum floor area.** Minimum floor area is 2,000 square feet of living area.
Sec. 62-138. Suburban residential, SR.

The SR suburban residential zoning classification encompasses lands devoted to single-family residential development of relatively spacious land character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings.

(1) **Permitted uses.**

   a. Permitted uses are as follows:

   One single-family residential detached dwelling.

   Parks and public recreational facilities.

   Private golf courses.

   Foster homes.

   Sewer lift stations.

   b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

   Group homes, level I, subject to the requirements set forth in section 62-1835.9.

   Preexisting use.

   Power substations, telephone exchanges and transmission facilities.

   Resort dwellings.

   Temporary living quarters during construction of a residence.

(2) **Accessory buildings or uses.** Accessory buildings and uses customary to residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) **Conditional uses.** Conditional uses are as follows:

   Bed and breakfast inn.
Change of nonconforming agricultural use.

Guesthouses or servants’ quarters, without kitchen facilities.

Land alteration (over five acres and up to ten acres).

Recreational facilities.

Recreational/residential marina.

Resort dwellings.

Single-family residential second kitchen facility.

Skateboard ramps.

Substantial expansion of a preexisting use.

Towers and antennas, noncommercial (see division 5, subdivision III, of this article and section 62-2129).

(4) Minimum lot size. An area of not less than one-half acre is required, having a width of not less than 100 feet and having a depth of not less than 150 feet.

(5) Setbacks.

a. Structures shall be set back not less than 25 feet from the front lot line, not less than ten feet from the side lot lines, and not less than 20 feet from the rear lot line. On a corner lot, the side street setback shall be not less than 15 feet. If a corner lot is contiguous to a key lot, then the side street setback shall be not less than 25 feet.

b. Accessory buildings shall be located to the rear of the front building line of the principal building, and no closer than ten feet to the rear and side lot lines, but in no case within the setback from a side street, with a minimum spacing of five feet.

(6) Minimum floor area. Minimum floor area is 1,300 square feet of living area.

(7) Maximum height of structures. Maximum height of structures is 35 feet.

Sec. 62-1339. Estate use residential, EU, EU-1 and EU-2.
The EU, EU-1 and EU-2 estate use residential zoning classifications encompass lands devoted to single-family residential development of a spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings.

1. **Permitted uses.**
   
a. Permitted uses are as follows:
      
      - One single-family residential detached dwelling.
      - Parks and public recreational facilities.
      - Private golf courses.
      - Foster homes.
      - Sewer lift stations.

   b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):
      
      - Group homes, level I, subject to the requirements set forth in section 62-1835.9.
      - Preexisting use.
      - Power substations, telephone exchanges and transmission facilities.
      - Private parks and playgrounds.
      - Resort dwellings.
      - Temporary living quarters during construction of a residence.

2. **Accessory buildings or uses.** Accessory buildings and uses customary to residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

3. **Conditional uses.** Conditional uses are as follows:
   
   - Bed and breakfast inn.
   - Change of nonconforming agricultural use.
   - Guesthouses or servants' quarters, without kitchen facilities.
   - Land alteration (over five acres and up to ten acres).
Recreational facilities.

Recreational/residential marina.

Resort dwellings.

Single-family residential second kitchen facility.

Skateboard ramps.

Substantial expansion to a preexisting use.

Towers and antennas, noncommercial (see division 5, subdivision III, of this article and section 62-2129).

(4) Minimum lot criteria. Minimum lot criteria are as follows:

<table>
<thead>
<tr>
<th>Classification</th>
<th>Size (square feet)</th>
<th>Width (feet)</th>
<th>Depth (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>EU</td>
<td>15,000</td>
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<tr>
<td>EU-1</td>
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<td>100</td>
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</tr>
<tr>
<td>EU-2</td>
<td>9,000</td>
<td>90</td>
<td>100</td>
</tr>
</tbody>
</table>

(5) Setbacks.

a. Structures shall be set back not less than 25 feet from the front lot line, not less than ten feet from the side lot lines, and not less than 20 feet from the rear lot line. On a corner lot, the side street setback shall be not less than 15 feet. If a corner lot is contiguous to a key lot, then the side street setback shall be not less than 25 feet.

b. Accessory buildings shall be located to the rear of the front building line of the principal building and no closer than ten feet to the rear and side lot lines, but in no case within the setbacks from a side street and with a minimum spacing of five feet.

(6) Minimum floor area. Minimum floor area is as follows:

a. EU: 2,000 square feet of living area.

b. EU-1: 1,800 square feet of living area.

c. EU-2: 1,500 square feet of living area.

(7) Maximum height of structures. Maximum height of structures is 35 feet.

(Code 1979, § 14-20.08(I); Ord. No. 95-47, §§ 18, 19, 10-19-95; Ord. No. 95-49, § 18, 10-19-95; Ord. No. 96-16, §§ 18, 19, 3-28-96; Ord. No. 98-08, § 2, 2-10-98; Ord. No. 2000-03, § 5, 1-11-00; Ord. No. 2002-49, § 11, 9-17-02; Ord. No. 2003-03, § 12, 1-14-03; Ord. No. 04-29, § 12, 8-5-04; Ord. No. 2004-52, § 10, 12-14-04; Ord. No. 05-27, § 2, 5-19-05; Ord. No. 06-06, § 1, 1-24-06; Ord. No. 2007-59, § 15, 12-6-07)

The RU-1-13 and RU-1-11 single-family residential zoning classifications encompass lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings.

(1) **Permitted uses.**

   a. Permitted uses are as follows:

   One single-family residential detached dwelling.

   Parks and public recreational facilities.

   Private golf courses.

   Foster homes.

   Sewer lift stations.

   b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

   Group homes, level I, subject to the requirements set forth in section 62-1835.9.

   Power substations, telephone exchanges and transmission facilities.

   Preexisting use.

   Private parks and playgrounds.

   Resort dwellings.

   Temporary living quarters during construction of a residence.

(2) **Accessory buildings or uses.** Accessory buildings and uses customary to residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) **Conditional uses.** Conditional uses are as follows:

   Bed and breakfast inn.

   Change of nonconforming agricultural use.

   Guesthouses or servants’ quarters, without kitchen facilities.
Land alteration (over five acres and up to ten acres).

Recreational facilities.

Recreational/residential marina.

Resort dwellings.

Single-family residential second kitchen facility.

Skateboard ramps.

Substantial expansion to a preexisting use.

Towers and antennas, noncommercial (see division 5, subdivision III, of this article and section 62-2129).

Zero lot line subdivision.

(4) Minimum lot size. An area of not less than 7,500 square feet is required, having a width of not less than 75 feet and having a depth of not less than 75 feet.

(5) Setbacks.

a. Structures shall be set back not less than 20 feet from the front lot line, not less than seven and one-half feet from each side lot line, and not less than 20 feet from the rear lot line, except for screen porches, which shall be set back not less than ten feet from the rear lot line. On a corner lot, the side street setback shall be not less than 15 feet. If a corner lot is contiguous to a key lot, then the side street setback shall be not less than 20 feet.

b. Accessory buildings shall be located to the rear of the front building line of the principal building, and no closer than seven and one-half feet to the rear and side lot lines, but in no case within the setback from a side street, with a minimum spacing of five feet.

c. The front setback may be reduced to 15 feet where an alley is provided and all lots in the development utilize the alley for vehicular access.

(6) Minimum floor area. Minimum floor area is as follows:

a.RU-1-13: 1,300 square feet of living area.

b. RU-1-11: 1,100 square feet of living area.

(7) Maximum height of structures. Maximum height of structures is 35 feet.

The RU-1-9 single-family residential zoning classification encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings.

(1) Permitted uses.

a. Permitted uses are as follows:

   One single-family residential detached dwelling.

   Parks and public recreational facilities.

   Private golf courses.

   Foster homes.

   Sewer lift stations.

b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

   Group homes, level I, subject to the requirements set forth in section 62-1835.9.

   Power substations, telephone exchanges and transmission facilities.

   Preexisting use.

   Private parks and playgrounds.

   Resort dwellings.

   Temporary living quarters during construction of a residence.

(2) Accessory buildings or uses. Accessory buildings and uses customary to residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) Conditional uses. Conditional uses are as follows:

   Bed and breakfast inn.
Change of nonconforming agricultural use.

Guesthouses or servants' quarters, without kitchen facilities.

Land alteration (over five acres and up to ten acres).

Recreational facilities.

Recreational/residential marina.

Resort dwellings.

Single-family residential second kitchen facility.

Skateboard ramps.

Substantial expansion to a preexisting use.

Towers and antennas, noncommercial (see division 5, subdivision III, of this article and section 62-2129).

Zero lot line subdivision.

(4) **Minimum lot size.** An area of not less than 6,600 square feet is required, having a width of not less than 66 feet and having a depth of not less than 100 feet.

(5) **Setbacks.**

a. Structures shall be set back not less than 20 feet from the front lot line, not less than seven and one-half feet from each side lot line, and not less than 20 feet from the rear lot line, except for screen porches, which shall be set back not less than ten feet from the rear lot line. On a corner lot, the side street setback shall be not less than 15 feet. If a corner lot is contiguous to a key lot, then the side street setback shall be not less than 20 feet.

b. Accessory buildings shall be located to the rear of the front building line of the principal building, and no closer than seven and one-half feet to the rear and side lot lines, but in no case within the setback from a side street, with a minimum spacing of five feet from all other structures.

c. The front setback may be reduced to 15 feet where an alley is provided and all lots in the development utilize the alley for vehicular access.

(6) **Minimum floor area.** Minimum floor area is 900 square feet of living area.

(7) **Maximum height of structures.** Maximum height of structures is 35 feet.

The RU-1-7 single-family zoning classification encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings.

(1) **Permitted uses.**

a. Permitted uses are as follows:

   One single-family residential detached dwelling.

   Parks and public recreational facilities.

   Private golf courses.

   Foster homes.

   Sewer lift stations.

b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

   Group homes, level I, subject to the requirements set forth in section 62-1835.9.

   Power substations, telephone exchanges and transmission facilities.

   Preexisting use.

   Private parks and playgrounds.

   Resort dwellings.

   Temporary living quarters during construction of a residence.

(2) **Accessory buildings or uses.** Accessory buildings and uses customary to residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) **Conditional uses.** Conditional uses are as follows:
Bed and breakfast inn.

Change of nonconforming agricultural use.

Guesthouses or servants' quarters, without kitchen facilities.

Land alteration (over five acres and up to ten acres).

Recreational facilities.

Recreational/residential marina.

Resort dwellings.

Single-family residential second kitchen facility.

Skateboard ramps.

Substantial expansion of a preexisting use.

Towers and antennas, noncommercial (see division 5, subdivision III, of this article and section 62-2129).

Zero lot line subdivision.

(4) **Minimum lot size.** An area of not less than 5,000 square feet is required, having a width of not less than 50 feet and having a depth of not less than 100 feet.

(5) **Setbacks.**

a. Structures shall be set back not less than 20 feet from the front lot line, not less than five feet from each side lot line, and not less than 20 feet from the rear lot line, except for screen porches, which shall be set back not less than ten feet from the rear lot line. On a corner lot, the side street setbacks shall be not less than 15 feet. If a corner lot is contiguous to a key lot, then the side street setbacks shall be not less than 20 feet.

b. Accessory buildings shall be located to the rear of the front building line of the principal building, and no closer than five feet to the rear and side lot lines, but in no case within the setback from a side street, with a minimum spacing of five feet from all other structures.

c. The front setback may be reduced to 15 feet where an alley is provided and all lots in the development utilize the alley for vehicular access.

(6) **Minimum floor area.** Minimum floor area is 700 square feet of living area.
(7) **Maximum height of structures.** Maximum height of structures is 35 feet.

**Sec. 62-1343. Single-family attached residential, RA-2-4, RA-2-6, RA-2-8 and RA-2-10.**

The RA-2-4, RA-2-6, RA-2-8 and RA-2-10 single-family attached residential zoning classifications provide a transition between single-family residential detached zoning classifications and multifamily residential zoning classifications, permitting fee simple ownership of individual attached units. The intent is to provide flexibility for a variety of architectural styles which share a party wall and are constructed in accordance with the Standard Building Code for townhouses.

(1) **Permitted uses.**

a. Permitted uses are as follows:

   Single-family attached residential dwellings.

   Single-family detached residential dwellings.

   Parks and public recreational facilities.

   Private golf courses.

   Foster homes.

   Resort dwellings.

   Sewer lift stations.

b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

   Group homes, level I, subject to the requirements set forth in section 62-1835.9.

   Power substations, telephone exchanges and transmission facilities.

   Preexisting use.

   Private parks and playgrounds.

   Temporary living quarters during construction of a residence.
(2) **Accessory buildings or uses.** Accessory buildings and uses customary to residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) **Conditional uses.** Conditional uses are as follows:

- Bed and breakfast inn.
- Change of nonconforming agricultural use.
- Development rights receipt and transfer.
- Efficiencies, not to exceed 25 percent of the total units on the site, and with a minimum floor area of 280 square feet.
- Garage apartments (must stay within density limitations).
- Land alteration (over five acres and up to ten acres).
- Recreational/residential marina.
- Substantial expansion of a preexisting use.

(4) **Development standards and criteria.**

a. **Maximum density.** Maximum density is as follows:

   1. **RA-2-4:** Four dwelling units per gross acre.
   2. **RA-2-6:** Six dwelling units per gross acre.
   3. **RA-2-8:** Eight dwelling units per gross acre.
   4. **RA-2-10:** Ten dwelling units per gross acre.

b. **Minimum development requirements.**

   1. Minimum site area is 7,500 square feet for a single-family detached unit. All other residential uses must meet density guidelines.
   2. Minimum site width is 75 feet.
   3. Minimum site depth is 100 feet.
   4. Maximum site coverage (building or structure) is 40 percent.
   5. Minimum interior lot size within a site is 1,800 square feet.
6. Minimum interior lot width is 15 feet.

7. Primary building and structure limitations are as follows:
   
i. The number of individual units shall not exceed ten units per primary building or structure.
   
   ii. Minimum floor area for a single-family dwelling unit is 1,000 square feet. Minimum floor area for a single-family attached residential unit is 575 square feet for a one-bedroom unit, plus 140 square feet for each additional bedroom.
   
   iii. Structural height standards are as follows:

   (a) Where the property abuts any other land located in the GU, AGR, AU, ARR, REU, RU-1-7, RU-1-9, RU-1-11, RU-1-13, RR-1, EU, EU-1, EU-2, SEU, SR, RVP, TR-1-A, TR-1, TR-2, TR-3, TRC-1, RRMH-1, RRMH-2.5, RRMH-5, EA, PA or GML zoning classification, the maximum height threshold of any structure or building thereon shall be 35 feet.

   (b) Where the property abuts any other land located in the RA-2-4, RA-2-6, RA-2-8, RA-2-10, RU-2-4, RU-2-6, RU-2-8, RU-2-10, RU-2-12, RU-2-15, RU-2-30, RP, BU-1-A, BU-1, BU-2, PBP, PIP, IU, IU-1, TU-1 or TU-2 zoning classification, the maximum height threshold of any structure or building thereon shall be 45 feet.

   (c) Where any structure or building exceeds 35 feet in height, all conditions enumerated in section 62-2101.5 as applicable shall be fully satisfied.

   (d) Structures or buildings may not exceed the maximum height thresholds stated in this subsection unless otherwise permitted by section 62-2101.5.

   iv. For primary buildings or structures, maximum length shall not exceed 205 feet.

   v. Each unit shall have a separate external unit access not common to any other unit within a multiple-unit structure.

(5) **Setbacks.**

   a. **Perimeter setback.** Except for detached single family developments, the setback shall be 25 feet from a property line that abuts property located in any detached single family residential zoning classification.

   b. **Street or roadway setback.** No structure shall be located within 25 feet of a public right-of-way.

   c. **Interior lot setbacks (within a site).** The front setback shall be 20 feet, the rear setback
shall be 20 feet, except for screen porches, which shall be set back not less than ten feet from the rear lot line, and the side setbacks where adjacent to the perimeter of the site shall be ten feet. The side setback on interior corner lots shall be at least 15 feet from the side lot line. If an interior corner lot is contiguous to a key lot, setbacks shall not be less than 20 feet.

d. **Swimming pools.** Swimming pools are exempt from all setback provisions where located within the rear yard of the interior lot.

e. **Spacing between primary buildings or structures.** Spacing between primary buildings or structures shall be as follows:

1. Two stories or less: 15 feet.
2. Three stories: 25 feet.

f. **Accessory buildings.** Accessory buildings shall be located to the rear of the front building line of the principal building and no closer than ten feet to the rear and side lot lines, but in no case within the setbacks from a side street. There shall be a minimum spacing of five feet between any other structure on the same site.

g. **Breezeway/visual corridor.** All riverfront and oceanfront properties are subject to breezeway/visual corridor regulations enumerated in section 62-2105.

(6) **Fencing for single-family attached structures.** Fencing in excess of four feet in height shall be located a minimum of 15 feet from the front property line or side lot line of a corner lot. Other restrictions are outlined in section 62-2109.

(7) **Site plan and platting requirements.**

a. A detailed site plan in accordance with article VIII of this chapter shall be submitted.

b. Platting is required in this classification. A preliminary plat shall be submitted and considered for approval simultaneously with the required site plan. All platting procedures pursuant to article VII of this chapter, pertaining to subdivisions, shall be complied with. Common areas shall be identified on the plat along with the methods for their access, ownership and maintenance.

(Code 1979, § 14-20.08(M); Ord. No. 95-47, §§ 26, 27, 10-19-95; Ord. No. 95-49, §§ 18, 23, 10-19-95; Ord. No. 96-16, §§ 29, 30, 3-28-96; Ord. No. 98-08, § 2, 2-10-98; Ord. No. 98-12, § 6, 2-26-98; Ord. No. 99-07, §§ 11, 12, 1-28-99; Ord. No. 01-30, § 1, 5-24-01; Ord. No. 2002-49, §§ 15, 16, 9-17-02; Ord. No. 2003-03, § 16, 1-14-03; Ord. No. 04-29, § 16, 8-5-04; Ord. No. 04-33, § 1, 8-10-04; Ord. No. 2004-52, § 14, 12-14-04; Ord. No. 05-27, § 3, 5-19-05; Ord. No. 05-40, § 1, 8-23-05; Ord. No. 2007-59, § 19, 12-6-07)

**Sec. 62-1344. Residential-professional, RP.**

The RP residential-professional zoning classification encompasses land devoted to a mixture of
professional and residential uses. Principal uses and restrictions of this zoning classification are intended to promote development of low- to medium-density residential development, in conjunction with low-intensity commercial development. This zoning classification is intended to provide restricted commercial uses which are compatible with and meet a need for limited commercial services convenient to residential development. The intent of this zoning classification is to provide for a combination of residential and professional uses on the site, although this classification does not prohibit use of the site as exclusively residential or professional.

(1) **Permitted uses.**

   a. Permitted uses are as follows:

   Single-family detached dwelling units.

   Single-family attached dwelling units, in accordance with the requirements of the single-family attached zoning classifications.

   Multiple-family dwelling units.

   Professional offices.

   Foster homes.

   Parks and public recreational facilities.

   Resort dwellings.

   b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

   Group homes, level I, subject to the requirements set forth in section 62-1835.9.

   Learning centers.

   Preexisting use.

   Temporary living quarters during construction of a residence.

(2) **Accessory buildings or uses.** Accessory buildings and uses customary to residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) **Conditional uses.** Conditional uses are as follows:

   Bed and breakfast inn.

   Change of nonconforming agricultural use.
Land alteration (over five acres and up to ten acres).

Residential/recreational marina.

Substantial expansion of a preexisting use.

(4) *Development standards and criteria.*

a. *Maximum density.* Maximum density is five dwelling units per acre or the maximum allowable residential density designation for the subject property, whichever is less. No more than one detached single-family dwelling may be constructed on any minimum sized lot.

b. *Minimum development requirements.*

1. Minimum lot area is 7,500 square feet.
2. Minimum lot width is 75 feet.
3. Minimum lot depth is 75 feet.
4. Maximum height of structures is 35 feet.
5. Maximum lot coverage (building or structures) is 40 percent.
6. Minimum floor area is as follows:
   i. Single-family detached dwelling unit: 1,100 square feet.
   ii. Multiple-family dwelling unit: 575 square feet per one-bedroom unit. For each additional bedroom per unit, a minimum of an additional 140 square feet shall be required.
   iii. Where residential and nonresidential uses are contained in the same structure: 1,500 square feet. The residential use must be a minimum of 500 square feet.
7. Minimum distance between principal structures is 15 feet.

(5) *Setbacks.*

a. *Principal structures.* The front setback shall be 25 feet from the property line, the rear setback shall be 20 feet, and the side setbacks shall be ten feet. Side setbacks for corner lots shall be at least 15 feet from the side lot line. If a corner lot is contiguous to a key lot, the side setback shall not be less than 25 feet.
b. **Detached accessory structures.** Detached accessory structures shall be located to the rear of the front building line of the principal structure closest to the front property line and shall be set back not less than seven and one-half feet from side and rear property lines, but in no case within the setback from a side street. There shall be a minimum spacing of five feet between any other structure on the same site.

c. **Breezeway/visual corridor.** All riverfront and oceanfront properties are subject to breezeway/visual corridor regulations enumerated in section 62-2105.

(6) **Other requirements.** A detailed site plan in accordance with article VIII of this chapter shall be submitted prior to the issuance of a building permit.

(7) **Limitation on drive-through lanes.** Drive through lanes are prohibited in areas designated as Neighborhood Commercial on the Future Land Use Map of the Comprehensive Plan.

(8) **Maximum floor area ratio.** The floor area ratio shall be governed by section 62-2110.


**Subdivision III.**

**Multiple-Family Residential**

**Sec. 62-1371. Low-density multiple-family residential, RU-2-4, RU-2-6 and RU-2-8.**

The RU-2-4, RU-2-6 and RU-2-8 low-density multiple-family residential zoning classifications encompass lands devoted to low-density multifamily residential purposes, together with such accessory uses as may be necessary or are normally compatible with residential surroundings.

(1) **Permitted uses.**

a. Permitted uses are as follows:

Multifamily residential dwellings.

Duplexes.

Single-family attached dwellings, in accordance with the development standards in the single-family attached residential zoning classifications.

Single family dwellings up to the allowable density limitation of the zoning
classification. For the purposes of setback and spacing requirements, such single family dwellings shall be considered principal buildings. Additional multiple-family dwellings are permitted on the parcel if all units comply with the density limits.

Parks and public recreational facilities.

Private golf courses.

Foster homes.

Resort dwellings.

Sewer lift stations.

b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Group homes, levels I and II, subject to the requirements set forth in section 62-1835.9.

Preexisting use.

Private parks and playgrounds.

Temporary living quarters during construction of a residence.

(2) Accessory buildings or uses. Accessory buildings and uses customary to residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) Conditional uses. Conditional uses are as follows:

Boardinghouses and bed and breakfast inns.

Change of nonconforming agricultural use.

Development rights receipt or transfer.

Guesthouses or servants' quarters, without kitchen facilities.

Land alteration (over five acres and up to ten acres).

Power substations, telephone exchanges and transmission facilities.

Recreational facilities.

Residential/recreational marina.
Skateboard ramps.

Substantial expansion of a preexisting use.

Towers and antennas, noncommercial.

(4) Lot requirements.

a. Minimum lot size is 7,500 square feet.

b. Minimum lot width is 75 feet.

c. Minimum lot depth is 75 feet.

d. Maximum density is as follows:
   1. *RU-2-4*: Four units per gross acre.
   2. *RU-2-6*: Six units per gross acre.
   3. *RU-2-8*: Eight units per gross acre.

For the purpose of computing allowable density, property divided by a public road shall be considered separate parcels.

e. Maximum lot coverage is 40 percent.

(5) Setbacks and spacing requirements.

a. Accessory buildings. Accessory buildings shall be located to the rear of the front building line of the principal building or structure closest to the front property line and shall be set back not less than seven and one-half feet from the side and rear lot lines for developed single family sites and not less than ten feet from the side and rear lot lines for developed multiple family sites, but in no case within the setback from a side street. There shall be a minimum spacing of five feet between any other structure on the same site.

b. Breezeway/visual corridor. All riverfront and oceanfront properties are subject to breezeway/visual corridor regulations enumerated in section 62-2105.

c. Principal structures.

1. The front setback shall be 25 feet.

2. The rear setback shall be 20 feet.

3. The side setback shall be not less than seven and one-half [feet] for all single
family residences and ten feet for all other structures. On corner lots, side setbacks shall be at least 15 feet from side lot line. If a corner lot is contiguous to a key lot, setbacks shall be not less than 25 feet.

d. **Spacing between principal structures.** Principal buildings or structures shall be spaced a minimum of 15 feet from other principal buildings or structures on the same site. Such spacing shall not be covered or connected to the principal structures.

(6) **Usable common open space requirements.** If the lot, plot, tract or parcel is two acres or more in size, or, regardless of the size, if the property has or will have more than 15 total dwelling units, then 35 percent of the total land area shall be utilized as usable common space as defined in section 62-1102. At the time of site plan submission, the method of perpetual maintenance of common facilities shall be provided as required in section 62-1445(a). Ten percent of this area shall be retained in natural vegetation rather than improved.

(7) **Minimum floor area.** Minimum floor area is as follows:

a. Single-family dwelling unit: 1,100 square feet.

b. Duplexes: 1,150 square feet and 575 square feet per unit.

c. Apartments:

1. One bedroom: 500 square feet.

2. Two bedrooms: 750 square feet plus 100 square feet for each additional bedroom.

3. Efficiencies: 400 square feet.

(8) **Structural height standards.**

a. Where the property abuts any other land located in the GU, AGR, AU, ARR, REU, RU-1-7, RU-1-9, RU-1-11, RU-1-13, RR-1, EU, EU-1, EU-2, SEU, SR, RVP, TR-1-A, TR-1, TR-2, TR-3, TRC-1, RRMH-1, RRMH-2.5, RRMH-5, EA, PA or GML zoning classifications, the maximum height threshold of any structure or building thereon shall be 35 feet.

b. Where the property abuts any other land located in the RA-2-4, RA-2-6, RA-2-8, RA-2-10, RU-2-4, RU-2-6, RU-2-8, RU-2-10, RU-2-12, RU-2-15, RU-2-30, RP, BU-1-A, BU-1, BU-2, IU, IU-1, TU-1, TU-2, PIP or PBP zoning classifications, the maximum height threshold of any structure or building thereon shall be 45 feet.

c. Where any structure or building exceeds 35 feet in height, all conditions enumerated in section 62-2101.5 as applicable shall be fully satisfied.

d. Structures or buildings may not exceed the maximum height thresholds stated in this
subsection unless otherwise permitted by section 62-2101.5.

(9) **Ownership.** A multi-family residential development site shall be subject to single ownership or condominium ownership.


**Sec. 62-1372. Medium-density multiple-family residential, RU-2-10, RU-2-12 and RU-2-15.**

The RU-2-10, RU-2-12 and RU-2-15 medium-density multiple-family residential zoning classifications encompass lands devoted to medium-density multifamily residential purposes, together with such accessory uses as may be necessary or are normally compatible with residential surroundings.

(1) **Permitted uses.**

a. Permitted uses are as follows:

Multifamily dwellings.

Duplexes.

Resort dwellings.

Single-family attached dwellings, in accordance with the development standards in the single-family attached residential zoning classifications.

Single family dwellings up to the allowable density limitation of the zoning classification. For the purposes of setback and spacing requirements, such single family dwellings shall be considered principal buildings. Additional multiple-family dwellings are permitted on the parcel if all units comply with the density limits.

Parks and public recreational facilities.

Private golf courses.

Foster homes.

Sewer lift stations.

b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Group homes, levels I and II, subject to the requirements set forth in-section 62-1835.9.
Preexisting use.

Private parks and playgrounds.

Temporary living quarters during construction of a residence.

(2) Accessory buildings or uses. Accessory buildings and uses customary to residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) Conditional uses. Conditional uses are as follows:

Boardinghouses and bed and breakfast inns.

Change of nonconforming agricultural use.

Development rights receipt or transfer.

Guesthouses or servants’ quarters, without kitchen facilities.

Land alteration (over five acres and up to ten acres).

Power substations, telephone exchanges and transmission facilities.

Recreational facilities.

Residential/recreational marina.

Skateboard ramps.

Substantial expansion of a preexisting use.

Towers and antennas, noncommercial.

(4) Lot requirements.

a. Minimum lot size is 7,500 square feet.

b. Minimum lot width is 75 feet.

c. Minimum lot depth is 75 feet.

d. Maximum density is as follows:

1. RU-2-10: Ten units per gross acre.
2. RU-2-12: 12 units per gross acre.

3. RU-2-15: 15 units per gross acre.

For the purpose of computing allowable density property divided by a public road shall be considered separate parcels.

e. Maximum lot coverage is 40 percent.

(5) Setbacks and spacing requirements.

a. Accessory buildings. Accessory buildings shall be located to the rear of the front building line of the principal building or structure closest to the front property line and shall be set back not less than seven and one-half feet from the side and rear lot lines for developed single family sites and not less than ten feet from the side and rear lot lines for developed multiple family sites, but in no case within the setback from a side street. There shall be a minimum spacing of five feet between any other structure on the same site.

b. Breezeway/visual corridor. All riverfront and oceanfront properties are subject to breezeway/visual corridor regulations enumerated in section 62-2105.

c. Principal structures.

1. The front setback shall be 25 feet.

2. The rear setback shall be 20 feet.

3. The side setback shall be not less than seven and one-half for all single family residences and ten feet for all other structures. On corner lots, side setbacks shall be at least 15 feet from side lot line. If a corner lot is contiguous to a key lot, setbacks shall be not less than 25 feet.

d. Spacing between principal structures. Principal buildings or structures shall be spaced a minimum of 15 feet from other principal buildings or structures on the same site. Such spacing shall not be covered or connected to the principal structures.

(6) Usable common open space requirements. If the lot, plot, tract or parcel is two acres or more in size, or, regardless of the size, if the property has or will have more than 15 total dwelling units, then 35 percent of the total land area shall be utilized as usable common space as defined in section 62-1102. At the time of site plan submission, the method of perpetual maintenance of common facilities shall be provided as required in section 62-1445(a). Ten percent of this area shall be retained in natural vegetation rather than improved.

(7) Minimum floor area. Minimum floor area is as follows:

a. Single-family dwelling unit: 1,100 square feet.
b. Duplexes: 1,150 square feet and 575 square feet per unit.

c. Apartments:
   1. One bedroom: 500 square feet.
   2. Two bedrooms: 750 square feet plus 100 square feet for each additional bedroom.
   3. Efficiencies: 400 square feet.

(8) Structural height standards.

a. Where the property abuts any other land located in the GU, AGR, AU, ARR, REU, RU-1-7, RU-1-9, RU-1-11, RU-1-13, RR-1, EU, EU-1, EU-2, SEU, SR, RVP, TR-1-A, TR-1, TR-2, TR-3, TRC-1, RRMH-1, RRMH-2.5, RRMH-5, EA, PA or GML zoning classification, the maximum height threshold of any structure or building thereon shall be 35 feet.

b. Where the property abuts any other land located in the RA-2-4, RA-2-6, RA-2-8, RA-2-10, RU-2-4, RU-2-6, RU-2-8, RU-2-10, RU-2-12, RU-2-15, RU-2-30, RP, BU-1-A, BU-1, BU-2, PBP, IU, PIP, IU-1, TU-1 or TU-2 zoning classification, the maximum height threshold of any structure or building thereon shall be 45 feet.

c. Where any structure or building exceeds 35 feet in height, all conditions enumerated in section 62-2101.5 as applicable shall be fully satisfied.

d. Structures or buildings may not exceed the maximum height thresholds stated in this subsection unless otherwise permitted by section 62-2101.5.

(9) Ownership. A multi-family residential development site shall be subject to single ownership or condominium ownership.


The RU-2-30 high-density multiple-family residential zoning classification encompasses lands devoted to multiple-family residential development, together with such accessory uses as may be necessary or are normally compatible with residential surroundings.

(1) Permitted uses.
a. Permitted uses are as follows:

Multiple-family dwellings.

Duplexes.

Resort dwellings.

Single-family attached dwelling units subject to the development and site plan standards set forth in the single-family attached zoning classifications.

Single family dwellings up to the allowable density limitation of the zoning classification. For the purposes of setback and spacing requirements, such single family dwellings shall be considered principal buildings. Additional multiple-family dwellings are permitted on the parcel if all units comply with the density limits.

A restaurant and those commercial uses permitted in the restricted neighborhood commercial zoning classification (BU-1-A) are permitted in this zoning classification in conjunction with an accessory to a multiple-family residential building which has a minimum of 90 residential units. Such permitted restaurant and commercial uses are limited to ten percent of the total floor area and are intended as restaurant and commercial uses to serve residents of the building in which the use is located or other buildings on the same parcel of property. Such permitted restaurant and commercial uses are permitted on the first or ground floor only.

Foster homes.

Parks and public recreational facilities.

b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Group homes, levels I and II, subject to the requirements set forth in section 62-1835.9.

Preexisting use.

Power substations, telephone exchanges and transmission facilities.

Temporary living quarters during construction of a residence.

(2) Accessory buildings or uses. Accessory buildings and uses customary to residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) Conditional uses. Conditional uses are as follows:

Boardinghouses and bed and breakfast inns.
Change of nonconforming agricultural use.

Guesthouses or servants' quarters, without kitchen facilities.

Land alteration (over five acres and up to ten acres).

Public or private clubs, including art galleries.

Recreational facilities.

Residential/recreational marina.

Restaurants.

Skateboard ramps.

Substantial expansion of a preexisting use.

Towers and antennas, noncommercial.

(4) Lot requirements.

a. Minimum lot size for multifamily structures. An area of not less than 10,000 square feet is required for multifamily structures, having a width of not less than 100 feet and a depth of not less than 100 feet.

b. Minimum lot size for single-family residence and duplex. An area of not less than 7,500 square feet is required for a single-family residence or duplex, having a depth of not less than 75 feet and a width of not less than 75 feet.

c. Maximum density. Maximum density is 30 dwelling units per gross acre. For the purpose of computing density allowed, property divided by a public road shall be considered as separate parcels.

(5) Setbacks, spacing and common open space.

a. Setbacks for accessory buildings. Accessory buildings shall be located to the rear of the front building line of the principal building or structure closest to the front property line and shall be set back not less than seven and one-half feet from the rear and side lot lines for developed single family sites and not less than ten feet from the side and rear lot lines for developed multiple family sites, but in no case within the setback from a side street. There shall be a minimum spacing of five feet between any other structure on the same site.

b. Setbacks for principal structures.
1. The front setback shall be 25 feet.
2. The rear setback shall be 20 feet.
3. The side setback shall be not less than seven and one-half [feet] for all single family residences and ten feet for all other structures. On corner lots side setbacks shall be at least 15 feet from the side lot line. If a corner lot is contiguous to a key lot, the setback shall be no less than 25 feet.

c. *Breezeway/visual corridor.* All riverfront and oceanfront properties are subject to breezeway/visual corridor regulations enumerated in section 62-2105.

d. *Usable common open space.* If the lot, plot, tract or parcel is two acres or more in size, or, regardless of size, if the property will have more than 15 total dwelling units, then 25 percent of the total land area shall be utilized as usable common open space as defined in section 62-1102. At the time of site plan submission, the method of perpetual maintenance of common facilities shall be provided as required in subsection 62-1445(a).

e. *Spacing between principal structures.* Principal buildings or structures shall be spaced a minimum of 15 feet from other principal buildings or structures on the same site. Such spacing shall not be covered or connected to the principal structures.

(6) *Minimum floor area.* Minimum floor area is as follows:

a. Single-family dwelling unit: 1,100 square feet.

b. Duplexes: 1,150 square feet and 575 square feet per unit.

c. Apartments:

1. One bedroom: 500 square feet.

2. Two bedrooms: 750 square feet, plus 100 square feet in each additional bedroom.

3. Efficiencies: 400 square feet.

(7) *Structural height standards.*

a. Where the property abuts any other land located in the GU, AGR, AU, ARR, REU, RU-1-7, RU-1-9, RU-1-11, RU-1-13, RR-1, EU, EU-1, EU-2, SEU, SR, RVP, TR-1-A, TR-1, TR-2, TR-3, TRC-1, RRMH-1, RRMH-2.5, RRMH-5, EA, PA or GML zoning classification, the maximum height threshold of any structure or building thereon shall be 35 feet.

b. Where the property abuts any other land located in the RA-2-4, RA-2-6, RA-2-8, RA-2-
10, RU-2-4, RU-2-6, RU-2-8, RU-2-10, RU-2-12, RU-2-15, RU-2-30, RP, BU-1-A, BU-1, BU-2, PBP, PIP, IU, IU-1, TU-1, or TU-2 zoning classification, the maximum height threshold of any structure or building thereon shall be 45 feet.

c. Where any structure or building exceeds 35 feet in height, all conditions enumerated in section 62-2101.5 as applicable shall be fully satisfied.

d. Structures or buildings may not exceed the maximum height thresholds stated in this subsection unless otherwise permitted by section 62-2101.5.

(8) **Ownership.** A multi-family residential development site shall be subject to single ownership or condominium ownership.


Subdivision IV.

Mobile Home Residential and Recreational Vehicle Park

Sec. 62-1401. Rural residential mobile home, RRMH-1, RRMH-2.5 and RRMH-5.

The RRMH-1, RRMH-2.5 and RRMH-5 rural residential mobile home zoning classifications encompass lands devoted to single-family mobile home development of spacious character, together with accessory uses as may be necessary or are normally compatible with residential surroundings, and at the same time permit agricultural uses which are conducted in such a way as to minimize possible incompatibility to residential development.

(1) **Permitted uses.**

a. Permitted uses are as follows:

   One single-family mobile home or detached dwelling unit.

   Parks and public recreational facilities.

   Private golf courses.

   Sewer lift stations.

   Foster homes.
b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Group homes, level I, subject to the requirements set forth in section 62-1835.9.

Power and telephone exchanges and transmission facilities.

Preexisting use.

Private parks and playgrounds.

Temporary living quarters during construction of a residence.

(2) **Accessory buildings or uses.** Accessory buildings and uses customary to residential and agricultural uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) **Conditional uses.** Conditional uses are as follows:

Change of nonconforming agricultural use.

Farm animals and fowl.

Guesthouses or servants’ quarters, without kitchen facilities.

Land alteration (over five acres and up to ten acres).

Residential/recreational marina.

Single-family residential second kitchen facility.

Substantial expansion of a preexisting use.

Temporary medical hardship mobile homes.

Towers and antennas, noncommercial.

(4) **Minimum lot size.** Minimum lot size is as follows:

<table>
<thead>
<tr>
<th>Classification</th>
<th>Lot size (acres)</th>
<th>Lot width (feet)</th>
<th>Lot depth (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>RRMH-1</td>
<td>1</td>
<td>125</td>
<td>125</td>
</tr>
<tr>
<td>RRMH-2.5</td>
<td>2.5</td>
<td>150</td>
<td>150</td>
</tr>
<tr>
<td>RRMH-5</td>
<td>5</td>
<td>300</td>
<td>300</td>
</tr>
</tbody>
</table>

(5) **Setbacks.**
a. Principal structures shall be set back not less than 25 feet from the front lot line, not less than 15 feet from the side lot lines and not less than 20 feet from the rear lot line. If a corner lot is contiguous to a key lot, then the side street setbacks shall be not less than 25 feet.

b. Accessory buildings shall be located to the rear of the front building line of the principal building or structure and shall be set back not less than 15 feet from the side and rear lot line.

c. Setbacks for barn and stalls are as follows:

1. The front setback shall be 125 feet from the front lot line.
2. The side setback shall be 50 feet from the side lot line.
3. The rear setback shall be 50 feet from the rear lot line.
4. Stalls or barns for housing horses shall not be permitted within 100 feet of any residence under different ownership.

(6) Minimum living area. Minimum living area is 600 square feet.

(7) Maximum height of structures. Maximum height of structures is 35 feet.

Sec. 62-1402. Single-family mobile home, TR-1 and TR-1-A.

The TR-1 and TR-1-A single-family mobile home zoning classifications encompass land devoted to single-family mobile homes.

(1) Permitted uses.

a. Permitted uses are as follows:

Single-family mobile home units.

Single-family detached dwelling units with minimum floor area of 600 square feet.

Foster homes.

Parks and public recreational facilities.

b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this
article):

Group homes, level I, subject to the requirements set forth in section 62-1835.9.

Power substations, telephone exchanges and transmission facilities.

Preexisting use.

Temporary living quarters during construction of a residence.

(2) Accessory buildings or uses. Accessory buildings and uses customary to residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) Conditional uses. Conditional uses are as follows:

Change of nonconforming agricultural use.

Land alteration (over five acres and up to ten acres).

Residential/recreational marina.

Sewer lift stations.

Single-family residential second kitchen facility.

Substantial expansion of a preexisting use.

Towers and antennas, noncommercial.

(4) Minimum lot size. Minimum lot size is as follows:

<table>
<thead>
<tr>
<th>Classification</th>
<th>Lot size (square feet)</th>
<th>Lot width (feet)</th>
<th>Lot depth (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>TR-1</td>
<td>7,500</td>
<td>65</td>
<td>100</td>
</tr>
<tr>
<td>TR-1-A</td>
<td>5,000</td>
<td>50</td>
<td>100</td>
</tr>
</tbody>
</table>

The platting of diagonal lots in mobile home subdivisions is prohibited.

(5) Setbacks from property lines.

a. Setbacks from property lines shall be as follows:

<table>
<thead>
<tr>
<th>Classification</th>
<th>Front (feet)</th>
<th>Rear (feet)</th>
<th>Side (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>TR-1</td>
<td>25</td>
<td>20</td>
<td>7.5</td>
</tr>
<tr>
<td>TR-1-A</td>
<td>25</td>
<td>20</td>
<td>5</td>
</tr>
</tbody>
</table>

b. On a corner lot, the side street setback shall be not less than 15 feet, including accessory
buildings. If a corner lot is contiguous to a key lot, then the side street setback shall be
not less than 25 feet, including accessory buildings.

c. Detached accessory buildings shall be located to the rear of the front building line of the
principal building or structure and shall be set back not less than seven and one-half feet
(or five feet for the TR-1-A classification) from the rear and side lot lines, but in no case
within the setback from a side street, with a minimum spacing of five feet.

(6) **Minimum living area.** Minimum living area is 600 square feet.

(7) **Maximum height of structures.** Maximum height of structures is 35 feet.


The TR-2 single-family mobile home zoning classification encompasses land devoted to single-family
mobile homes.

(1) **Permitted uses.**

a. Permitted uses are as follows:

Single-family mobile home or detached dwelling units.

Foster homes.

Parks and public recreational facilities.

b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this
article):

Group homes, level I, subject to the requirements set forth in section 62-1835.9.

Preexisting use.

Power substations, telephone exchanges and transmission facilities.

Temporary living quarters during construction of a residence.

(2) **Accessory buildings or uses.** Accessory buildings and uses customary to residential uses are
permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) **Conditional uses.** Conditional uses are as follows:
Change of nonconforming agricultural use.

Land alteration (over five acres and up to ten acres).

Residential/recreational marina.

Sewer lift stations.

Single-family residential second kitchen facility.

Substantial expansion of a preexisting use.

Towers and antennas, noncommercial.

(4) **Minimum lot size.** An area of not less than one-half acre is required, having a width of not less than 100 feet and a depth of not less than 150 feet.

(5) **Setbacks.**

a. Principal structures shall be set back not less than 25 feet from the front lot line, not less than ten feet from the side lot lines, and not less than 20 feet from the rear lot line. On a corner lot, the side street setback shall be not less than 15 feet, including accessory buildings. If a corner lot is contiguous to a key lot, then the side street setback shall be not less than 25 feet, including accessory buildings.

b. Detached accessory buildings shall be located to the rear of the front building line of the principal building or structure and shall be set back not less than ten feet from the side and rear lot lines, with a minimum spacing of five feet.

(6) **Minimum living area.** Minimum living area is 600 square feet.

(7) **Maximum height of structures.** Maximum height of structures is 35 feet.


The TR-3 mobile home park zoning classification encompasses land devoted to mobile home parks.

(1) **Permitted uses.**

a. Permitted uses are as follows:
Mobile homes and modular coaches, exclusive of travel trailers and recreational vehicles.

Parks and public recreational facilities.

b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Preexisting use.

Temporary living quarters during construction of a residence.

c. Attachments to principal structures:

1. In no event shall the principal structure be expanded in any manner that changes the structure of the base unit, except when this expansion is constructed in an authorized factory according to the federal mobile home construction and safety standards promulgated by the U.S. Department of Housing and Urban Development and are approved by the Florida Department of Community Affairs.

2. Attachments are further limited as follows: No attachment or combination of attachments and accessory structures shall exceed 50 percent of the square footage of a doublewide mobile home, or 100 percent of a singlewide mobile home. The square footage attributed to the carport or garage will not be included in these percentage limitations. Unless otherwise provided for in this chapter attachments to a mobile home shall have no kitchen facilities.

(2) **Accessory buildings or uses.** Accessory buildings and uses customary to residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5). Additional accessory uses are as follows:

a. Structures and uses related to and for the exclusive use of residents of the mobile home park as follows, excluding commercial operations:

1. Recreational facilities and areas.

2. One single-family residence not less than 700 square feet in floor area for use by the resident manager.

3. Community center.

4. Washing facilities.

5. Storage of travel trailers and recreational vehicles, provided such units are stored in a separate area, which shall be landscaped and maintained. Storage of these units shall not be permitted on individual lots.
(3) **Conditional uses.** Conditional uses are as follows:

Change of nonconforming agricultural use.

Land alteration (over five acres and up to ten acres).

Residential/recreational marina.

Substantial expansion of a preexisting use.

Towers and antennas, noncommercial (division 5, subdivision III, of this article and section 62-2129).

(4) **Minimum size of park site.** The minimum site for a mobile home park is an area of not less than ten acres.

(5) **Minimum size of mobile home site.** The minimum site size for a mobile home is an area of not less than 4,000 square feet, having a minimum width of not less than 40 feet.

(6) **Setbacks.**

a. **Perimeter setbacks.** Mobile homes and structures shall be set back not less than 50 feet from all property lines unless such line is contiguous to property zoned TR-1, TR-1-A, TR-2, TRC-1, TR-3, RVP, BU-1, BU-1-A, BU-2, RP, TU-1, TU-2, or any industrial classification, in which case the setback shall be 15 feet; or unless such line is contiguous to property zoned multiple-family residential, in which case the setback shall be 20 feet.

b. **Street setbacks.** Individual structures within the park shall be set back not less than 20 feet from all public rights-of-way and not less than 15 feet from pavement edges of private streets or internal drives, except that open structures such as carports or open porches may be set back not less than 10 feet from the pavement edges of private streets or internal drives.

c. **One way streets.** In mobile home parks where angled lots front on one-way private streets or internal drives, individual structures on such lots shall be set back not less than 10 feet from pavement edges of private streets or internal drives, except that open structures such as carports or open porches may be set back not less than 6 feet from the pavement edges of private streets or internal drives. These reduced setbacks shall apply only where the angle between the lot line and the one way street is less than 65 degrees, so that traffic visibility is maintained.

(7) **Minimum distance between structures.** Minimum distance between structures is ten feet.

(8) **Minimum floor area.** Minimum floor area is 500 square feet.

(9) **Maximum height of structures.** Maximum height of structures is 35 feet. No accessory structure
or addition to a mobile home shall exceed a height of 20 feet, measured from the final grade.

(10) **Off-street parking.** Two spaces are required for each mobile home space. Each mobile home site shall have both paved spaces located on the site, with a size of ten feet by 20 feet for each area.

(11) **Patio.** Each mobile home space shall have a concrete patio not less than ten feet by 24 feet in size, conveniently located at the entrance of each mobile home.

(12) **Recreation area.** No less than 20 percent of the gross area of the mobile home park shall be set aside, designed, constructed and equipped as a recreational area. This 20 percent shall be provided in land area unless the total area of development exceeds 25 acres, in which case water areas may comprise one-half of the 20 percent requirement. Site sizes may be increased above the minimum 4,000-square-foot requirement according to the following schedule for open space or recreational area:

<table>
<thead>
<tr>
<th>Square footage of site or space</th>
<th>Percentage of common open space</th>
</tr>
</thead>
<tbody>
<tr>
<td>4,000</td>
<td>20</td>
</tr>
<tr>
<td>5,000</td>
<td>12</td>
</tr>
<tr>
<td>6,000</td>
<td>5</td>
</tr>
</tbody>
</table>

(13) **Ownership.** A mobile home park shall be subject to single ownership or condominium ownership.

Sec. 62-1405. Single-family mobile home cooperative, TRC-1.

The TRC-1 single-family mobile home cooperative zoning classification encompasses lands devoted to planned single-family mobile home development, together with such accessory uses as may be necessary or are normally compatible with residential surroundings. The higher density or compacted lot size is permitted where there are cooperative agreements to ensure up-keep and maintenance of the overall development, including common open space. Provisions satisfactory to the board of county commissioners shall be made to ensure that the overall development shall be perpetually maintained in a satisfactory manner, without expense to county. Approval is to be predicated on the site plan of development showing provision for open space for recreational or other public uses, and the area and location of common open space that will be provided at each stage. Provisions for all common open space and the construction of cultural and recreational facilities which are shown on the site plan shall proceed at an equivalent or greater rate as the construction of dwelling units.

(1) **Permitted uses.**

a. Permitted uses are as follows:

- The parking, storage or residential use of single mobile home units and modular coaches.
- Parks and public recreational facilities.
b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Power substations, telephone exchanges and transmission facilities.

Preexisting use.

Temporary living quarters during construction of a residence.

c. Attachments to principal structures:

1. In no event shall the principal structure be expanded in any manner that changes the structure of the base unit, except when this expansion is constructed in an authorized factory according to the federal mobile home construction and safety standards promulgated by the U.S. Department of Housing and Urban Development and are approved by the Florida Department of Community Affairs.

2. Attachments are further limited as follows: No attachment or combination of attachments and accessory structures shall exceed 50 percent of the square footage of a doublewide mobile home, or 100 percent of a singlewide mobile home. The square footage attributed to the carport or garage will not be included in these percentage limitations. Unless otherwise provided for in this chapter, attachments to a mobile home shall have no kitchen facilities.

(2) Accessory buildings or uses. Accessory buildings and uses customary to residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) Conditional uses. Conditional uses are as follows:

Change of nonconforming agricultural use.

Cluster development of mobile homes.

Land alteration (over five acres and up to ten acres).

Residential/recreational marina.

Sewer lift stations.

Substantial expansion of a preexisting use.

Towers and antennas, noncommercial.

(4) Minimum site size. Minimum site size is five acres.

(5) Minimum lot size. Minimum lot size is an area of not less 6,000 square feet, having a width of
not less than 65 feet and a depth of not less than 80 feet.

(6) **Setbacks.**

a. Principal structures shall be set back not less than 20 feet from the front lot line, not less than seven and one-half feet from the side lot lines, and not less than 15 feet from the rear lot line. On a corner lot, the side street setback shall be not less than 20 feet.

b. Accessory buildings shall be located to the rear of the front building line of the principal building or structure and shall be set back not less than seven and one-half feet from the rear and side lot lines, but in no case within the setback from a side street, with a minimum spacing of five feet.

(7) **Minimum common recreation open space.** Minimum common recreation open space shall be designated and provided in accordance with the standards set forth in section 62-1102; provided, however, that the minimum area designated for common recreation open space shall be 25 percent of the total lot area.

(8) **Minimum living area.** Minimum living area is 600 square feet.

(9) **Maximum height of structures.** Maximum height of structures is 35 feet. No accessory structure or addition to a mobile home shall exceed a height of 20 feet, measured from the final grade.

(10) **Property access.** 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 uses or a common easement guaranteeing access. Permitted uses are not required to front on a public dedicated road. The county 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 county services and to generally ensure the health and safety of the residents of the development.


**Sec. 62-1406. Recreational vehicle park, RVP.**

The RVP recreational vehicle park zoning classification encompasses lands devoted for recreational vehicle, tent, park trailer and cabin use together with such ancillary structures as allowed to promote a recreational type atmosphere for both park owners and/or their guests. Regulations for the RVP recreational vehicle park zoning classification are as follows:

(1) **Permitted uses.**

a. Spaces or lots in RVP recreational vehicle parks may be used by a recreational vehicle or equivalent facilities constructed in or on automotive vehicles, or tents, or other shortterm
housing devices, or park trailers, or cabins. Cabins or park trailers utilized for shortterm use may comprise no more than 20 percent of the permitted spaces or lots, and shall not exceed a maximum of 1,000 square feet each in size.

b. Nonrecreational services and administrative buildings are permitted.

c. Parks and public recreational facilities.

d. Permitted uses with conditions:

Convenience store as accessory use to recreational vehicle park.

Preexisting use.

Recreational vehicle destination park. (see section 62-1841.5)

e. Attachments to principal structures:

1. In no event shall the principal structure be expanded in any manner that changes the structure of the base unit.

2. Attachments are further limited as follows: No attachment or combination of attachments and accessory structures shall exceed 50 percent of the square footage of the recreational vehicle unit, not including a carport. An administrative approval for accessory buildings or attachments may be allowed up to a maximum of 100 percent of the square footage of the recreational vehicle unit as long as the additional square footage is consistent with the character of the surrounding area. Unless otherwise provided for in this chapter attachments shall have no kitchen facilities.

(2) **Accessory buildings or uses.** Accessory buildings and uses customary to residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5). Additional accessory uses are as follows:

a. The following uses are permitted as accessory to the recreational vehicle park primarily as a convenience for the guests of the park:

1. Laundry facilities.

2. Private golf courses, playgrounds and picnic areas.

3. Recreational ball and game courts.

4. Swimming pools.

5. Boat rental, including bait, fishing and sports accessories sales serving only guests
of the recreational vehicle park.

6. Manager's residence.

(3) **Conditional uses.** Conditional uses are as follows:

Change of nonconforming agricultural use.

Land alteration (over five acres and up to ten acres).

Residential/recreational marina.

Substantial expansion to a preexisting use.

Towers and antennas.

(4) **Site plan or subdivision plat approval.** Final site plan approval shall be in accordance with the provisions of article VIII of this chapter. If the park is to be platted, the park shall meet all applicable requirements of article VII of this chapter, pertaining to subdivisions.

(5) **Definitions.** For the purpose of this section, the following words and phrases shall have the meanings ascribed to them by this subsection:

a. *Cabin* means a structure, the use of which may be for permanent housing, that is permanently affixed to the ground and shall comply with the building code and regulations as adopted by the board of county commissioners and the statutes and regulations of the state concerning buildings, electrical installations, plumbing and sanitation systems.

b. *Cabin lot* means a lot which is utilized for a cabin, the numbers of which are based upon the applicable limitations provided in either section 62-1406(1)(a) or section 62-1841.5(1).

c. *Park trailer* means a transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and which does not exceed 400 square feet when constructed to ANSI A-119.5 standards, and 500 square feet when constructed to U.S. Department of Housing and Urban Development standards. A park trailer may be considered for use as a permanent residence within a recreational vehicle park destination resort consistent with section 62-1841.5(1), when it is permanently affixed to the ground and complies with the building code and regulations as adopted by the board of county commissioners, and with all of the applicable state laws regulating the standards for structural adequacy, electrical installations, plumbing and sanitation systems, fire and life safety codes.

d. *Recreational vehicle* means for the purposes of this section, a vehicular portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreation or
vacation uses, permanently identified as a recreational vehicle by the manufacturer of the vehicle, having a width not exceeding 14 feet, and an overall dimension not exceeding 500 square feet, when constructed to the U.S. Department of Housing and Urban Development standards and shall include the following:

1. **Camping trailer** (includes the terms pop-up or pop-out trailer) means a canvas folding structure, mounted on wheels and designed for travel, recreation or vacation use.

2. **Motor home** means a portable, temporary dwelling to be used for travel, recreation or vacation uses, and constructed as an integral part of a self-propelled vehicle.

3. **Travel trailer,** (includes the term fifth-wheel trailer) means primarily designed and constructed to be drawn by another vehicle.

4. **Truck camper** (includes the terms pick-up coach, topper or slide out camper) means a structure designed to be mounted on the bed or chassis of a truck.

5. **Recreational vehicle park** means a development, under single ownership or condominium, or cooperative ownership, or subdivided into lots pursuant to article VII of this chapter, in which sites are utilized for the placement of recreational vehicles or tents for temporary use as living quarters or cabins for short-term use.

6. **Recreational vehicle site or lot** means a parcel of land within a recreational vehicle park designed and improved for the accommodation of not more than one recreational vehicle or equivalent facility or one tent.

7. **Sanitary station** means a facility used for removing and disposing of waste from recreational vehicle holding tanks.

8. **Service building** means any building in a recreational vehicle park used for recreational, maintenance, sanitary or office purposes which may be necessary for the development and management of the recreational vehicle park.

9. **Tent** means a collapsible structure of canvas or other material, stretched and sustained by poles and usually made fast by ropes attached to pegs or stakes hammered into the ground.

6) **Design and Locational standards for parks.**

   a. **Minimum size.** Each parcel of land to be used for a recreational vehicle park shall be a minimum of five acres in size.

   b. **Density.** The density of recreational vehicle parks located within lands designated neighborhood commercial or community commercial on the Future Land Use Map
(FLUM) shall not exceed a maximum density of ten recreational vehicle sites or lots per acre. For recreational vehicle park properties located outside of neighborhood commercial or community commercial land use designations on the Future Land Use Map, there shall be a maximum of ten recreational vehicle sites or lots per acre, or the maximum designated residential density, whichever is less. This density allowance shall also apply to tent camping areas.

c. **Locational Requirements** Recreational vehicle parks shall be located in areas which serve the needs of tourists and seasonal visitors to Brevard County. The location of recreational vehicle parks shall meet one of the following minimum locational criteria:

1. Within lands designated as Neighborhood Commercial (NC) or Community Commercial (CC) on the future land use map (FLUM) location shall have access to interstate interchanges via arterial and principal collector transportation corridors; or

2. Outside of community commercial and neighborhood commercial FLUM designations only those locations where the surrounding existing or planned land uses are recreational, mobile home or tourist related, and where the character of the proposed development is compatible with existing, surrounding uses, utilizing the land use compatibility matrix in section 62-1255.

d. **Recreational areas.**

1. A minimum of ten percent of the total land area of a recreational vehicle park shall be devoted to one or more common use areas for recreational activity.

2. Such recreational areas shall be exclusive of recreational vehicle sites, buffer strips, street right-of-way and storage areas; however, the periphery of such recreational areas may contain utility sites and other nonrecreational service buildings, the area of which will be subtracted from the computed recreational area. Recreational areas shall be easily accessible to all park users and management. Although the required space for recreational usage may be met through more than one recreational site, the minimum size of any such area shall be 20,000 square feet.

3. Provisions for all common open space and the construction of recreational facilities which are shown on the site plan or subdivision plat shall proceed at an equivalent or greater rate as the construction of individual recreational vehicle sites or lots.

e. **Tent camping.** Areas may be set aside for tent camping in accordance with all provisions of this section, except:

1. There shall be a stabilized pad on the site for parking of the transportation vehicle.
2. Tent camping may be permitted on a recreational vehicle site or lot.

(7) **Design requirements for recreational vehicle sites or lots.**

a. *Minimum lot size.* Each recreational vehicle site shall have a minimum area of 2,000 square feet, and shall have a minimum width of 30 feet and minimum depth of 60 feet.

b. *Access.* Each recreational vehicle site or lot shall abut on at least one street within the boundaries of the recreational vehicle park, and access to the site shall be only from such an internal street.

c. *Setbacks.*

1. The front setback, from the lot line in a platted park or from the street in an unplatted park, shall be ten feet.

2. The side setback shall be five feet on one side and ten feet on the other side.

3. The rear setback shall be ten feet.

d. *Appurtenances and accessory structures.* Temporary appurtenances, such as cabanas and awnings, may be erected on a recreational vehicle site or lot as long as such appurtenances do not violate the following setback requirements: Any appurtenance or accessory structure shall be located at least five feet from any side or rear site or lot line and ten feet from any front site or lot line.

(8) **Provision of services.**

a. *Storage.* Outdoor storage of recreational vehicles is permitted, provided that such storage takes place within an area especially set aside for such use.

b. *Animal control.* It shall be the responsibility of the park manager to ensure that no owner or person in charge of an animal shall permit the animal to run at large or to commit any nuisance within the limits of any recreational vehicle park.

(9) **Park operation.**

a. *Responsibilities of park management.* The owner of a recreational vehicle park or the park management shall at all times maintain the park and its facilities in a clean, orderly and sanitary condition. The park management shall inform all park occupants of the provisions of this section and other related ordinances and statutes, and of their responsibilities thereunder.

b. *Length of occupancy.* No established or new recreational vehicle unit as defined within these regulations shall be considered to be a permanent residence, and occupancy shall be limited to no more than 180 consecutive days, except for cabins and park trailers within a
recreational vehicle park destination resort as provided by section 62-1841.5(1).

(10) **Maximum height of structures.** Maximum height of structures is 35 feet.

(Code 1979, § 14-20.10(F); Ord. No. 93-25, § 1, 11-10-93; Ord. No. 94-25, §§ 1--4, 12-12-94; Ord. No. 95-47, § 46, 10-19-95; Ord. No. 95-49, § 10, 10-19-95; Ord. No. 95-49, § 18, 10-19-95; Ord. No. 96-16, §§ 49, 50, 3-28-96; Ord. No. 98-12, § 10, 2-26-98; Ord. No. 01-30, § 6, 5-24-01; Ord. No. 2002-01, § 13, 1-8-02; Ord. No. 2002-49, § 28, 29, 9-17-02)


**Subdivision V.**

**Planned Unit Developments***

*** State Law References: Planned unit developments encouraged. F.S. § 163.3202(3).

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**Sec. 62-1441. PUD--Definitions and rules of construction.**

For the purpose of this subdivision, certain words and terms used in this subdivision shall be defined as provided in this section. Words used in the present tense shall include the future tense, words used in the singular number shall include the plural number, and words used in the plural number shall include the singular number. The word "shall" is mandatory. The word "person" includes any individual, group of persons, firm, corporation, association or organization, and any legal public entity.

*Common open space* means a 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. Common open space shall be integrated throughout the planned unit development to provide for a linked recreational/open space system. All common open space shall complement the residential uses and may contain compatible and complementary structures for the benefit and enjoyment of the residents of the planned unit development.

*Development plan* means the total site plan of the planned unit development drawn in conformity with the requirements of this subdivision. The 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.

*Development schedule* means a comprehensive statement showing the type and extent of development proposed and the order in which development is to be undertaken. A development schedule shall contain an exact description of the relative order of development of residential, non-residential, common open space and other improvements. The purpose of the development schedule is to assure that required open space is developed at a rate commensurate with the residential uses it supports, and that non-residential uses, where intended to serve residential uses within the project, are developed at a rate no faster than supporting residential uses.

*Development of Regional Impact* and *DRI* means a development which, because of its character,
magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county. This term shall have the same meaning as defined in F.S. ch. 380.06. The DRI sub-designation of the PUD zoning classification is intended to implement the DRI land use designation of the county comprehensive plan for approved DRI projects with residential components. The classification and sub-designation may comprise some or all of a DRI.

Final engineered development plan means the engineered subdivision plan approved by the board of county commissioners and recorded with the clerk of the circuit court of the county according to the provisions of this subdivision, or the approved engineered site plan for any stage or tract within the PUD.

Planned unit development and PUD means an 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 uses and common open space.

Preliminary development plan means the development plan approved by the board of county commissioners and filed with approval by the county of a planned unit development zoning classification on the official zoning map of the county.

Preliminary development plan application means the application for zoning approval of the use of a site as a planned unit development and for approval of the required exhibits as specified in this subdivision.

Tract means an area delineated within a stage, except single-unit lots, which is separate unto itself, having a specific legal description of its boundaries. A tract will delineate all land uses such as common open space, recreational areas, residential areas (except single-unit lots), commercial areas and all other applicable areas.

Sec. 62-1442. Same--Purpose and intent.

(a) The planned unit development is a concept which encourages and permits variation in development by allowing deviation in lot size, bulk or type of dwellings, density, lot coverage and open space from that required in any one residential zoning classification under this article. The purpose of a planned unit development is to encourage the development of planned residential neighborhoods and communities that provide a full range of residence types, as well as industrial, commercial and institutional land uses. It is recognized that only through ingenuity, imagination and flexibility can residential developments be produced which are in keeping with the intent of this subdivision while departing from the strict application of conventional use and dimension requirements of other zoning districts and article VII of this chapter, pertaining to subdivisions.

(b) This subdivision is intended to establish procedures and standards for planned unit developments within the unincorporated areas of the county, in order that the following objectives may be attained:

(1) Accumulation of significant areas of usable open spaces for the preservation of natural amenities.

(2) Flexibility in design to take the greatest advantage of natural land, trees, historical features 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 county.

(5) Efficient use of land which 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 the procedure for obtaining approval of proposed developments through simultaneous review by the county of proposed land use, site considerations, lot and setback considerations, public needs and requirements, and health and safety factors.

(Code 1979, § 14-20.11(A); Ord. No. 95-48, § 1, 10-19-95)

Sec. 62-1443. Same--Permitted uses.

(a) The PUD zoning classification is designed to allow an applicant to submit a proposal for consideration, for any use or mixture of uses, and to allow the board of county commissioners to approve any proposal which it believes to be in the best interest of the public health, safety and welfare, along with any conditions or limitations thereon which the board of county commissioners deems advisable. Rezoning to the PUD zoning classification shall be an entirely voluntary procedure to be pursued only at the option of the applicant. Approval of the PUD zoning classification rests with the board of county commissioners, based upon its determination that the proposed development is in the best interests of the county. However no nonresidential land uses shall be permitted within the PUD unless the following criteria are met:

(1) Nonresidential land uses accessory to planned residential uses may be requested within the PUD provided they meet one of the following locational criteria.

   a. Where the proposed nonresidential use is located consistent with the future land use map series; or

   b. Where the proposed nonresidential use is completely internal and accessory to the proposed development and the developer demonstrates to the satisfaction of the board of county commissioners that the land uses proposed demonstrates a rational development scheme, interrelated to the development as a whole, which promotes the goals of the PUD zoning classification found in section 62-1442.

(2) Nonresidential land uses which are not permitted uses in the BU-1 zoning classification must be specified in the preliminary development plan (PDP) application. Proposed uses, setbacks, building heights, buffers and signs shall be submitted with the PDP along with a narrative justification of how these elements help meet the goals of the PUD zoning classification found in
section 62-1442.

(3) Parks and public recreational facilities.

(4) Institutional uses such as, but not limited to schools, churches or other public or nonprofit uses as specifically designated on the preliminary development plan.

(5) Uses designated and permitted as part of a DRI development order.

(b) Permitted uses with conditions are as follows:

Group homes, level I development within any residential tracts, subject to the requirements set forth in section 62-1835.9.

Group homes, level II development within multi-family residential tracts, subject to the requirements set forth in section 62-1835.9.

Power substations, telephone exchanges and transmission facilities.

Preexisting use.

Resort dwellings.

Sec. 62-1443.5. Same--Accessory buildings and uses.

Accessory buildings or uses. Accessory buildings and uses customary to residential uses are permitted. Accessory uses customary to non-residential uses are permitted within non-residential tracts. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

Sec. 62-1444. Same--Conditional uses.

Uses otherwise listed as conditional use permits in this division 5, subdivision III of this article may be specified as part of a preliminary development plan application process without the necessity to request a separate conditional use permit, as long as the requested use is consistent with the comprehensive plan. Owners of parcels within the PUD may request additional conditional use permits after the preliminary development plan is approved by undertaking the standard conditional use permit application process without applying for an amendment to the PUD preliminary development plan.
Sec. 62-1445. Same--Maintenance and operation of common facilities and common open space.

(a) Common open space, drainage systems, private roads and other related common facilities shall be maintained for their intended purpose as expressed in the final development plan. One or a combination of the following methods shall be utilized for maintaining common facilities:

(1) Maintenance may be provided for by public dedication to the county. This method is subject to formal acceptance by the county in its sole discretion.

(2) Maintenance may be provided for by establishment of an association or nonprofit corporation of all individuals or corporations owning property within the planned unit development to ensure the maintenance of all common facilities.

(3) Maintenance may be provided for by retention of ownership, control and maintenance of common facilities by the developer.

(4) The developer may also request or the county may require that the maintenance of common facilities be funded through a municipal service taxing or benefit unit as provided by F.S. § 125.01.

(5) Maintenance may be provided by a community development district or other non-profit, public or quasi-public agency whose stated purpose includes perpetual maintenance of such common facilities.

(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 of appropriate restrictions to ensure that the common open space is permanently preserved according to the final development plan. Such deed restrictions shall run with 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 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 an association or nonprofit corporation, the organization shall conform to the following requirements:

(1) The developer must establish the association or nonprofit corporation prior to the sale of any lots, parcels or tracts.

(2) Membership in the association or nonprofit corporation shall be mandatory for all residential property owners within the planned unit development, and the association or corporation shall not discriminate in its members or shareholders.

(3) The association or nonprofit corporation shall manage all common open space and recreational and cultural facilities that are not dedicated to the public, and shall provide for the maintenance,
administration and operation of such land and any other land within the planned unit development not publicly or privately owned, and shall secure adequate liability insurance on the land.

(4) If the developer elects an association or nonprofit corporation as a method of administering common open space, the title to all residential property owners shall include an undivided fee simple estate in all common open space, or appropriate shares in the association.

(Code 1979, § 14-20.11(E); Ord. No. 95-48, § 1, 10-19-95; Ord. No. 03-52, § 3, 12-16-03)

Sec. 62-1446. Same--Land use regulations.

(a) Minimum size.

(1) The minimum size for a PUD shall be ten acres, except within the Merritt Island Redevelopment Area, where the minimum size for a PUD shall be seven acres.

(b) Maximum density.

(1) The average density permitted in each PUD shall be established by the board of county commissioners, 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 involving the area in question. In no case shall the overall number of dwelling units permitted in the PUD be inordinately allocated to any particular portion of the total site area.

(2) Where a developer elects to develop the property in stages, the cumulative density with each subsequent stage must be approximately the same as the overall density approved for the entire project in that such cumulative density shall not vary upward more than two units per acre, except in the PUD-DRI classification and sub-designation, where the approved DRI maximum density shall control. Upon completion of all stages, the final density shall not exceed the density approved in the preliminary development plan.

(c) Minimum common recreation and open space. A portion of the gross site acreage shall be delineated as tracts for common recreation and open space to be weighted based upon the mixture of residential uses in the PUD according to the following schedule:

<table>
<thead>
<tr>
<th>Residential Use</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multifamily and single-family attached</td>
<td>25</td>
</tr>
<tr>
<td>Single-family and duplex with lots &lt; 1/2 acre</td>
<td>10</td>
</tr>
<tr>
<td>Single-family with lots =&gt; 1/2 acre</td>
<td>0</td>
</tr>
</tbody>
</table>

Gross site acreage, for the purpose of this section, shall be defined as the total acreage of the parcel designated PUD, less any portions that are designated for commercial, industrial or institutional use.

Regardless of the above, common recreation open space shall be provided at a minimum rate of 1.5 acres per
100 residential units, regardless of type. Required open space may be satisfied by either active recreation or passive recreation open space, as defined by section 62-1102.

Allocation of common recreation and open space facilities shall be determined utilizing the definition of the term "usable common open space" in section 62-1102.

(d) **Minimum lot area, frontage and setbacks; accessory uses.**

(1) The minimum lot size for detached single-family structures shall be an area not less than 5,000 square feet and having a width of not less than 50 feet. The minimum lot size requirement may be waived by the board of county commissioners if the proposed lot or lots all have substantial relationship to the common open space (e.g., are directly adjacent to or abut a common open space area) and the arrangement of dwelling units provides for adequate separation of units and the living area of the dwelling unit or units is properly related to the configuration of the proposed lots.

(2) 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 publicly dedicated road. The county 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 county services, and to generally ensure the health and safety of the residents of the PUD.

(3) Setbacks and minimum distances between structures are as follows:

   a. Single-family detached structures shall be set back not less than five feet from the side lot lines for lots less than 75 feet in width. Seven and one-half feet from the side lot lines for lots at least 75 feet but less than 100 feet in width, and ten feet from the side lot lines for lots at least 100 feet in width. Single-family detached structures shall be set back not less than 20 feet from the rear lot line, except that screened porches may be set back not less than ten feet. On a corner lot, the side street setback shall be not less than 15 feet. However, if a corner lot is contiguous to a key lot, then the side setback shall be in accordance with the front setback provided in subsection (d)(4) of this section. The board of county commissioners may reduce the required side setbacks and the distances between structures provided that proposed structures do not abut utility easements or otherwise affect the ability to provide and maintain utility service to each lot.

   b. Separation between structures of two stories or less shall be 15 feet.

   c. Separation between structures of three stories shall be 20 feet.

   d. Separation between structures of four stories shall be 25 feet.

   e. Separation between structures over four stories shall be five feet for each additional story.
f. Between structures of varying heights, the larger distance separation shall be required.

(4) Except for single-family detached structures, setbacks required between the nearest part of any building wall and the edge of any public right-of-way or private street pavement shall be 25 feet unless waived by the board of county commissioners based on the recommendation of the planning and development services department and the public works department. For single-family detached structures on local public streets, the front setback shall be a minimum of 20 feet, except that an open porch attached to the residence may be set back a minimum of ten feet. On local private streets, the single-family detached structure shall be set back a minimum of 45 feet from the centerline of the private local street, except that an open porch may be set back a minimum of 35 feet from the centerline. A minimum 25-foot setback shall be maintained between the wall of any structure and the property line along the perimeter of the PUD unless waived by the board of county commissioners at the time the preliminary development plan is approved.

(5) On property bordering the ocean, a minimum of 30 percent of the ocean frontage shall be left open as breezeway/visual corridor. On property bordering a river, a minimum of 30 percent of the river frontage shall be left open as breezeway/visual corridor.

(6) On property bordering the ocean, setbacks from the ocean on oceanfront property shall be governed by the provisions of article XII of this chapter.

(7) Accessory structures shall be located behind the front building line of the principal structure. Accessory structures shall be set back not less than five feet from the side and rear lot lines for lots less than 75 feet in width, seven and one-half feet from the side and rear lot lines for lots at least 75 feet but less than 100 feet in width, and ten feet from the side and rear lot lines for lots at least 100 feet in width. On a corner lot, the side street setback shall be not less than 15 feet; however, if a corner lot is contiguous to a key lot, then the side setback shall be in accordance with the front setback provided in subsection (4), above.

(8) Nonresidential tracts shall be subject to the same development standards as are found in the BU-1-A, BU-1, BU-2 or industrial zoning classifications, as appropriate.

(e) Maximum height of structures.

(1) Where the property abuts any other land designated for single-family residential use or zoned for such use on the PUD preliminary or final development plan, the maximum height shall be 35 feet.

(2) Where the property abuts any other land designated for attached single-family or multifamily residential use or institutional use or zoned for such uses on the PUD preliminary or final development plan, the maximum height shall be 45 feet.

(3) Where the property abuts any other land designated for commercial use on the PUD preliminary or final development plan or zoned for commercial or industrial use, the maximum height shall be 60 feet.
(4) Where any structure or building exceeds 35 feet in height, all conditions enumerated in section 62-2101.5 as applicable shall be fully satisfied.

(5) Structures or buildings may not exceed the maximum height thresholds stated in this subsection unless otherwise permitted by section 62-2101.5.

(f) **Minimum floor area per unit.**

(1) Single-family dwellings, attached or detached: 900 square feet unless waived by the board of county commissioners.

(2) Duplex: 750 square feet per unit.

(3) Multifamily dwellings:
   a. Efficiency: 400 square feet.
   b. One bedroom: 500 square feet.
   c. Two bedrooms: 750 square feet.
   d. Three bedrooms: 900 square feet.

(4) Hotel and motel units, where permitted: 300 square feet.

(5) The internal design of the structure shall be compatible with the lot and adjacent single-family dwellings.

(g) **Parking requirements.** Where the planned unit development consists of single-family detached dwellings on platted lots of less than 6,600 square feet, the developer may be required to provide an approved designated common area for the parking of campers, travel trailers, recreational trailers and vehicles, boats and boat trailers, and other similar vehicles.

(h) **Underground utilities.** Within the PUD, all utilities, including 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 pad mounts, enclosures or vaults. The developer must provide landscaping with shrubs and plants to screen all utility facilities permitted aboveground. The planning and zoning board may require that substations be screened by trees and shrubs or walls resembling a structure which is compatible with the design of the buildings within the PUD.

(i) **Development standards.** The minimum construction requirement for streets or roads, sidewalks, sewer facilities, utilities and drainage shall be in compliance with the requirements of article VII of this chapter, pertaining to subdivisions. Design requirements with respect to streets, sidewalks and drainage may be waived by the county commission upon the recommendation of the planning and development services department and
the public works department.
(Code 1979, § 14-20.11(F); Ord. No. 95-48, § 1, 10-19-95; Ord. No. 97-43, § 1, 11-20-97; Ord. No. 01-23, § 1, 5-22-01; Ord. No. 01-30, § 8, 5-24-01; Ord. No. 03-52, § 4, 12-16-03)

Sec. 62-1447. Reserved.
Editors Note: Ordinance No. 95-48, § 1, adopted October 19, 1995, deleted § 62-1447 in its entirety. Formerly, such section pertain to classification of applications and derived from § 14-20.11(G) of the 1979 Code.

Sec. 62-1448. Same--Approval of preliminary development plan and tentative zoning.

(a) Preapplication conference. Before submission of a preliminary application for approval of a planned unit development zoning classification, the developer and his registered engineer, architects or site planner are encouraged to meet with the zoning official and such other personnel as necessary to determine the feasibility and suitability of his application. This step is encouraged so that the developer may obtain information and guidance from county personnel before entering into any binding commitments or incurring substantial expenses of site and plan preparation.

(b) Preliminary application.

(1) Generally. A preliminary application shall be submitted to the county by the developer requesting approval of the site as a planned unit development zone. The preliminary application shall contain the name of the developer, the surveyor and the engineer who prepared the development plan and topographic data map, and the name of the proposed planned unit development per the nomenclature provided in section 62-1447. (See PUD illustrations concerning the level of detail required.)

(2) Exhibits; contents of development plan. The following exhibits shall be attached to the preliminary application:

a. A vicinity map indicating the relationship between the planned unit development and its surrounding area, including adjacent streets and thorough-fares.

b. A development plan that shall contain but not be limited to the following information:

1. The proposed name or title of the project, and the name of the engineer, architect and developer.

2. North arrow, scale (one inch equals 200 feet or larger), date and legal description of the proposed site.

3. The boundaries of the tract shown with bearings, distances, closures and bulkhead lines, all existing easements, section lines, and all existing streets and physical features in and adjoining the project, and the existing zoning.

4. The name and location of adjoining developments and subdivisions.

5. Proposed parks, school sites or other public or private open space.
6. Vehicular and pedestrian circulation systems, including off-street parking and loading areas, driveways and access points.

7. Site data, including tabulation of the total number of gross acres in the project, the acreage to be devoted to each of the several types of primary residential and secondary nonresidential uses, and the total number of dwelling units.

8. Proposed common open space, including the proposed improvements and any complementary structures and the tabulation of the percent of the total area devoted to common open space. Areas qualifying for common open space shall be specifically designated on the site plan.

9. Delineation of specific areas designated as a proposed stage.

10. A general statement, including graphics, indicating proposed corridors of drainage and their direction, natural drainage areas, specific areas which are to function as retention lakes or ponds, anticipated method for accommodating runoff (curb and gutter, swales or other method), and treatment methods for discharge into area waterways for the site to ensure conformity with natural drainage within the vicinity area or with the drainage plan established within the vicinity area.

11. The general location within the site of each primary residential and secondary nonresidential use, and the proposed amount of land to be devoted to individual ownership.

12. The proposed method of dedication and administration of proposed common open space.

(3) **Submittal.**

a. The PUD zoning application and preliminary development plan shall be submitted concurrently to the county.

b. The application shall include 18 black or blue line prints of the development plan of the proposed planned unit development, and the required exhibits.

(4) **Review procedure.**

a. The preliminary development plan shall be reviewed formally by the county zoning office and such other departments of county government as necessary to determine the consistency of the plan with county plans and policies prior to the submission of the PUD zoning application to the planning and zoning board of the county. The planning and zoning board shall then review the preliminary plan.

b. Upon completion of its review, the planning and zoning board shall recommend to the
board of county commissioners the approval, approval subject to conditions, or disapproval of the preliminary development plan application.

(5) **Review criteria.** The decision of the planning and zoning board on the preliminary development plan application shall include the findings of fact that serve as a basis for its recommendation. In making its recommendation, the planning and zoning board shall consider the following facts:

a. Degree of departure of the proposed planned unit development from surrounding residential areas in terms of character and density.

b. Compatibility within the planned unit development and relationship with surrounding neighborhoods.

c. Prevention of erosion and degrading of surrounding area.

d. Provision for future public education and recreation facilities, transportation, water supply, sewage disposal, surface drainage, flood control and soil conservation as shown in the preliminary development plan.

e. The nature, intent and compatibility of common open space, including the proposed method for the maintenance and conservation of the common open space.

f. The feasibility and compatibility of the specified stages contained in the preliminary development plan to exist as an independent development.

g. The availability and adequacy of water and sewer service to support the proposed planned unit development.

h. The availability and adequacy of primary streets and thoroughfares to support traffic to be generated within the proposed planned unit development.

i. The benefits within the proposed development and to the general public to justify the requested departure from the standard land use requirements inherent in a planned unit development classification.

j. The conformity and compatibility of the planned unit development with any adopted development plan of the county.

k. The conformity and compatibility of the proposed common open space, primary residential and secondary nonresidential uses with the proposed planned unit development.

(6) **Action by board of county commissioners.** Upon receiving the recommendation of the planning and zoning board, the board of county commissioners shall, at a regularly scheduled public meeting, review the recommendation and preliminary development plan, and either approve, approve subject to conditions, or disapprove the preliminary development plan application.
Approval of the preliminary development plan indicates approval of the PUD zoning subject to acceptance of the final development plan. The decision of the board of county commissioners shall be based upon a consideration of the facts specified as review criteria for the planning and zoning board in subsection (b)(5) of this section.

(7) Record of preliminary application. If the preliminary development plan application is approved by the board of county commissioners, a copy of the application and required exhibits shall be maintained within the zoning division of the county.

(c) Amendment to approved preliminary development plan. If, after the initial approval of the PUD preliminary development plan, should the owner or applicant or his successors desire to make any changes to the preliminary development plan, such changes shall first be submitted to the county. If the zoning official deems there is a substantial change or deviation from that which is shown on the preliminary development plan, the owner or applicant shall be requested to return to the board of county commissioners where it is determined that the public interest warrants such procedure. For purposes of this subsection, a substantial change shall be defined as any change which increases the density or intensity of the project or decreases the amount of buffer areas from adjacent property or decreases the amount of common open space. The zoning official shall have the authority to approve minor changes not determined by the director to be substantial as defined in this subsection.

(d) Developments of regional impact (DRI). any preliminary development plan approved under this section on a parcel that also constitutes some or all of a development of regional impact pursuant to F.S. ch. 380 shall be consistent with the provisions of this section as well as the provisions of the DRI development order and accompanying master plan. Approval of the DRI development order and master plan, including subsequent changes to such approved plan, shall constitute approval of, or changes to, the preliminary development plan, and shall not require separate action on the preliminary development plan. Any such project shall be designated as PUD-DRI on the official zoning maps.

(Sec. 62-1449. Same--Approval of final development plan; site plans.

(a) Time limits. The developer shall have three years from the date of the approval of the preliminary development plan for a planned unit development classification in which to file a final development plan application for the entire property or any stage thereof. However, where a preliminary development plan approved under this section also constitutes some or all of a development of regional impact pursuant to F.S. Ch. 380, such preliminary development plan shall have the same lifetime as prescribed in the development order of the DRI. At the request of the developer, the zoning official may extend the period required for filing of such application for successive periods of one year each unless and until the comprehensive plan has been amended causing the preliminary development plan to become inconsistent with the comprehensive plan.

(b) Approval procedure; required submittals; recording of final development plan.

(1) Approval procedure.

a. Preapplication conference; coordination with county agencies.
1. Reserved.

2. The other county departments and agencies which should be contacted for guidance prior to submittal of a final development plan are the zoning office, public safety, the public works department and environmental health services. The applicant should have the PZ Form 100 initialed by each department and division contacted.

b. Reserved.

(2) Scope and contents of final development plan; recording of final development plan; site plans. The final development plan application may request approval for the entire planned unit development or any stage designated in the preliminary development plan containing a minimum of ten acres. A final development plan, in addition to containing the exhibits, schedule, information and documents required in subsection (b)(2)a of this section, shall conform to the requirements for site plans.

a. Exhibits; required information. The following exhibits shall be attached to the final development plan application:

1. Development plan. The location and dimensions of each primary residential, secondary nonresidential and open space/recreational tract, including each tract's points of ingress and egress. The legal description of each of such tracts and the specific number of units, including the range of unit types to be constructed within each tract, shall be specified. These items will be affixed to the original linen drawing for recording purposes.

2. Development schedule. The development schedule shall contain the following information:

i. The order of construction of the tracts and blocks as delineated in the preliminary development plan.

ii. The proposed schedule for the construction and improvement of residential, non-residential, common open space, and other improvements relative to one another for the purpose described in the definition of "development schedule" as shown in section 62-1441.

(Code 1979, § 14-20.11(I); Ord. No. 95-48, § 1, 10-19-95; Ord. No. 97-49, § 8, 12-9-97; Ord. No. 03-52, § 6, 12-16-03)

Sec. 62-1450. Same--Review of physical layout and amenities.

The county shall have the right to evaluate the physical layout, and amenities of the planned unit development and to suggest changes or modifications designed to create compatibility and conformity in the variety of uses within the development to ensure, protect and promote the health, safety and general welfare of
the property owners of the planned unit development and the residents of the county. 
(Code 1979, 14-20.11(J); Ord. No. 95-48, § 1, 10-19-95)

Sec. 62-1451. Reserved. 
Editors Note: Ordinance No. 95-48, § 1, adopted October 19, 1995, deleted § 62-1451 in its entirety. Formerly, such section pertained to issuance of building permits and derived from § 14-20.11(K) of the 1979 Code.

Sec. 62-1452. Reserved. 
Editors Note: Ordinance No. 95-48, § 1, adopted October 19, 1995, deleted § 62-1252 in its entirety. Formerly, such section pertained to bonds and derived from § 14-20.11(L) of the 1979 Code.

Sec. 62-1453. Same--Termination of PUD zone.

Failure to submit final development plan. Failure of the developer to submit a final development plan for the entire development or a stage within the time periods specified in section 62-1449 shall cause approval of the complete preliminary development plan to be considered inactive pending reapplication by the applicant or administrative action by the board of county commissioners pursuant to section 62-1152. 
(Code 1979, § 14-20.11(M); Ord. No. 95-48, § 1, 10-19-95)

Sec. 62-1454. Reserved. 
Editors Note: Ordinance No. 95-48, § 1, adopted October 19, 1995, deleted § 62-1454 in its entirety. Formerly, such section pertained to enforcement and derived from § 1420.11(N) of the 1979 Code.

Sec. 62-1455. Same--Transfer of development rights.

Where a developer owns more than one tract or parcel of land within the unincorporated area of the county, and each such tract or parcel meets the minimum size requirement of ten acres, or five acres in the South Beach areas of the county, the uses permitted in a planned unit development may be transferred from one tract or parcel of land to the other tract or tracts of land provided the following conditions are met:

(1) The transfer of such uses must be justifiable as enhancing the use or nonuse of land in the public interest. The protection and preservation of some area of environmental concern is a prime example of the intent of this provision.

(2) The tracts of land need not be contiguous; however, they shall be in close proximity to each other.

(3) The activities and proposed uses of each tract must complement and be an integral part of the development of the other tract or tracts of land.

(4) The transfer of uses from one parcel to the other shall not increase the overall density permitted for the total acreage involved.

(5) When a use has been transferred from one tract of land to another, then the transfer shall be noted in the PUD file maintained by the county zoning office, and such designations and transfer of land shall become a binding condition on the use of the land for the developer and all subsequent owners of the property.
(6) The transfer of the land uses may include a transfer of primary residential uses, secondary nonresidential uses, motel and hotel units and restaurants; provided, however, the transferred motel and hotel units may only be transferred to a tract or parcel of land that meets the minimum size requirement of 20 acres.

(Code 1979, § 14-20.11(O); Ord. No. 95-48, § 1, 10-19-95; Ord. No. 97-49, § 9, 12-9-97)

State Law References: Regulations authorizing transfer of development rights encouraged, F.S. § 163.3202(3).


Sec. 62-1461. RPUD--Definitions and rules of construction.

For the purpose of these sections, through certain words and terms used, shall be defined as provided in this section. Words used in the present tense shall include the future tense, words used in the singular number shall include the plural number, and words used in the plural number shall include the singular number. The word "shall" is mandatory. The word "person" includes any individual, group of persons, firm, corporation, association or organization, and any legal public entity.

**Common open space** means a parcel or parcels of land, or a combination of land and water, within the site designated as a residential planned unit development, and designed and intended for the use or enjoyment of residents of the planned unit development. Common open space shall be integrated throughout the entire residential planned unit development to provide for a continuous, contiguous, and physically linked recreational/open space system. Physical linkages shall include a combination of continuous pedestrian ways, sidewalks, bikeways, multi-purpose trails, and greenways that link each residential unit, multifamily structure, or non-residential structure to the common open space system. All common open space shall complement the residential uses and may contain compatible and complementary structures for the benefit and enjoyment of the residents of the planned unit development. Areas within structure setback yards, rights-of-way, and parking lots are not counted as common open space, except when a proposed RPUD development project is less than 10 acres in size.

**RPUD Development plan** means the total site plan of the residential planned unit development drawn in conformity with the requirements of this subdivision. The 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, common open space, pedestrian ways, sidewalks, bikeways, multipurpose trails, and their internal continuous physical linkages. External and continuous physical linkages of pedestrian ways, sidewalks, bikeways, and multi-purpose trails to existing public right of way, approved bikeway plan, or any county adopted open space or pedestrian/bike way plan shall also be shown. Security controlled access stations or devices may be located on bicycle and pedestrian facilities that are on, and enter privately owned and maintained common open space from county right of way or any county adopted open space or pedestrian/bikeway plan corridor designated within the County Greenways and Trails Master Plan.

**Final engineered RPUD development plan** means the engineered development plan approved administratively by county staff, as designated by the county manager, and filed with the county planning and zoning office according to the provisions of this subdivision, or the approved engineered development plan for any stage or tract within the RPUD.
Residential planned unit development and RPUD means an area of land developed as a single entity or in approved stages in conformity with a final engineered RPUD development plan by a developer or group of developers acting jointly, which is totally planned to provide for a variety of residential and compatible uses and common open space.

Development plan application means the application for administrative site plan approval for the residential planned unit development (RPUD) and for approval of the required exhibits as specified in this subdivision.

Tract means an area delineated within a stage, except single-unit lots, which is separate unto itself, having a specific legal description of its boundaries. A tract will delineate all land uses such as common open space, recreational areas, residential areas (except single-unit lots), commercial areas and all other applicable areas.

(Ord. No. 2000-61, § 2, 12-7-00)

Sec. 62-1462. Same--Purpose and intent.

(a) The residential planned unit development (RPUD) is a concept which encourages and permits variation in development by allowing deviation in lot size, bulk or type of dwellings, density, lot coverage and open space from that required in any one residential zoning classification under this article. The purpose of a RPUD is to encourage the development of planned residential neighborhoods and communities that are below state and local level DRI (F.S. Chapter 380) threshold requirements and provide a full range of residence types, as well as secondary neighborhood commercial and institutional land uses. It is recognized that only through ingenuity, imagination and flexibility can residential developments be produced which are in keeping with the intent of this subdivision while departing from the strict application of conventional use and dimension requirements of other zoning districts and article VII of this chapter, pertaining to subdivisions.

(b) This subdivision is intended to establish procedures and standards for residential planned unit developments within the unincorporated areas of the county, in order that the following objectives may be attained:

1. The clustering of significant areas of usable open spaces for recreation, agriculture, and the preservation of natural amenities, including threatened and endangered plant and animal species.

2. Flexibility to protect and to design with, and around, native upland and wetland habitats, native vegetation, farmlands and associated structures, historical features, and other unique features in a open space or greenways concept.

3. Creation of housing types and compatible neighborhood arrangements that give the home buyer or residents 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 and natural character of the county.

5. Efficient use of land that is intended to result in smaller street and utility networks, lessen
impervious surface coverage resulting in reduced amounts of stormwater runoff, reduced
development and long term future infrastructure maintenance and renovation 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 the procedure for obtaining approval of proposed developments by the county
for proposed land use, site considerations, lot and setback considerations, public needs and
requirements, and health and safety factors.

(8) The integration of continuous and physically linked sidewalks, walkways, bicycle paths and
lanes, and multi-purpose trails into the transportation system to provide safe alternative modes
and corridors of transportation internal to the site and externally to it's perimeter.

(9) Potential utilization as a post-disaster review mechanism for reconstruction or redevelopment of
residential and neighborhood commercial areas damaged or destroyed by manmade or natural
disasters.

(Ord. No. 2000-61, § 3, 12-7-00)

Sec. 62-1463. Same--Rezoning and permitted uses.

(a) The RPUD zoning classification is designed to allow an applicant to first submit a rezoning
application for consideration, consistent with the requirements of section 62-1151 and to allow the board of
county commissioners to approve any rezoning application which it believes to be in the best interest of the
public health, safety and welfare. Rezoning to the RPUD zoning classification shall be an entirely voluntary
procedure to be pursued only at the option of the applicant. Approval of the RPUD zoning classification rests
with the board of county commissioners, based upon its determination that the proposed rezoning is in the best
interests of the county.

(b) Action by board of county commissioners. Upon receiving the recommendation of the local
planning agency, on the proposed RPUD zoning, the board of county commissioners shall at a regularly
scheduled public meeting, review the recommendation and either approve, or disapprove the RPUD rezoning
application. The RPUD development plan and the final engineered RPUD development plan are subject to
administrative approval by county staff, as designated by the county manager. The decision of the board of
county commissioners on the rezoning shall be based upon a consideration of the facts specified in the review
criteria for rezoning applications in section 62-1151.

(c) Record of RPUD zoning approval. If the RPUD zoning is approved a copy of the application and
required exhibits shall be maintained within the zoning division of the county.

(d) Nonresidential land uses shall not be permitted within the RPUD unless the following criteria
area met on the RPUD Development Plan and Final Engineered RPUD Development Plan:

(1) Nonresidential land uses accessory to planned residential uses may be requested within the
RPUD provided they meet one of the following locational criteria.
a. Where the proposed nonresidential use area(s) are located consistent with the existing future land use map series; or

b. Where the proposed nonresidential use area(s) are located at the interior, central edge, or interior corner crossroads of the RPUD, are accessory to the proposed development, are consistent with the Neighborhood Commercial (NC) Future Land Use (FLU) and the Restricted Neighborhood Retail Commercial (BU-1-A) Zoning Classification, and are in two acre nodes or less, and not totaling more than 15 percent of the total RPUD land use, or the developer demonstrates to the satisfaction of board of county commissioners with a RPUD development plan and application that the land uses proposed demonstrates a rational development scheme, interrelated to the development as a whole, which promotes the goals of the RPUD zoning classification found in section 62-1462.

(2) Nonresidential land uses which are not permitted uses in the BU-1-A zoning classification under the Neighborhood Commercial (NC) Future Land Use Category must be specified on the RPUD development plan and application. The type of proposed uses, a maximum and minimum range of setbacks, building heights under 35 feet, and buffers shall be submitted as a RPUD Development Plan and application to the board of county commissioners along with a narrative description that demonstrates that the land use proposed provides a rational development scheme, interrelated to the development as a whole, which meet the goals of the RPUD zoning classification in section 62-1462.

(3) Residential units are encouraged and permitted above non-residential uses in the Neighborhood Commercial (NC) development nodes provided adequate onsite and feasible offsite parking scenarios with supporting calculations are demonstrated. It is recommended that each residential unit above non-residential uses have a shaded outdoor patio or terrace.

(4) Parks and public recreational facilities that are consistent with the land use regulations in section 62-1466.

(e) Permitted uses with conditions are as follows:

(1) Power substations, telephone exchanges and transmission facilities.

(2) Preexisting use(s).

(3) Resort dwellings.

(4) Group homes, level I for development within any residential tracts, subject to the requirements set forth in section 62-1835.9.

(5) Group homes, level II development within multi-family residential tracts, subject to the requirements set forth in section 62-1835.9.

(Ord. No. 2000-61, § 4, 12-7-00; Ord. No. 2003-03, § 25, 1-14-03; Ord. No. 05-27, § 2, 5-19-05; Ord. No. 2007-59, § 28, 12-6-07)
Sec. 62-1463.5. Same--Accessory buildings and uses.

*Accessory buildings or uses.* Accessory buildings and uses customary to residential uses are permitted. Accessory uses customary to non-residential uses are permitted within non-residential tracts. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(Ord. No. 2002-49, § 31, 9-17-02)

Sec. 62-1464. Same--Conditional uses.

Uses otherwise listed as conditional use permits in this division 5, subdivision III of this article may be specified as part of a RPUD development plan application process without the necessity to request a separate conditional use permit, as long as the requested use is consistent with the comprehensive plan. Owners of parcels within the RPUD may request additional conditional use permits after the RPUD development plan is approved by undertaking the standard conditional use permit application process without applying for an amendment to the final RPUD development plan.

(Ord. No. 2000-61, § 5, 12-7-00)

Sec. 62-1465. Same--Maintenance and operation of common facilities and common open space.

(a) Common open space, drainage systems, private roads, pedestrian ways, sidewalks, bikeways, and multi-purpose trails, greenways and other related common facilities shall be maintained for their intended purpose as expressed on the final engineered RPUD development plan. One or a combination of the following methods shall be utilized for maintaining common facilities:

(1) Maintenance may be provided for by public dedication to the county. This method is subject to formal acceptance by the county in its sole discretion.

(2) Maintenance may be provided for by establishment of an association or nonprofit corporation of all individuals or corporations owning property within the planned unit development to ensure the maintenance of all common facilities.

(3) Maintenance may be provided for by retention of ownership, control and maintenance of common facilities by the developer. This option shall not be available for platted single family subdivisions unless open space acreage beyond the required minimum in section 62-1466 is to be provided through a permanent conservation easement on active agricultural lands or forestry operations. Portions of this open space may be fenced when in active agricultural use.

(4) The developer may also request or the county may require that the maintenance of common facilities be funded through a municipal service taxing or benefit unit as provided by F.S. § 125.01.

(b) All privately owned common open space shall continue to conform to its intended use and remain as expressed on the RPUD Development Plan and the final engineered RPUD development plan through the inclusion in all deeds of appropriate restrictions to ensure that the common open space is permanently preserved according to the final development plan. Such deed restrictions, and, or private conservation easements if applicable, shall run with 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 and recreational facilities including pedestrian ways, sidewalks, bikeways, and multi-purpose trails shall be specifically included on the RPUD development plan and final engineered RPUD development plan and be constructed and fully improved by the developer at an equivalent or greater rate than the phased construction of residential, commercial, or institutional structures.

(d) If the developer elects to administer common open space through an association or nonprofit corporation, the organization shall conform to the following requirements:

(1) The developer must establish the association or nonprofit corporation prior to the sale of any lots, parcels or tracts.

(2) Membership in the association or nonprofit corporation shall be mandatory for all residential property owners within the planned unit development, and the association or corporation shall not discriminate in its members or shareholders.

(3) The association or nonprofit corporation shall manage all common open space and recreational and cultural facilities that are not dedicated to the public, and shall provide for the maintenance, administration and operation of such land and any other land within the residential planned unit development not publicly or privately owned, and shall secure adequate liability insurance on the land.

(4) If the developer elects an association or nonprofit corporation as a method of administering common open space, the title to all residential property owners shall include an undivided fee simple estate in all common open space, or appropriate shares in the association.

(Ord. No. 2000-61, § 6, 12-7-00)

Sec. 62-1466. Same--Land use regulations.

(a) Minimum and maximum size. The minimum size for a RPUD shall be seven acres. The maximum size for a RPUD shall be 100 acres. Applicants who choose to design an RPUD of less than 15 acres shall submit a RPUD development plan with their RPUD zone change application for review by the board of county commissioners.

(b) Maximum density. The maximum residential density permitted in each RPUD shall be limited by the maximum residential densities assigned to properties located in the individual Residential and Agricultural Future Land Use Categories found in the Brevard County Comprehensive Plan Policies and on the Future Land Use Map, as amended by the board of county commissioners. The Comprehensive Plan policies permit residential density bonuses for use of the planned unit development concepts. The overall number of dwelling units permitted in the RPUD may be allocated to a particular portion of the site area provided the RPUD development plan proposes clustering of development to: create more usable or larger areas of open space, interconnect open space corridors, conserve sensitive native upland & wetland habitats, or conserve valuable farmlands.

(c) Minimum common recreation and common open space. A portion of the gross site acreage shall
be delineated as tracts for common recreation and open space based upon the mixture of residential uses in the RPUD according to the following schedule:

<table>
<thead>
<tr>
<th></th>
<th>Percent</th>
</tr>
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<tbody>
<tr>
<td>Multifamily</td>
<td>30%</td>
</tr>
<tr>
<td>Single-family lots, or with multiple-family mix.</td>
<td>20%</td>
</tr>
</tbody>
</table>

(1) Only one-third of the total 30 percent or 20 percent required common recreation and open space shall be used for stormwater management and treatment facilities required by local or state regulations. These water management facilities shall be site amenities, and designed to: provide for potential fire protection, landscape irrigation, passive recreation, and provide for limited wildlife habitat with shallow littoral shelves, and shall not be enclosed by metal cyclone fences and barb wire, or by fences or walls of solid metal, wood, brick, stone, plastic, or cement. These items shall all be shown in general detail on the RPUD Development Plan. They shall be shown in greater design detail on final engineered RPUD Development Plans, or stages and tracts thereof. Stormwater facilities located within active agricultural use areas may be fenced.

(2) Internal continuous greenways, first preserving existing native vegetation, or secondly, utilizing thinned, trimmed, planted, or transplanted native vegetation clusters, shall be designed throughout the RPUD within the common open space areas and shown on the RPUD development plan. They may be used for walkways, recreational pathways, bicycle paths, wildlife corridors, fire breaks, or fire roads and shall physically link to all facilities in the project. Greenways which function as wildlife corridors utilizing existing, non-cleared and grubbed, native vegetation shall connect wetlands, preserved uplands, stormwater management ponds and swales, or other viable wildlife habitat internal and external (contiguous) to the RPUD.

(3) A minimum one percent of the required common open space shall be designed as flat, grass-turfed, and irrigated area of not less than 15,000 square feet for use as active recreation areas. Impervious playing courts may be placed adjacent to these areas. These facilities shall be integrated throughout the residential planned unit development to provide for a physically linked recreational/open space system. Physical linkages shall include a combination of pedestrian ways, sidewalks, bikeways, and multi-purpose trails.

In addition to the above the allocation of common recreation and open space facilities shall be determined utilizing the definition of the term "usable common open space" in section 62-1102. If there is conflicting language or criteria the RPUD terms shall prevail.

(d) **Minimum lot area, frontage and setbacks; accessory uses.**

(1) The minimum lot size for detached single-family structures shall be an area not less than 4000 square feet and having a width of not less than 40 feet. Applicants who choose to design with lot sizes of less than 5000 square feet and a width of less than 50 feet shall submit a RPUD development plan with their RPUD zone change application for review by the board of county commissioners. The minimum lot size requirement may be waived by the board of county commissioners if the proposed lot or lots all have substantial relationship to the common open
space (e.g., are directly adjacent to or abut a common open space area) and the arrangement of
dwelling units provide for adequate separation of units, and the living area of the dwelling unit or
units is properly related to the configuration of the proposed lots, and the design and location of
units is consistent with state and local fire and building codes. This type of waiver request will be
determined after submission of a RPUD development plan and application to the board of county
commissioners. A combination of lot sizes are encouraged in the design of a RPUD project.
IMPORTANT: For single family detached lots proposed in a RPUD under this ordinance that
abut already developed single family lot subdivisions, or legally approved residential single
family lot subdivisions not yet built but on file in the county land records, see subsection (d)(13)
below.

(2) 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, lane, or alley, or other area
dedicated to public or private use or common easement guaranteeing access. Permitted uses are
not required to front on a publicly dedicated road. The county shall be allowed access on
privately owned roads, lanes, alleys, easements and common open space to ensure the police and
fire protection of the area to meet emergency needs, to conduct county services, and to generally
ensure the health and safety of the residents of the RPUD.

(3) Setbacks and minimum distances between structures are as follows:

a. Single-family detached structures shall be set back not less than five feet from the side lot
   lines. Single-family detached structures shall be set back not less than 20 feet from the
   rear lot line. Screened porches may be set back not less than ten feet. On a corner lot, the
   side street setback shall be not less than 10 feet. However, if a corner lot is contiguous to
   a key lot, then the side setback shall be in accordance with the front setback provided in
   subsection (d)(4) of this section. The county staff, as designated by the county manager,
   may allow the reduction of the required side setbacks and the distances between
   structures provided that proposed structures do not abut utility easements or otherwise
   affect the ability to provide and maintain utility service and adequate fire protection to
   each lot.

b. Separation between structures of two stories and less than 35 feet in height shall be 10
   feet.

c. Separation between structures of three stories and less than 35 feet in height shall be 15
   feet.

d. Between structures of varying heights, the larger distance separation shall be required.

(4) Except for single-family detached structures, setbacks required between the nearest part of any
building wall and the edge of any public right-of-way or private street pavement shall be 10 feet.
For single-family detached structures on local public streets, the front setback shall be a
minimum of 10 feet, except that a solid roofed open front porch, without habitable floor space
above, attached to the residence, may be set back a minimum of 5 feet if a sidewalk of a
minimum of six feet in width is provided between the paved street edge and the front lot line. On
local private streets, the single-family detached structure shall be set back a minimum of 10 feet from the pavement edge of the private local street, except that a solid roofed open front porch, without habitable floor space above, may be set back a minimum of 5 feet from the pavement edge if a sidewalk of a minimum of six feet in width is provided between the paved street edge and the front lot line. A minimum 25-foot setback shall be maintained between the wall of any structure and the property line along the perimeter of the PUD.

(5) On property bordering the ocean, a minimum of 30 percent of the ocean frontage shall be left open as breezeway/visual corridor. On property bordering a river, a minimum of 30 percent of the river frontage shall be left open as breezeway/visual corridor.

(6) On property bordering the ocean, setbacks from the ocean on oceanfront property shall be governed by the provisions of article XII of this chapter.

(7) Accessory structures shall be located behind the front building line of the principal structure. Accessory structures shall be set back not less than five feet from the side and rear lot lines. On a corner lot, the side street setback shall be not less than 15 feet; however, if a corner lot is contiguous to a key lot, then the side setback shall be in accordance with the front setback provided in subsection (4), above. Also, see subsection (4) above for setback requirements on RPUD perimeter lots.

(8) Garages, carports, or garage doors on primary or accessory structures are recommended not to face the street or main access drive. They are recommended to front or face on side and rear yards and have access from rear drives or rear alleys. When units with garages, carports, or garage doors front, and have access from the front lot line, street or main access road it is recommended that the garages, garage doors, and carports be located as attached structures to a primary structure, and be located behind the front building line of the primary structure by 12 feet. Detached garage structures and carports are recommended to be located behind the rear building line of the primary structure when facing the street or front lot line. Single-family lots with front yard or street access are recommended to have at least one side yard of 10 to 12 feet to allow for adequate drive way width and on site parking access.

(9) Nonresidential tracts shall be subject to the same development standards, with exceptions for building setbacks as provided in sections 62-1461--62-1470, as are found in the BU-1-A, BU-1, zoning classifications under the Neighborhood Commercial NC Future Land Use Category, unless waivers are granted for standards consistent with sections 62-2849, 62-2881, and 62-2956 of the land development regulations. The residential building setbacks listed above in subsection (4) may apply to the primary structures for proposed non-residential, or mixed use residential structures, as permitted by the RPUD within the (NC) nodes.

(10) Non-residential structures and uses in the RPUD shall be setback 150 feet from any existing residential uses, or single family lots in a legally approved residential subdivision filed on the county land records, that directly abut the proposed RPUD. The preservation or planting of an adequate vegetated buffer within the 150 foot setback to protect abutting land uses shall be required consistent with the county landscaping ordinance in sections 62-4331 through 62-4336. A setback of less than 150 feet may be permitted provided that the applicant graphically
demonstrates on a site plan presented to the board of county commissioners for approval during the RPUD rezoning process, or the administrative development plan review process, that any proposed combination of supplemental landscaping, structure designs, fences, walls, and earthen berms will buffer and ensure compatibility with existing and future land uses that abut the land proposed for RPUD zoning and development.

(11) The non-residential, and, or mixed use structures and their proposed uses are encouraged to be the physical, social, architectural, and visual focal points of the RPUD and shall be located at the interior, central edge, or interior corner crossroads of the RPUD in (NC) node(s) and shall be physically linked by a combination of, native tree shaded, hard surfaced pedestrian ways, sidewalks, bikeways, or multi-purpose trails. The development plan shall show the physical and spatial relationship between the non-residential uses and residential uses, and the above-required pedestrian and bikeway linkages. In the absence of a non-residential use, or node, a park, green, or tree shaded courtyard of a minimum 15,000 square shall be located and designed as required above. The development plan shall show the physical and spatial relationship between the park, green, or tree shaded courtyard and residential uses, and the above required pedestrian and bikeway linkages. The park, green, or courtyard may be counted as common open space.

(12) Proposed attached multi-family dwellings in a RPUD shall be setback 150 feet from any existing residential single family lots in a legally approved residential subdivision filed on the county land records, that directly abut the proposed RPUD. The preservation or planting of an adequate vegetated buffer within the 150 foot setback to protect abutting land uses shall be required consistent with sections 62-4331 through 62-4336. A setback of less than 150 feet may be permitted provided that the applicant graphically demonstrates on a site plan presented to the board of county commissioners for approval during the RPUD rezoning process, or the administrative development plan review process, that any proposed combination of supplemental landscaping, structure designs, fences, walls, and earthen berms will buffer and ensure compatibility with existing and future land uses that abut the land proposed for RPUD zoning and development.

(13) Single-family lots proposed in the RPUD, that directly abut an existing single family subdivision, or legally approved, but not yet constructed, single family residential subdivision filed on the county land records shall be designed as follows. Each lot on the perimeter of the RPUD in this scenario shall specifically mirror the lot size, depth, width, and density of the abutting subdivision lots. The primary structures on the perimeter RPUD lots shall have the same average building heights and building footprint as those found on the existing residential lots that abut the RPUD and shall be designed, constructed, and used or occupied as single family residential units. Exemptions for all, or a portion, of these requirements may be permitted provided that the applicant graphically demonstrates on a scaled site plan presented to the board of county commissioners for approval during the RPUD rezoning process, or the administrative development plan review process, that any proposed combination of supplemental landscaping, structure designs, fences, walls, and earthen berms will buffer and ensure compatibility with existing and future land uses that abut the land proposed for RPUD zoning and development.

(e) **Maximum height of structures.**
(1) Where the property abuts any other land designated for single-family residential use or zoned for such use on the RPUD development plan, the maximum height shall be 35 feet, or as required for RPUD perimeter lots in subsection (d)(13) above.

(2) Where the property abuts any other land designated for attached single-family or multifamily residential use or institutional use or zoned for such uses on the PUD or final development plan, the maximum height shall be 35 feet.

(f) Minimum floor area per unit.

(1) Single-family dwellings, attached or detached: 800 square feet unless waived by the board of county commissioners.

(2) Duplex: 700 square feet per unit.

(3) Multifamily dwellings:

   a. Efficiency . . . . . 400 square feet.
   b. One bedroom . . . . . 450 square feet.
   c. Two bedrooms . . . . . 700 square feet.
   d. Three bedrooms . . . . . 850 square feet.

(4) The internal design of the structure shall be compatible with the lot and adjacent single-family dwellings.

(g) RPUD Parking requirements. Where the planned unit development consists of single-family detached dwellings on platted lots of less than 6,600 square feet the developer shall provide an adequate designated common area for the parking of campers, travel trailers, recreational trailers and vehicles, boats and boat trailers, and other similar vehicles on the RPUD development plan.

   (1) Creative parking scenarios for autos, bicycles, motorcycles, and scooters for non-residential and mixed uses are encouraged and may include on street parking and onsite and offsite shared parking provided they are consistent with applicable criteria in section 62-3206.

   (2) For non-residential and mixed uses developers and designers may reduce required onsite parking requirements of the land development code for reduced drive aisle widths, number of parking spaces, and space size requirements provided on street parking or other creative parking scenarios are provided with supporting parking calculations, and are consistent with the applicable criteria in section 62-3206.

   (3) Parking lot facilities for these non-residential and mixed uses shall be planted with native shade tree species of at least 4 inches in caliper around the full perimeter of, and in the center, or end, aisle islands of the lot. The trees shall be planted at 20-foot intervals in the interior landscape
islands or perimeter planting beds that are 12 feet in width or more. Interior or end aisle landscape islands shall be no less than 40 feet in length and 12 feet wide. Sidewalks or pedestrian ways from these lots to primary structures shall be designed and located within these shade corridors. Optional designs incorporating 20 foot by 20 foot landscape islands may be used for large shade tree plantings.

(4) Onsite parking lot facilities for non-residential and mixed uses shall be located within rear and side yards only, including corner lots.

(h) Underground utilities. Within the RPUD, all utilities, including telephone, television cable, fiber optic cable, and electrical systems, shall be installed underground. Primary facilities providing service to the site of the RPUD may be exempted from this requirement. Large transformers shall be placed on the ground and contained within pad mounts, enclosures or vaults. The developer must provide landscaping with native shrubs and plants to screen all utility facilities permitted aboveground. Substations shall be screened by native trees and shrubs or walls resembling a structure which is compatible with the design of the buildings within the RPUD.

(i) Development standards. The minimum construction requirements for streets or roads, sidewalks, sewer facilities, utilities and drainage shall be in compliance with the requirements of article VII of this chapter, pertaining to subdivisions. Traffic calming techniques or devices for local streets are encouraged in the RPUD. These potential techniques and devices are listed in the table below. The final design requirements with respect to streets, rights-of-way, sidewalks and drainage in the RPUD may be waived by the county staff, as designated by the county manager, provided they are consistent with the criteria in sections 62-2849, 62-2881, and 62-2956.

Applicants and their professional engineers licensed in the State of Florida are encouraged, but not required, to utilize other national, statewide and regionally accepted development standards in RPUD's that improve vehicle, pedestrian, and bicycle safety, encourage pedestrian and bicycle travel trips, and reduce impervious pavement coverage. Especially, in the design and, or, application of streets, roadways, alleys, block lengths, interconnected street grid patterns, T-intersections, loops, indirect through streets, turning radii, traffic calming devices, on street parking, sidewalks, multi-purpose bicycle and pedestrian ways, bicycle and scooter parking, right-of-way design, setbacks for solid roofed front yard porches, and front yard setbacks. See table below for examples. These are not mandated by Brevard County ordinances and their use is voluntary, and all must be designed by a professional engineer licensed in the State of Florida.

Voluntary design and application of these techniques may result in the future development within the RPUD being eligible for a reduction credit from the transportation impact fee requirement of this Code, provided the applicant successfully requests such a reduction consistent with the requirements of section 62-809, and subsection (b), of the County Code regarding impact fees.

Potential local access streets & alleys:

Two-way street, total pavement width . . . . 22' to 18'

One-way street, total pavement width . . . . 14' to 10'
Alley, total pavement width . . . . 12' to 10'

Potential traffic calming techniques or devices:

• Slow points
• Raised crosswalks
• Rumble strips
• Chicanes/staggering
• Speed humps (not the traditional method of raised asphalt, or plastic bumps, placed in narrow strips)
• Speed table or plateau
• Intersection hump
• Diagonal closure
• Medians
• Gateway treatments
• Choker/nub/bulb out
• Diagonal diverter
• Low volume roundabouts (not the traditionally known rotary or traffic circle)

(Ord. No. 2000-61, § 7, 12-7-00)

Sec. 62-1467. Same--Approval of RPUD development plan.

(a) Pre-application conference. Before submission of a application for approval of a RPUD development plan, the developer and the registered professional engineer, and licensed landscape architect, architects, or site planner shall meet with the zoning official and such other county personnel in a team review setting that includes the land development department, the department of natural resources, the public works department, the metropolitan planning organization, and others designated by the county manager, as necessary to determine the feasibility and suitability of the application. This step is necessary so that the developer may obtain information and guidance from county personnel before entering into any further binding commitments or incurring substantial expenses of site and plan preparation.

A sketched site analysis plan, at a minimum scale of 1 inch equals 200 feet, shall be created by the applicant for this pre-application conference and shall include the following information to facilitate productive planning
discussion and preliminary comments:

(1) The boundaries of the project shown with all existing easements, streets, the existing zoning, the zoning of all abutting properties, and the name and location of adjoining developments and subdivisions.

(2) A contour map based at least upon topographical maps published by the U.S. Geological Survey;

(3) The location of constraining elements such as slopes, ridges, and dunes (over 15 percent), wetlands, watercourses, intermittent streams and 100-year floodplains, and all rights-of-way and easements;

(4) Soil boundaries as shown on the Soil Survey of Brevard County, Florida, USDA Soil Conservation Service; and

(5) The location of features such as woodlands, tree lines, open fields, groves, pastures, meadows, scenic views into or out from the property, existing watershed divides and drainage ways, fences or dunes, ridges, rock outcrops, and all existing structures, signs, billboards, roads, tracks and trails, and any sites listed on the Florida Natural Areas Inventory.

(6) The general location of vehicular and pedestrian circulation systems, including pedestrian ways, sidewalks, bikeways, multi-purpose trails, greenways, and their internal and external continuous physical linkages.

(7) Site data including total gross acres and acreage devoted to each type of primary residential and secondary nonresidential uses, and the total number of dwelling units.

(8) Proposed common open space, including greenways and recreation areas.

(9) Delineation of potential stages.

(10) Proposed corridors of drainage, natural drainage areas, and areas which are to function as retention lakes, ponds, and on site wetland mitigation areas.

(11) The general location within the site of primary residential and secondary nonresidential use, and the proposed amount of land to be devoted to individual ownership.

(b) RPUD Development application.

(1) Generally. A RPUD development application shall be submitted to the county by the developer requesting approval of the site as a RPUD zone. The RPUD development application shall contain the name of the developer, the surveyor, the professional engineer, and licensed landscape architect, who prepared the development plan and topographic data map, and the name of the proposed RPUD.

(2) Exhibits; contents of RPUD development plan. The following exhibits shall be attached to the
RPUD development application:

a. A vicinity map indicating the relationship between the planned unit development and its surrounding area, including adjacent streets and thorough-fares.

b. A RPUD development plan that shall contain but not be limited to the following information:

1. The proposed name or title of the project, and the name of the professional engineer, and licensed landscape architect, architect and developer.

2. North arrow, scale (one inch equals 100 feet or larger), date and legal description of the proposed site.

3. The boundaries of the stages and tract(s) shown with bearings, distances, closures and bulkhead lines, all existing easements, section lines, and all existing streets and physical features in and adjoining the project, and the existing zoning and the zoning of all abutting properties.

4. The name and location of adjoining developments and subdivisions, and if required by sections 62-1461–62-1470, show all directly abutting residential subdivision lot sizes, lot widths and lengths, residential unit sizes and heights, and the overall residential density of the existing subdivision.

5. Proposed parks, school sites or other public or private open space.

6. Vehicular and pedestrian circulation systems, including off-street parking and loading areas, driveways and access points, pedestrian ways, sidewalks, bikeways, multi-purpose trails, greenways, and their internal continuous physical linkages. External and continuous physical linkages of pedestrian ways, sidewalks, bikeways, greenways, and multi-purpose trails to existing public right of way, approved bikeway plan, or any county adopted open space or pedestrian/bike way plan shall also be shown.

7. Site data, including tabulation of the total number of gross acres in the project, the acreage to be devoted to each of the several types of primary residential and secondary nonresidential uses, and the total number of dwelling units.

8. Proposed common open space, including greenways, and the proposed improvements and any complementary structures and the tabulation of the percent of the total area devoted to common open space. Areas qualifying as common open space shall be specifically designated on the site plan.

9. Delineation of specific areas designated as a proposed stage(s) and tracts.

10. A general statement, including graphics, indicating proposed corridors of drainage
and their direction, natural drainage areas, specific areas which are to function as retention lakes or ponds, anticipated method for accommodating runoff (curb and gutter, swales or other method), and treatment methods for discharge into area waterways for the site to ensure conformity with natural drainage within the vicinity area or with the drainage plan established within the vicinity area.

11. The general location within the site of each primary residential and secondary nonresidential use, and the proposed amount of land to be devoted to individual ownership.

12. The proposed method of dedication and administration of proposed common open space.

(3) Submittal.

a. The RPUD development plan shall be submitted to the county.

b. The application shall include 18 black or blue line prints, at scale of 1 inch equals 100 feet, of the RPUD development plan and any required exhibits.

(4) Review procedure.

a. The RPUD development plan shall be reviewed formally by county staff as designated by the county manager as necessary to determine the consistency of the plan with county plans and policies after approval of the RPUD zoning application.

b. Upon completion of its review, the county staff, as designated by the county manager, shall approve, approve subject to conditions, or disapprove of the RPUD development plan application.

(5) Review criteria. The decision of the county staff on the RPUD development plan application shall include the findings of fact in a written report that serve as a basis for its decision. In making the decision, the county staff shall consider the following facts:

a. Degree of departure of the proposed RPUD from surrounding residential areas in terms of character and density.

b. Compatibility within the RPUD and relationship with surrounding neighborhoods.

c. Prevention of erosion and degrading of surrounding area.

d. Provision for future public education and recreation facilities, transportation, water supply, sewage disposal, surface drainage, flood control and soil conservation as shown in the RPUD.

e. The design, location, nature, intent and compatibility of common open space and
greenways, including the proposed method for the maintenance and conservation of the common open space.

f. The feasibility and compatibility of the specified stages and tracts contained in the RPUD development plan to exist as an independent development.

g. The availability and adequacy of water and sewer service to support the proposed RPUD.

h. The availability and adequacy of primary streets, thoroughfares, sidewalks, bikeways, multi-purpose trails, and their continuous physical linkages to support pedestrian, bicycle, and vehicular traffic generated internal to, and external from, the proposed RPUD.

i. The benefits within the proposed development and to the general public to justify the requested departure from the standard land use requirements inherent in a RPUD classification.

j. The conformity and compatibility of the RPUD with any adopted comprehensive land use plan of the county.

k. The conformity and compatibility of the proposed common open space with the primary residential and secondary nonresidential uses within the proposed RPUD.

l. The consistency of the proposed RPUD development plan application materials and site plan with section 62-1446 and subsection 62-1463(d)(1--3).

(6) **Appeals procedure.** Any decision made by county staff on the RPUD Development Plan may be appealed to the board of adjustment consistent with the appeal procedure specified in section 62-214.

(7) **Record of RPUD development plan.** If the RPUD development plan application is approved by county staff, as designated by the county manager, a copy of the application and required exhibits shall be maintained within the zoning division of the county.

(8) **Amendment to approved RPUD development plan.** If, after the initial approval of the RPUD development plan, should the owner or applicant or his successors desire to make any changes to the RPUD development plan, such changes shall first be submitted to the county. If the zoning official deems there is a substantial change or deviation from that which is shown on the RPUD development plan, the owner or applicant shall be requested to return to the county staff, as designated by the county manager where it is determined that the public interest warrants such procedure. For purposes of this subsection, a substantial change shall be defined as a change which increases the density or intensity of the project, that does not exceed future land use category limits per the Comprehensive Plan, or decreases the amount of buffer areas from adjacent property, or residential lot sizes along perimeter buffer areas, or decreases the amount of common open space. The zoning director shall have the authority to approve changes not determined to be substantial as defined in this subsection.

(Ord. No. 2000-61, § 8, 12-7-00)
Sec. 62-1468. Same--Administrative filing of final engineered RPUD development plan; site plans.

(a) Time limits. The developer shall have three years from the date of approval of the RPUD development plan in which to file a final engineered RPUD development plan, and receive building permits for the entire property, or any stage thereof. At the request of the developer, the zoning official may extend the period required for filing of such plans for successive periods of one year each unless and until the comprehensive plan has been amended causing the RPUD development plan to become inconsistent with the comprehensive plan.

(b) Submittal procedure; submittals; recording of final engineered RPUD development plan.

(1) Submittal procedure.

a. Submittal; coordination with county agencies.

1. The other county departments and agencies which shall be contacted for guidance prior to submittal of a final engineered RPUD development plan are the zoning office, the land development department public safety, the public works department, environmental health services, the MPO bike and pedestrian coordinator, and the Brevard County Natural Resources Department. The applicant shall have the PZ Form 100 initialed by each department and division contacted.

(2) Scope and contents of final engineered RPUD development plan; recording of final engineered RPUD development plan; site plans. The final engineered RPUD development plan may be submitted for the entire planned unit development or any stage, or tract, designated on the RPUD development plan containing a minimum of seven acres. A final development plan, in addition to containing the exhibits, schedule, information and documents required in subsection (b)(2)a of this section, shall conform to the requirements for site plans and requirements of sections 62-1461--62-1470.

a. Exhibits; required information. The following exhibits shall be attached to the final engineered RPUD development plan:

1. Final engineered RPUD development plan. The location and dimensions of each primary residential, secondary nonresidential and open space/recreational tract, including each tract's points of ingress and egress. The legal description of each of such tracts and the specific number of units, including the range of unit types to be constructed within each tract, shall be specified. These items will be affixed to the original mylar drawing for recording purposes.

2. The plans shall show the following:

i. The order of construction of the tracts and blocks as delineated in the stage on the RPUD development plan.
ii. The plan detail and order of the construction and improvement of common open space within the stage, including bicycle pedestrian circulation systems, greenways, complementary buildings, or playing courts.

(Ord. No. 2000-61, § 9, 12-7-00)

Sec. 62-1469. Same--Review of physical layout and amenities.

The county shall have the right to evaluate the physical layout, and amenities of the residential planned unit development and to suggest changes or modifications designed on the RPUD development plan to create compatibility and conformity in the variety of uses within the development to ensure, protect and promote the health, safety and general welfare of the property owners of the planned unit development and the residents of the county.

(Ord. No. 2000-61, § 10, 12-7-00)

Sec. 62-1470. Same--Termination of RPUD zone.

Failure to submit final engineered RPUD development plan. Failure of the developer to submit a final engineered RPUD development plan for the entire development or a stage within the time periods specified in section 62-1468 shall cause approval of the complete RPUD development plan to be considered inactive pending reapplication by the applicant to the county.

(Ord. No. 2000-61, § 11, 12-7-00)


Subdivision VI.

Commercial

Sec. 62-1481. Restricted neighborhood retail commercial, BU-1-A.

The BU-1-A restricted neighborhood retail commercial zoning classification encompasses lands devoted to limited retail shopping and personal services to serve the needs of nearby low-density residential neighborhoods.

(1) Permitted uses.

a. The following uses, or other uses of similar nature that are compatible with the character of the uses specifically set forth in this subsection, are permitted. All business uses and all materials and products shall be confined within substantial buildings completely enclosed with walls and a roof.

Administrative, executive and editorial offices.

Antique shops.
Art goods and bric-a-brac shops.
Artists' studios.
Bakery sales, with baking permitted on the premises.
Banks and financial institutions.
Barbershops and beauty parlors.
Bookstores.
Ceramics and pottery; finishing and sales only; no production or firing.
Child care center.
Commercial schools offering instruction in dramatic, musical or other cultural activity.
Computer sales, service and repair.
Confectionery and ice cream stores.
Contractor's offices; general contractor's administrative offices only, no outside storage or storage in open vehicles.
Curio shops.
Dental clinics.
Dog and pet beauty parlors, with no outside kennels or runs.
Drug and sundry stores.
Florist shops.
Foster homes.
Gift shops.
Group homes, levels I and II.
Hat cleaning and blocking.
Hobby shops.
Interior decorating and draperies.
Jewelry stores.
Learning centers.
Leather goods stores.
Luggage shops.
Mail order offices.
Medical buildings and clinics.
Messenger offices.
Millinery stores.
Music shops.
Newsstands.
Optical stores.
Paint and wallpaper stores.
Parks and public recreational facilities.
Photographic studios.
Professional offices.
Resort dwellings.
Shoe repair shops.
Shoe stores.
Single-family residence.
Soft drink stands.
Souvenir stores.
Stationery stores.
Tailor shops.
Tea rooms.

Tobacco stores.

Wearing apparel stores.

b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Bait and tackle shop.

Coin laundromat.

Preexisting use.

Snack bar and restaurant.

(2) Accessory buildings or uses. Accessory buildings and uses customary to commercial and residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) Conditional uses. Conditional uses are as follows:

Alcoholic beverages for on-premises consumption accessory to a snack bar or restaurant.

Change of nonconforming agricultural use.

Convenience store in BU-1-A zoning classification.

Land alteration (over five acres and up to ten acres).

Public or private clubs, including art galleries.

Substantial expansion to a preexisting use.

Towers and antennas.

(4) Minimum lot size. An area of not less than 7,500 square feet is required, having a width and depth of not less than 75 feet.

(5) Setbacks.

a. Generally.

1. The front setback shall be 50 feet from the front lot line.
2. The rear setback shall be 25 feet from the rear lot line.

3. Side Setbacks:
   a. Where a side lot line abuts a residential zone, such side setback shall be a minimum of 15 feet.
   b. Where a side lot line abuts a non-residential zone, such side setback shall be 5 feet.
   c. Where a side lot line abuts a combination of commercial, industrial or residential zonings, the respective side setbacks as stated in a. or b. above, shall apply to the affected side yard area.
   d. Where a 20 foot dedicated alleyway or roadway exists adjacent to or abutting the rear lot line and the zoning adjacent to the side yard area is non-residential, no side setback is required when a three hour firewall is constructed along the side lot line. However, where the side lot line abuts a residential zone on that side, the minimum side setback shall be 15 feet.
   e. Notwithstanding the requirements of section 5(a)(3)(b) above, where a 20-foot dedicated alleyway or roadway does not exist adjacent to or abutting the rear lot line, lots that have side lot lines abutting nonresidential zonings may utilize a ten-foot paved driveway setback along one side and a zero foot setback on the other, provided a three-hour firewall is constructed where the building is proposed within five feet of the property line. However, where the side lot line abuts a residential zone on that side, the minimum side setback shall be 15 feet.
   f. On a corner lot, the side street setback shall be 15 feet. If a corner lot is contiguous to a key lot, then the side street setback shall 25 feet.

b. Breezeway/visual corridor. All riverfront and oceanfront properties are subject to breezeway/visual corridor regulations enumerated in section 62-2105.

(6) Minimum floor area. All structures shall contain a minimum of 300 square feet of floor area.

(7) Structural height standards.
   a. Where the property abuts any other land located in the GU, AGR, AU, ARR, REU, RU-1-7, RU-1-9, RU-1-11, RU-1-13, RR-1, EU, EU-1, EU-2, SEU, SR, RVP, TR-1-A, TR-1, TR-2, TR-3, TRC-1, RRMH-1, RRMH-2.5, RRMH-5, EA, PA or GML zoning classification, the maximum height threshold of any structure or building thereon shall be 35 feet.
b. Where the property abuts any other land located in the RA-2-4, RA-2-6, RA-2-8, RA-2-10, RU-2-4, RU-2-6, RU-2-8, RU-2-10, RU-2-12, RU-2-15, RU-2-30, RP, BU-1-A, BU-1, BU-2, PBP, PIP, IU, IU-1, TU-1 or TU-2 zoning classification, the maximum height threshold of any structure or building thereon shall be 45 feet.

c. Where any structure or building exceeds 35 feet in height, all conditions enumerated in section 62-2101.5 as applicable shall be fully satisfied.

d. Structures or buildings may not exceed the maximum height thresholds stated in this subsection unless otherwise permitted by section 62-2101.5.

(8) **Fencing and buffering.** See article XIII, division 2, of this chapter, pertaining to landscaping.

(9) **Metal buildings.** Metal buildings shall be permitted in this zoning classification subject to the restrictions presented in section 62-2115.

(10) **Traffic impact standards.**

   a. Any permitted use or combination of uses in this classification on a single site which generates 100 or more average daily trips (ADT) must be located on a road with a functional classification of arterial or higher or at the intersection of two collector roads, except where meeting the requirements of subsection b. Traffic generation of a proposed facility on a site shall be determined by a concurrency evaluation performed pursuant to the criteria established by section 62-601 et seq., at the time of site plan review. This provision applies to site plans for vacant sites only and not to expansions of existing uses as of the effective date of this section.

   b. Notwithstanding subsection a. above, sites with proposed uses not meeting the traffic impact standards established above may be approved by the zoning official under the following conditions: The applicant must submit a concept plan describing the layout of the proposed site; including the square footage of floor area and type of uses proposed. Daily traffic generated by the site, as determined by a concurrency evaluation based upon the concept plan, cannot increase the amount of existing traffic on the abutting street by more than 20 percent. The applicant must provide a current traffic count performed by a licensed engineer if county or state traffic counts are not available on the adjacent road.

(11) **Limitation on drive-through lanes.** Drive through lanes are prohibited in areas designated as Neighborhood Commercial on the Future Land Use Map of the Comprehensive Plan.

(12) **Maximum floor area ratio.** The floor area ratio shall be governed by section 62-2110.
Sec. 62-1482. General retail commercial, BU-1.

The BU-1 general retail commercial zoning classification encompasses land devoted to general retail shopping, offices and personal services to serve the needs of the community. Where this zoning classification is presently located or is proposed to be located adjacent to the lagoonal water edge or fronts on the ocean, water-dependent uses such as fish, shellfish and wildlife production, recreation, water-dependent industry and utilities, marinas and navigation shall have the highest priority. The next highest priority for uses along the waterfront include water-related uses such as utilities, commerce and industrial uses. Water-enhanced uses such as restaurants and tourist attractions shall have the next highest use priorities. Of lowest priority are those uses which are nonwater-dependent and nonwater-enhanced, and those which result in an irretrievable commitment of coastal resources.

(1) Permitted uses.

a. All business uses and all material and products shall be confined within substantial buildings completely enclosed with walls and a roof; however, retail items of substantial size or which of necessity must remain outside of a building may be permitted to be displayed outside the buildings. Such retail items include but are not limited to motor vehicles, utility sheds, nursery items such as plants and trees, and boats.

b. The following uses, or other uses of a similar nature compatible with the character of the uses specifically described in this subsection, are permitted, and shall be limited to retail only:

   Administrative, executive and editorial offices.

   Antique shops.

   Aquariums.

   Art goods and bric-a-brac shops.

   Artists' studios.

   Auditoriums.

   Automobile hire.

   Automobile parts, if confined within a structure.

   Automobile repairs, minor (as defined in Section 62-1102).

   Automobile sales and storage, provided sales are from a permanent structure and the storage area meets the requirements of article VIII of this chapter, pertaining to site plans,
and article XIII, division 2, of this chapter, pertaining to landscaping.

Automobile tires and mufflers (new), sales and service.

Automobile washing.

Bait and tackle shop.

Bakery sales, with baking permitted on the premises.

Banks and financial institutions.

Barbershops and beauty parlors.

Bed and breakfast inn.

Bicycle sales and service.

Billiard rooms and electronic game arcades (soundproofed).

Bookstores.

Bowling alleys (soundproofed).

Cafeterias.

Ceramics and pottery; finishing and sales; no production or firing except accessory to on site sales only.

Civic, philanthropic or fraternal organizations.

Coin laundromats.

Colleges and universities.

Commercial schools offering instruction in dramatic, musical or other cultural activity, including martial arts.

Confectionery and ice cream stores.

Conservatories.

Contractors’ offices, with no outside storage.

Convenience stores, with or without gasoline sales.
Curio shops.

Dancing halls and academies (soundproofed).

Child or adult day care centers.

Display and sales rooms.

Dog and pet hospitals and beauty parlors, with no outside kennels or runs.

Drug and sundry stores.

Dyeing and carpet cleaning.

Electrical appliance and lighting fixtures.

Employment agencies.

Fraternities and sororities.

Florist shops.

Foster homes.

Fruit stores (packing on premises).

Funeral homes and mortuaries.

Furniture stores.

Furriers.

Gift shops.

Grocery stores.

Group homes, levels I and II.

Hardware stores.

Hat cleaning and blocking.

Hobby shops.

Hospitals.
Interior decorating, costuming and draperies.

Jewelry stores.

Laboratories.

Laundries.

Lawn mower sales.

Leather good stores.

Luggage shops.

Mail order offices.

Meat, fish and seafood markets.

Medical buildings and clinics, and dental clinics.

Messenger offices.

Millinery stores.

Motorcycle sales and service.

Music, radio and television shops and repairs.

Newsstands.

Nursing homes.

Optical stores.

Paint and wallpaper stores.

Parking lots (commercial).

Parks and public recreational facilities.

Pawnshops.

Pet shops, with property enclosed to prevent any noxious odors.

Photograph studios and galleries.
Plant nurseries (no outside bulk storage of mulch, topsoil, etc.).

Post offices.

Printing services.

Professional offices and office buildings.

Resort dwellings.

Restaurants.

Sale of alcoholic beverage, package only.

Schools for business training.

Schools, private or parochial.

Shoe repair shops.

Shoe stores.

Single-family residence.

Soft drink stands.

Souvenir stores.

Stationery stores and bookstores.

Tailor shops.

Tearooms.

Telephone and telegraph stations and exchanges.

Television and broadcasting stations, including studios, transmitting stations and towers and other incidental uses usually pertaining to such stations.

Theaters, but no drive-ins.

Ticket offices and waiting rooms for common carriers.

Tobacco stores.

Upholstery shops.
Wearing apparel stores.

Worship, places of.

c. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Assisted living facility.

Automobile and motorcycle repair (major) and paint and body work.

Boat sales and service.

Cabinetmaking and carpentry.

Dry cleaning plants, accessory to pickup stations.

Farm machinery sales and service.

Gasoline service stations.

Manufacturing, compounding, processing, packaging, storage, treatment or assembly of certain products.

Outdoor restaurant seating.

Outside sale of mobile homes.

Preexisting use.

Substations, and transmission facilities.

Security mobile home.

Self storage mini-warehouses.

Tourist efficiencies and hotels and motels.

Treatment and recovery facility.

(2) Accessory buildings or uses. Accessory buildings and uses customary to commercial and residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5). Additional accessory uses are as follows:

a. Completely enclosed lumber sales are permitted as an accessory use to hardware and
supply stores.

b. A roadside stand used as provided in chapter 86, article IV, is permitted as an accessory use.

(3) **Conditional uses.** Conditional uses are as follows:

Alcoholic beverages for on-premises consumption.

Change of nonconforming agricultural use.

Commercial entertainment and amusement enterprises (small scale and large scale).

Commercial/recreational and commercial/industrial marinas.

Land alteration (over five acres and up to ten acres).

Performance Overlay Districts.

Plant nurseries (with outside bulk storage of mulch, topsoil, etc.)

Security mobile home.

Substantial expansion of a preexisting use.

Towers and antennas.

Trailer and truck rental.

(4) **Minimum lot size.** Except for gasoline service stations, an area not less than 7,500 square feet is required, having a width and depth of not less than 75 feet.

(5) **Setbacks.**

a. **Generally.**

1. Gasoline Service Station setbacks in this zoning classification shall be governed by section 62-1835.7.

2. The front setback shall be 25 feet from the front lot line.

3. The rear setback shall be 15 feet from the rear lot line. However, if the rear lot line abuts a dedicated 20-foot alley or roadway, the setback shall be five feet.

4. **Side Setbacks:**
a. Where a side lot line abuts a residential zone, such side setback shall be a minimum of 15 feet.

b. Where a side lot line abuts a non-residential zone, such side setback shall be 5 feet.

c. Where a side lot line abuts a combination of commercial, industrial or residential zonings, the respective side setbacks as stated in a. or b. above shall apply to the affected side yard area.

d. Where a 20 foot dedicated alleyway or roadway exists adjacent to or abutting the rear lot line, and the zoning adjacent to the side yard area is non-residential, no side setback is required when a three hour firewall is constructed along the side lot line. However, where the side lot line abuts a residential zone on that side, the minimum side setback shall be 15 feet.

e. Notwithstanding the requirements of section 5(a)(4)(b) above, where a 20-foot dedicated alleyway or roadway does not exist adjacent to or abutting the rear lot line, lots whose sides abut non-residential zonings may utilize a ten-foot paved driveway setback along one side and a zero foot setback on the other provided a three-hour firewall is constructed where the building is proposed within five feet of the side property line. However, where the side lot line abuts a residential zone on that side, the minimum side setback shall be 15 feet.

f. On a corner lot, the side street setback shall be 15 feet. If a corner lot is contiguous to a key lot, then the side street setback shall 25 feet.

5. **Within the Merritt Island Redevelopment Area.** On all lots in the Merritt Park Place Subdivision except corner lots, structures shall be set back not less than 15 feet from the front lot line where parking is located to the side or rear of the principal structure. Otherwise, all other provisions as described above shall apply.

b. **Breezeway/visual corridor.** All riverfront and oceanfront properties are subject to breezeway/visual corridor regulations enumerated in section 62-2105.

(6) **Minimum floor area.** All structures shall contain a minimum of 300 square feet of floor area.

(7) **Structural height standards.**

a. Where the property abuts any other land located in the GU, AGR, AU, ARR, REU, RU-1-7, RU-1-9, RU-1-11, RU-1-13, RR-1, EU, EU-1, EU-2, SEU, SR, RVP, TR-1-A, TR-1, TR-2, TR-3, TRC-1, RRMH-1, RRMH-2.5, RRMH-5, EA, PA or GML zoning classification, the maximum height threshold of any structure or building thereon shall be 35 feet.
b. Where the property abuts any other land located in the RA-2-4, R-2-6, RA-2-8, RA-2-10, RU-2-4, RU-2-6, RU-2-8, RU-2-10, RU-2-12, RP or BU-1-A zoning classification, the maximum height threshold of any structure or building thereon shall be 45 feet.

c. Where the property abuts any other land located in the RU-2-15, RU-2-30, BU-1, BU-2, PIP, PBP, IU, IU-1, TU-1 or TU-2 zoning classification, the maximum height threshold of any structure or building thereon shall be 60 feet.

d. Where any structure or building exceeds 35 feet in height, all conditions enumerated in section 62-2101.5 as applicable shall be fully satisfied.

e. Structures or buildings may not exceed the maximum height thresholds stated in this subsection unless otherwise permitted by section 62-2101.5.

(8) **Fencing and buffering.** See article XIII, division 2, of this article, pertaining to landscaping.

(9) **Metal buildings.** Metal buildings shall be permitted in this zoning classification subject to the restrictions presented in section 62-2115.

(10) **Maximum floor area ratio.** The floor area ratio shall be governed by section 62-2110. (Code 1979, § 14-20.12(B); Ord. No. 95-17, § 1, 4-11-95; Ord. No. 95-47, §§ 52, 53, 10-19-95; Ord. No. 95-49, §§ 3, 9, 12, 18, 21, 10-19-95; Ord. No. 95-51, § 4, 10-19-95; Ord. No. 96-16, §§ 55, 56, 3-28-96; Ord. No. 96-46, § 14, 10-22-96; Ord. No. 97-23, § 2, 7-8-97; Ord. No. 97-40, § 2, 10-14-97; Ord. No. 99-07, § 12, 1-28-99; Ord. No. 99-24, § 9, 4-8-99; Ord. No. 2000-50, § 3, 10-31-00; Ord. No. 01-07, § 2, 2-20-01; Ord. No. 01-30, § 10, 5-24-01; Ord. No. 2002-42, § 4, 8-27-02; Ord. No. 2002-43, § 2, 8-27-02; Ord. No. 2002-49, § 33, 9-17-02; Ord. No. 2003-03, § 27, 1-14-03; Ord. No. 03-36, § 1, 8-7-03; Ord. No. 04-29, § 26, 8-5-04; Ord. No. 2004-52, § 23, 12-4-04; Ord. No. 05-27, § 3, 5-19-05; Ord. No. 05-40, § 7, 8-23-05; Ord. No. 06-21, § 3, 4-25-06; Ord. No. 06-36, § 3, 5-24-06; Ord. No. 2007-59, § 3, 12-6-07)

**Sec. 62-1483. Retail, warehousing and wholesale commercial, BU-2.**

The BU-2 retail, warehousing and wholesale commercial zoning classification encompasses lands devoted to general retail and wholesale business, contracting and heavy repair services and warehousing activities. Where this zoning classification is presently located or is proposed to be located adjacent to the lagoonal water edge or fronts on the ocean, water-dependent uses such as fish, shellfish and wildlife production, recreation, water-dependent industry and utilities, marinas and navigation shall have the highest priority. The next highest priority for uses along the waterfront include water-related uses such as utilities, commerce and industrial uses. Water-enhanced uses such as restaurants and tourist attractions shall have the next highest use priorities. Of lowest priority are those uses which are nonwater-dependent and nonwater-enhanced, and those which result in an irretrievable commitment of coastal resources.

(1) **Permitted uses.**

a. All business uses and all materials and products shall be confined within substantial buildings completely enclosed with walls and a roof, however, retail items of substantial size or which of necessity must remain outside of a building may be permitted to be
displayed outside the building. Such retail items include but are not limited to motor vehicles, utility sheds, nursery items such as plants and trees, boats and mobile homes.

b. All uses listed below, or other uses of a similar nature compatible with the character of uses described herein:

Administrative, executive and editorial offices.

Antique shops.

Aquariums.

Art goods and bric-a-brac shops.

Artists' studios.

Auditoriums.

Automobile hire.

Automobile repairs, minor and major, as defined in Section 62-1102 (also see Section 62-1837.6).

Automobile washing.

Bait and tackle shop.

Bakery sales, with baking permitted on the premises.

Banks and financial institutions.

Barbershops and beauty parlors.

Bicycle sales and service.

Billiard rooms and electronic arcades (soundproofed).

Bookstores.

Bottling beverages.

Bowling alleys (soundproofed).

Cafeterias.

Ceramics and pottery; finishing and sales, including production and firing.
Child or adult day care centers.

Civic, philanthropic or fraternal organizations.

Colleges and universities.

Commercial schools offering instruction in dramatic, musical or other cultural activity, including martial arts.

Confectionery and ice cream stores.

Conservatories.

Convenience stores, with or without gasoline sales.

Curio shops.

Dancing halls and academies (soundproofed).

Display and sales rooms.

Dog and pet hospitals and beauty parlors.

Drug and sundry stores.

Dry cleaning and laundry pickup stations.

Dry cleaning plants.

Dyeing and carpet cleaning.

Electrical appliance and lighting fixtures.

Employment agencies.

Feed and hay for animals and stock.

Fertilizer stores.

Florist shops.

Foster homes.

Fraternities and sororities.
Fruit stores (packing on premises).
Funeral homes and mortuaries.
Furniture stores.
Furriers.
Gift shops.
Glass installation.
Grocery stores.
Group homes, levels I and II.
Hardware stores.
Hat cleaning and blocking.
Hobby shops.
Hospitals.
Ice plants.
Interior decorating, costuming and draperies.
Jewelry stores.
Kindergartens.
Laboratories.
Laundries.
Lawn mower sales.
Leather good stores.
Luggage shops.
Mail order offices.
Meat markets.
Medical buildings and clinics, and dental clinics.

Messenger offices.

Millinery stores.

Music, radio and television shops and repairs.

Newsstands.

Nursing homes.

Optical stores.

Paint and body shops.

Paint and wallpaper stores.

Parking lots (commercial).

Parks and public recreational facilities.

Pawnshops.

Pet kennels.

Pet shops, with property enclosed to prevent any noxious odors.

Photograph galleries.

Photographic studios.

Plant nurseries.

Plumbing and electrical shops.

Post offices.

Printing services.

Professional offices and office buildings.

Resort dwellings.

Restaurants.
Sale of alcoholic beverages, package only.

Schools for business training.

Schools, private or parochial.

Seafood processing plants not located within 300 feet of any residential zone boundary.

Sharpening and grinding shops.

Ship chandlery.

Shoe repair shops.

Shoe stores.

Single-family residence.

Soft drink stands.

Souvenir stores.

Stationery stores and bookstores.

Tailor shops.

Tearooms.

Telephone and telegraph stations and exchanges.

Television and broadcasting stations, including studios, transmitting stations and towers, power plants and other incidental uses usually pertaining to such stations.

Testing laboratories.

Theaters, but no drive-ins.

Ticket offices and waiting rooms for common carriers.

Tobacco stores.

Upholstery shops.

Wearing apparel stores.

Welding repairs (except metal fabrication).
Wholesale salesroom and storage rooms.

Worship, places of.

c. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Assisted living facility.

Automobile and motorcycle repair (major) and paint and body work.

Automobile sales and storage.

Automobile tires and mufflers (new) (sales and service).

Boat sales and service.

Building materials and supplies.

Cabinetmaking and carpentry.

Cemeteries and mausoleums.

Commercial entertainment and amusement enterprises (small scale), subject to conditions in section 62-1921.

Contractor's offices, plants and storage yards.

Crematoriums.

Engine sales and service.

Farm machinery sales and services.

Garage or mechanical service.

Gasoline service stations.

Manufacturing, compounding, processing, packaging, storage, treatment or assembly of certain products.

Mini-warehouses.

Minor automobile repairs.
Mobile home and travel trailer sales.

Motorcycle sales and service.

Outdoor restaurant seating.

Outside sale of mobile homes.

Preexisting use.

Railroad, motor truck and water freight and passenger stations.

Recovered materials processing facility.

Security mobile home.

Service station for automotive vehicles and U-haul service.

Substations, and transmission facilities.

Tourist efficiencies and hotels and motels.

Treatment and recovery facility.

Warehouses.

(2) **Accessory buildings or uses.** Accessory buildings and uses customary to commercial and residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5). Additional accessory uses are as follows:

A roadside stand used as provided in chapter 86, article IV is permitted as an accessory use.

(3) **Conditional uses.** Conditional uses are as follows:

Alcoholic beverages for on-premises consumption.

Automobile sales and storage (under one acre in the Merritt Island Redevelopment Area).

Change of nonconforming agricultural use.

Commercial entertainment and amusement enterprises (large scale).

Commercial/recreational and commercial/industrial marinas.

Flea markets (recreational vehicles may be an accessory use pursuant to division 5, subdivision II, of this article).
Land alteration (over five acres and up to ten acres).

Performance overlay districts.

Security mobile home.

Substantial expansion of a preexisting use.

Towers and antennas.

(4) Minimum lot size. Except for gasoline service stations, an area not less than 7,500 square feet is required, having a width and depth of not less than 75 feet.

(5) Setbacks.

a. Generally.

1. Gasoline Service Station setbacks in this zoning classification shall be governed by section 62-1835.7.

2. The front setback shall be 25 feet from the front lot line.

3. The rear setback shall be 15 feet from the rear lot line. However, if the rear lot line abuts a dedicated 20-foot alley or roadway, the setback shall be five feet.

4. Side Setbacks:

a. Where a side lot line abuts a residential zone, such side setback shall be a minimum of 15 feet.

b. Where a side lot line abuts a non-residential zone, such side setback shall be 5 feet.

c. Where a side lot line abuts a combination of commercial, industrial or residential zonings, the respective side setbacks as stated in a. or b. above shall apply to the affected side yard area.

d. Where a 20 foot dedicated alleyway or roadway exists adjacent to or abutting the rear lot line, and the zoning adjacent to the side yard area is non-residential, no side setback is required when a three hour firewall is constructed along the side lot line. However, where the side lot line abuts a residential zone on that side, the minimum side setback shall be 15 feet.

e. Notwithstanding the requirements of section 5(a)(4)(b) above, where a 20-foot dedicated alleyway or roadway does not exist adjacent to or abutting
the rear lot line, lots whose sides abut non-residential zonings may utilize a ten-foot paved driveway setback along one side and a zero foot setback on the other provided a three-hour firewall is constructed where the building is proposed within five feet of the side property line. However, where the side lot line abuts a residential zone on that side, the minimum side setback shall be 15 feet.

f. On a corner lot, the side street setback shall be 15 feet. If a corner lot is contiguous to a key lot, then the side street setback shall 25 feet.

b. Breezeway/visual corridor. All riverfront and oceanfront properties are subject to breezeway/visual corridor regulations enumerated in section 62-2105.

(6) Minimum floor area. All structures shall contain a minimum of 300 square feet of floor area.

(7) Structural height standards.

a. Where the property abuts any other land located in the GU, AGR, AU, ARR, REU, RU-1-7, RU-1-9, RU-1-11, RU-1-13, RR-1, EU, EU-1, EU-2, SEU, SR, RVP, TR-1-A, TR-1, TR-2, TR-3, TRC-1, RRHM-1, RRHM-2.5, RRHM-5, EA, PA or GML zoning classification, the maximum height threshold of any structure or building thereon shall be 35 feet.

b. Where the property abuts any other land located in the RA-2-4, RA-2-6, RA-2-8, RA-2-10, RU-2-4, RU-2-6, RU-2-8, RU-2-10, RU-2-12, RP or BU-1-A zoning classification, the maximum height threshold of any structure or building thereon shall be 45 feet.

c. Where the property abuts any other land located in the RU-2-15, RU-2-30, BU-1, BU-2, PBP, PIP, IU, IU-1, TU-1 or TU-2 zoning classification, the maximum height threshold of any structure or building thereon shall be 60 feet.

d. Where any structure or building exceeds 35 feet in height, all conditions enumerated in section 62-2101.5 as applicable shall be fully satisfied.

e. Structures or buildings may not exceed the maximum height thresholds stated in this subsection unless otherwise permitted by section 62-2101.5.

(8) Fencing and buffering. See article XIII, division 2, of this article, pertaining to landscaping.

(9) Metal buildings. Metal buildings shall be permitted in this zoning classification subject to the restrictions presented in section 62-2115.

(10) Maximum floor area ratio. The floor area ratio shall be governed by section 62-2110.

Subdivision VII.

Tourist Commercial and Transient Tourist Use


The TU-1 general tourist commercial zoning classification encompasses lands devoted to general tourist-related activities and recognizes the need for higher densities for motels and hotels. Also, a limitation of kitchen facilities is specified to prevent the conversion of motel and hotel units to permanent residential use. For purposes of this section, permanent residential use shall mean any use of one dwelling unit for more than three months by one family or one individual or any dwelling unit for which a lease is available for a period of time exceeding three months. The uses listed in subsection (1) of this section, or other uses of a similar nature that are compatible with the character of the uses specifically set forth in this section, are permitted.

(1) Permitted uses.

a. Permitted uses are as follows:

- Art galleries, libraries and museums.
- Civic, philanthropic or fraternal organizations.
- Hotels and motels.
- Parks and public recreational facilities.
- Resort dwellings.
- Restaurants.
- Sale of alcoholic beverages, package only.
- Single-family residence.

b. All uses permitted in the restricted neighborhood retail commercial zoning classification (BU-1-A) are permitted in this zoning classification in conjunction with and accessory to a hotel or motel which has a minimum of 25 units.
c. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Preexisting use.

Tourist efficiencies.

(2) Accessory uses.

a. Customary uses secondary and incidental to permitted uses are permitted.

b. Retail shops and personal service activities are permitted in conjunction with hotels or motels.

(3) Conditional uses. Conditional uses are as follows:

- Alcoholic beverages for on-premises consumption.
- Change of nonconforming agricultural use.
- Land alteration (over five acres and up to ten acres).
- Marina.
- Recreational facilities.
- Substantial expansion of a preexisting use.
- Towers and antennas.

(4) Maximum density.

a. North beaches (north of the south boundary of Cocoa Beach): 30 units per acre in community commercial designations.

b. Central beaches (south boundary of Cocoa Beach to U.S. 192): 12 units per acre in community commercial designations, except where otherwise provided by Amendment 98B.2 of the future land use element of the county comprehensive plan.

c. South beaches (south of U.S. 192): Eight units per acre in community commercial designations.

d. Mainland: 30 units per acre in community commercial designations subject to the following locational criteria:

1. Tourist uses should be located within a one-quarter-mile radius of intersections of
major through-county transportation corridors with major arterials or roadways of a higher classification;

2. Within a one-quarter-mile radius of the Valkaria and Space Center Executive Airports;

3. Within a one-quarter-mile radius of the SR 405 corridor; or

4. Within one-quarter-mile of a highspeed rail/mag lev terminus.

e. Merritt Island redevelopment area: 30 units per acre.

(5) Lot requirements.

a. Minimum lot size. An area of not less than 15,000 square feet is required, having a width of not less than 100 feet and a depth of not less than 150 feet.

b. Maximum lot coverage. Maximum structural lot coverage is 40 percent.

(6) Setbacks.

a. Breezeway/visual corridor. All riverfront and oceanfront properties are subject to breezeway/visual corridor regulations enumerated in section 62-2105.

b. Generally. Setbacks for all other property, except for gasoline stations, are as follows. For setbacks for gasoline stations, see subdivision VI of this division.

1. The front setback shall be not less than 25 feet from the front lot line.

2. The rear setback shall be not less than 20 feet from the rear lot line.

3. Side setbacks shall be as follows:

   i. For an interior lot, the side setback shall be not less than 15 feet from the side lot line.

   ii. For a corner lot, the side setback shall be not less than 15 feet from the side lot line. If a corner lot is contiguous to a key lot, the setback shall not be less than 25 feet.

4. Accessory buildings shall be located to the rear of the principal building, and no closer than ten feet to the rear and side lot lines, but in no case within the setback from a side street. There shall be a minimum spacing of 15 feet between any structure on the same site.

(7) Minimum floor area; limitation of kitchen facilities. The minimum floor area for hotels and
motels is 250 square feet per unit. No more than 25 percent of the total number of units in one motel or hotel shall contain kitchen facilities. All other structures shall contain a minimum of 300 square feet of floor area.

(8) **Structural height standards.**

a. Where the property abuts any other land located in the GU, AGR, AU, ARR, REU, RU-1-7, RU-1-9, RU-1-11, RU-1-13, RR-1, EU, EU-1, EU-2, SEU, SR, RVP, TR-1-A, TR-1, TR-2, TR-3, TRC-1, RRMH-1, RRMH-2.5, RRMH-5, EA, PA or GML zoning classification, the maximum height threshold of any structure or building thereon shall be 35 feet.

b. Where the property abuts any other land located in the RA-2-4, RA-2-6, RA-2-8, RA-2-10, RU-2-4, RU-2-6, RU-2-8, RU-2-10, RU-2-12, RP or BU-1-A zoning classification, the maximum height threshold of any structure or building thereon shall be 45 feet.

c. Where the property abuts any other land located in the RU-2-15, RU-2-30, BU-1, BU-2, PBP, PIP, IU, IU-1, TU-1 or TU-2 zoning classification, the maximum height threshold of any structure or building thereon shall be 60 feet.

d. Where any structure or building exceeds 35 feet in height, all conditions enumerated in section 62-2101.5 as applicable shall be fully satisfied.

e. Structures or buildings may not exceed the maximum height thresholds stated in this subsection unless otherwise permitted by section 62-2101.5.

(9) **Site plan.** A site plan shall be submitted in accordance with article VIII of this chapter.

(10) **Metal buildings.** Metal buildings shall be permitted in this zoning classification subject to the restrictions presented in section 62-2115.

(11) **Maximum floor area ratio.** The floor area ratio shall be governed by section 62-2110.


The TU-2 transient tourist commercial zoning classification encompasses land devoted to tourist facilities located within one-half mile from interstate or expressway interchange rights-of-way where traffic facilities are capable of accommodating higher-density uses and resulting traffic volumes. For the purposes of establishing the one-half mile distance, the point of tangency of the actual physical improvement of the on ramp or off ramp of the interstate and the roadway where the interchange serves, rather than the right-of-way line should be used as a beginning point. The one-half mile measurement shall include either the entire parcel, or if
not the entire parcel, the entire principal structure as depicted in a binding development plan. Also, a limitation of kitchen facilities is specified to prevent the conversion of motel and hotel units to permanent residential use. For purposes of this section, permanent residential use shall mean any use of one dwelling unit for more than three months by one family or one individual or any dwelling unit for which a lease is available for a period of time exceeding three months. The uses listed in subsection (1), or other uses of a similar nature that are compatible with the character of the uses specifically set forth in this section, are permitted.

(1) **Permitted uses.**

a. Permitted uses are as follows:

Art galleries, libraries and museums.

Civic, philanthropic or fraternal organizations.

Hotels and motels.

Parks and public recreational facilities.

Resort dwellings.

Restaurants.

Retail centers.

Sale of alcoholic beverages, package only.

Single-family residence.

b. All uses permitted in the restricted neighborhood retail commercial zoning classification (BU-1-A) are permitted in this zoning classification in conjunction with and accessory to a hotel or motel which has a minimum of 25 units.

c. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Gasoline service stations.

Preexisting use.

(2) **Accessory uses.** Customary uses secondary and incidental to permitted uses are permitted. Retail shops and personal service activities are permitted in conjunction with hotels, motels or a special use.

(3) **Conditional uses.** Conditional uses are as follows:
Alcoholic beverages for on-premises consumption.

Change of nonconforming agricultural use.

Land alteration (over five acres and up to ten acres).

Substantial expansion of a preexisting use.

Towers and antennas.

(4) Maximum density. Maximum density is 50 units per gross acre. For the purpose of computing density allowed, property divided by a public road shall be considered as separate parcels.

(5) Lot requirements.

a. Minimum lot size. An area of not less than 15,000 square feet is required, having a width of not less than 100 feet and a depth of not less than 150 feet.

b. Maximum lot coverage. Maximum lot coverage is 40 percent.

(6) Setbacks. Setbacks, except for gasoline stations, are as follows:

a. The front setback shall be not less than 25 feet from the front lot line.

b. The rear setback shall be not less than 20 feet from the rear lot line.

c. Side setbacks shall be as follows:

   1. For interior lots, the side setback shall be not less than 15 feet from the side lot line.

   2. For corner lots, the side setback shall be not less than 15 feet from the side lot line. If a corner lot is contiguous to a key lot, the setback shall not be less than 25 feet.

d. Setbacks from the ocean on oceanfront property shall be governed by the provisions of article XII of this chapter. Thirty percent of ocean frontage shall be kept clear as breezeway/visual corridor from the ocean.

e. On property bordering a river, a minimum of 30 percent of the river frontage shall be left open as breezeway/visual corridor.

(7) Minimum floor area; limitation of kitchen facilities. Minimum floor area for hotels and motels is 250 square feet per unit. No more than 25 percent of the total number of units in one motel or hotel shall contain kitchen facilities. For all other uses, minimum floor area is 300 square feet.
(8) **Structural height standards.**

   a. Where the property abuts any other land located in the GU, AGR, AU, ARR, REU, RU-1-7, RU-1-9, RU-1-11, RU-1-13, RR-1, EU, EU-1, EU-2, SEU, SR, RVP, TR-1-A, TR-1, TR-2, TR-3, TRC-1, RRHM-1, RRHM-2.5, RRHM-5, EA, PA or GML zoning classification, the maximum height threshold of any structure or building thereon shall be 35 feet.

   b. Where the property abuts any other land located in the RA-2-4, RA-2-6, RA-2-8, RA-2-10, RU-2-4, RU-2-6, RU-2-8, RU-2-10, RU-2-12, RP or BU-1-A zoning classification, the maximum height threshold of any structure or building thereon shall be 45 feet.

   c. Where the property abuts any other land located in the RU-2-15, RU-2-30, BU-1, BU-2, PBP IU, IU-1, TU-1 or TU-2 zoning classification, the maximum height threshold of any structure or building thereon shall be 60 feet.

   d. Where any structure or building exceeds 35 feet in height, all conditions enumerated in section 62-2101.5 as applicable shall be fully satisfied.

   e. Structures or buildings may not exceed the maximum height thresholds stated in this subsection unless otherwise permitted by section 62-2101.5.

(9) **Site plan.** A site plan shall be submitted in accordance with article VIII of this chapter.

(10) **Metal buildings.** Metal buildings shall be permitted in this zoning classification subject to the restrictions presented in section 62-2115.

(11) **Maximum floor area ratio.** The floor area ratio shall be governed by section 62-2110.


Subdivision VIII.

**Industrial**

Sec. 62-1540. Industrial uses permitted with conditions and conditional uses.

Industrial Uses "Permitted with Conditions" or "Requiring a Conditional Use Permit (CUP)"

<table>
<thead>
<tr>
<th>Use</th>
<th>BU-1 &amp; BU-2</th>
<th>PBP</th>
<th>PIP</th>
<th>IU</th>
<th>IU-1</th>
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<tr>
<td>Contractors</td>
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<td>Heavy Industry</td>
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<td>Transportation</td>
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<td>Trucking</td>
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<td>Waste Disposal</td>
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</table>

Pc = Permitted with conditions (See sections 62-2251 through 62-2271)
C = Conditional Use (see section 62-1901).

* Additional Pc and CUP uses are listed in sections 62-1541, 1542, 1543 and 1544.

(Ord. No. 2000-07, § 2, 1-25-00; Ord. No. 2000-50, § 5, 10-31-00)

**Sec. 62-1541. Planned business park, PBP.**

The PBP planned business park zoning classification is intended to encourage compatible development within areas designated community commercial and planned industrial on the future land use map of the county comprehensive plan. The intent of the regulations for this classification is to provide the opportunity for the aggregation of land, prevent piecemeal nonresidential development and protect environmentally and historically significant areas. The SR 405/SR 407 corridor shall apply to property fronting that area of SR 405 running from Barna Avenue to the Indian River Lagoon and that area of SR 407 running from I-95 to SR 405.

1. **Permitted uses.**

   a. Permitted uses are as follows:

      All uses permitted in the BU-1 and BU-2 classification.

      Hotels and motels, limited to 30 units per acre.

   b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

      Uses "permitted with conditions" will be controlled by section 62-1540 and performance standards.

      Preexisting use.

      Single family residence.

2. **Accessory uses.** The following uses shall be permitted if primarily intended for the use of employees and visitors, as long as they are located entirely within the principal building:

   Branch banks, credit unions and post offices.

   Cafeterias or snack bars.

   Exhibition halls specifically related to the principal use of the property.
Retail sales, limited to the sale of sundries, stationery, office supplies and similar goods and the sale of products and materials manufactured on the premises, which shall not exceed five percent of the gross floor area.

(3) *Conditional uses.* Conditional uses are as follows:

- Change of nonconforming agricultural use.
- Land alteration (over five acres).
- Marinas, commercial or recreational.
- Substantial expansion of a preexisting use.
- Towers and antennas.

(4) *Lot, site and building requirements.*

a. *Generally.*
   1. Minimum park size is five acres.
   2. Minimum lot size is one-half acre.
   3. Minimum building size is 2,500 square feet.
   4. Maximum structural coverage is 50 percent of the lot.
   5. Minimum common open space is 20 percent of the site.

b. *SR 405/SR 407 corridor.*
   1. Minimum lot size is three acres.
   2. Minimum lot width is 300 feet.
   3. Minimum lot depth is 400 feet.
   4. Minimum building size is 10,000 square feet.
   5. Maximum structural coverage is 50 percent of the lot.
   6. Minimum common open space is 20 percent of the site.

(5) *Setbacks.*
a. Generally.

1. The front setback shall be 25 feet from an internal access road or 50 feet from any public right-of-way.

2. The side setback shall be 50 feet, or zero feet where a marginal access road is provided or where a single access is utilized by more than one lot from an internal road and parking facilities are shared.

3. The rear setback shall be 25 feet, or 40 feet if the rear lot line is the site periphery, or zero feet if the rear lot line abuts a railroad right-of-way.

4. On property adjacent to a river or lagoon, a minimum of 30 percent of the river frontage shall be left open as breezeway/visual corridor.

b. SR 405/SR 407 corridor.

1. The front setback shall be 100 feet from an internal access road, or 200 feet from SR 405 or SR 407.

2. The side setback shall be 50 feet. A 100-foot side street setback is required where the lot is a corner lot.

3. The rear setback shall be 100 feet.

(6) Structural height standards.

a. Where the property abuts any other land located in the GU, AGR, AU, ARR, REU, RU-1-7, RU-1-9, RU-1-11, RU-1-13, RR-1, EU, EU-1, EU-2, SEU, SR, RVP, TR-1-A, TR-1, TR-2, TR-3, TRC-1, RRMH-1, RRMH-2.5, RRMH-5, EA, PA or GML zoning classification, the maximum height threshold of any structure or building thereon shall be 35 feet.

b. Where the property abuts any other land located in the RA-2-4, RA-2-6, RA-2-8, RA-2-10, RU-2-4, RU-2-6, RU-2-8, RU-2-10, RU-2-12, RU-2-15, RU-2-30, RP, BU-1-A, BU-1, BU-2, TU-1, TU-2, PBP, PIP, IU or IU-1 zoning classification, the maximum height threshold of any structure or building thereon shall be 45 feet.

c. Where any structure or building exceeds 35 feet in height, all conditions enumerated in section 62-2101.5 as applicable shall be fully satisfied.

d. Structures or buildings may not exceed the maximum height thresholds stated in this subsection unless otherwise permitted by section 62-2101.5.

(7) Parking and loading.
a. Loading facilities and truck parking. Loading docks are prohibited on an interior street frontage. They shall be located to the rear of the front building line, paved, and have adequate drainage. Parking for trucks and other commercial vehicles and heavy equipment shall be located at the rear of all principal structures. No shipping or receiving shall be permitted within 75 feet of residentially zoned property.

(8) Lighting and utilities.

a. Shaded light sources shall be used to illuminate signs, facades, buildings, and parking and loading areas, shall be arranged to eliminate glare onto roadways and streets, and shall be directed away from properties lying outside the district.

b. Shaded light sources are lighting elements shielded with an opaque shade to direct the light.

c. No neon lights, intermittent lights or flashing lights shall be allowed.

(9) Metal buildings. Metal buildings shall be permitted subject to the restrictions of section 62-2115.

(10) Maximum floor area ratio. The floor area ratio shall be governed by section 62-2110.

State Law References: Planned unit developments encouraged, F.S. § 163.3202(3).

Sec. 62-1542. Planned industrial park, PIP.

The PIP planned industrial park zoning classification is intended for locations which are served by major roads but are not feasible for light or heavy industrial developments because of proximity to residential uses. The regulations for this district are intended to encourage development compatible with surrounding or abutting residential districts, with suitable open spaces, landscaping and parking areas. Consequently, manufacturing activities that can be carried on in a relatively unobtrusive manner, and certain facilities that are necessary to serve the employees of the district, are permitted. All property in this zoning classification shall have a structure located on the property with a minimum of 300 square feet prior to utilizing the property for any of the uses permitted in this section.

(1) Permitted uses.

a. The following uses are permitted providing they are in compliance with the performance standards set forth in division 6, subdivision III, of this article and providing they take place within substantial buildings completely enclosed with walls and a roof.

All uses permitted in the BU-1 and BU-2 classification.

Motels.
b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Uses "permitted with conditions" will be controlled by section 62-1540 and performance standards.

Boatbuilding facility.

Preexisting use.

Recovered materials processing facility.

Single family residence.

(2) **Accessory uses.**

a. Customary accessory uses are permitted, including operations required to maintain or support any use permitted in this zone on the same lot as the permitted use, such as maintenance shops, and machine shops, provided these take place within enclosed buildings.

b. The following uses are permitted as a convenience to the occupants thereof and their customers and employees:

    Convention or exhibit hall.

    Dining facilities.

    Recreational facilities.

(3) **Conditional uses.** Conditional uses are as follows:

Change of nonconforming agricultural use.

Commercial/industrial marina.

Land alteration (over five acres).

Substantial expansion of a preexisting use.

Towers and antennas.

(4) **Minimum size and lot size.** The minimum lot size shall be one acre, having a minimum width of 150 feet and a minimum depth of 200 feet. The minimum size of a planned industrial site as designated on the future land use map shall be three acres.
(5) Setbacks.

a. *Front yard.* All buildings shall be set back from all street right-of-way lines at least 50 feet.

b. *Side yard.* No building or wall shall be located closer than 50 feet to a side yard lot line.

c. *Rear yard.* No structures or truck parking and loading shall be located closer than 25 feet to the rear lot line. No rear yard is required where the lot abuts on an existing or proposed railroad right-of-way or spur.

(6) Maximum lot coverage. Structural coverage, including storage areas, shall not exceed 50 percent of the area of the lot.

(7) Structural height standards.

a. Where the property abuts any other land located in the GU, AGR, AU, ARR, REU, RU-1-7, RU-1-9, RU-1-11, RU-1-13, RR-1, EU, EU-1, EU-2, SEU, SR, RVP, TR-1-A, TR-1, TR-2, TR-3, TRC-1, RRMH-1, RRMH-2.5, RRMH-5, EA, PA or GML zoning classification, the maximum height threshold of any structure or building thereon shall be 35 feet.

b. Where the property abuts any other land located in the RA-2-4, RA-2-6, RA-2-8, RA-2-10, RU-2-4, RU-2-6, RU-2-8, RU-2-10, RU-2-12, RU-2-15, RU-2-30, RP, BU-1-A, BU-1, BU-2, PBP, PIP, IU, IU-1, TU-1 or TU-2 zoning classification, the maximum height threshold of any structure or building thereon shall be 45 feet.

c. Where any structure or building exceeds 35 feet in height, all conditions enumerated in section 62-2101.5 as applicable shall be fully satisfied.

d. Structures or buildings may not exceed the maximum height thresholds stated in this subsection unless otherwise permitted by section 62-2101.5.

(8) Other requirements.

a. *Loading facilities and truck parking.*

1. Loading docks are prohibited on an interior street frontage. They shall be located to the rear of the front building line of all principal structures, paved, and have adequate drainage.

2. Parking for trucks and other commercial vehicles and heavy equipment shall be located at the rear of all principal structures.

3. No shipping or receiving shall be permitted within 75 feet of residually zoned
property.

b. **Storage.** All storage areas shall be located to the rear of the primary structures. All outside storage areas shall be enclosed by a visual barrier when viewed from the public road right-of-way or adjacent lots not industrially zoned. Such enclosure shall be a minimum of six feet and a maximum of eight feet in height, and in no case shall materials be stacked or stored so as to exceed the height of the enclosure. The enclosure shall be either a masonry wall, opaque fence, landscaped berm or other materials adequate to create a permanent opaque barrier. The storage area's entrance and exit gates shall also be opaque when materials within it are visible from any public road right-of-way or adjacent lots not industrially zoned. Storage areas must be located at least 75 feet from any street right-of-way lines. No motor vehicle which is inoperable or trailer which is unusable shall be stored or used for storage on any lot or parcel of ground in this zone unless it is within a completely enclosed building.

c. **Lighting and utilities.**

1. Shaded light sources shall be used to illuminate signs, facades, buildings, and parking and loading areas, shall be so arranged as to eliminate glare from roadways and streets, and shall be directed away from properties lying outside the district.

2. Shaded light sources are lighting elements shielded with an opaque shade to direct the light.

3. No neon lights, intermittent lights or flashing lights or such lighted signs shall be allowed.

d. **Riverfront property.** On property bordering a river, a minimum of 30 percent of the river frontage shall be left open as breezeway/visual corridor.

(State Law References: Planned unit developments encouraged, F.S. § 163.3202(3).

**Sec. 62-1543. Light industrial, IU.**

The IU light industrial zoning classification is established to provide areas in which the principal use of land is for manufacturing, assembling and fabrication, and for warehousing. These uses do not depend primarily on frequent personal visits of customers or clients, but usually require good accessibility to major rail, air or street transportation routes. All property in this zoning classification shall have a structure located on the property with a minimum of 300 square feet prior to utilizing the property for any of the uses permitted in this section.

(1) **Permitted uses.**
The following uses and structures are permitted provided they comply with the performance standards set forth in division 6, subdivision III, of this article and take place within an enclosed building:

All uses permitted in the BU-1 and BU-2 classification, except, single-family residence.

Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Uses "permitted with conditions" will be controlled by section 62-1540 and performance standards.

Assisted living facility.

Commercial entertainment and amusement enterprises (small scale).

Power substations and transmission facilities.

Preexisting use.

Recovered materials processing facility.

Treatment and recovery facility.

(2) **Accessory uses.**

a. Customary accessory buildings and uses are permitted, including operations required to maintain or support any use permitted in this zone on the same lot as the permitted use, such as maintenance shops and machine shops.

b. The following uses are permitted as a convenience to the occupants thereof and their customers and employees:

Convention or exhibition hall.

Dining facilities.

Laundry.

Recreational facilities.

c. Roadside stands used for the sale of agricultural produce as provided in chapter 86, article IV, are permitted as an accessory use.

d. Security trailers are permitted as an accessory use.
(3) **Conditional uses.** Conditional uses are as follows:

- Alcoholic beverages for on-premises consumption.
- Change of nonconforming agricultural use.
- Commercial entertainment and amusement enterprises (large scale).
- Commercial/recreational and commercial/industrial marina.
- Composting facility.
- Flea markets (recreational vehicles).
- Land alteration (over five acres).
- Motocross.
- Mulching facility.
- Substantial expansion of a preexisting use.
- Towers and antennas.
- Truss manufacturing plant.

(4) **Minimum lot size.** Individual building sites shall be of such size that space requirements provided in this chapter are complied with. All lots shall have a minimum size of 20,000 square feet, and have a minimum width of 100 feet and a minimum depth of 200 feet.

(5) **Setbacks.**

a. **Front yard.** Structures shall be set back not less than 40 feet from the front property line.

b. **Side yard.** No building or wall shall be located closer than 15 feet to a side yard lot line. The width of a side yard which abuts a residential district shall be at least 100 feet, 20 feet of which shall be a buffer zone.

c. **Rear yard.** No structures or truck parking and loading shall be located closer than 25 feet to the rear lot line. Where the lot abuts a residential district, no structures shall be permitted closer than 100 feet to the rear lot line. However, no rear yard is required where the lot abuts on an existing or proposed railroad right-of-way or spur. Truck parking and loading facility setbacks is addressed in subsection (8)a. of this section.

(6) **Maximum lot coverage.** Building coverage, including storage areas, shall not exceed 50 percent
of the area of the lot.

(7) **Structural height standards.**

a. Where the property abuts any other land located in the GU, AGR, AU, ARR, REU, RU-1-7, RU-1-9, RU-1-11, RU-1-13, RR-1, EU, EU-1, EU-2, SEU, SR, RVP, TR-1-A, TR-1, TR-2, TR-3, TRC-1, RRMH-1, RRMH-2.5, RRMH-5, EA, PA or GML zoning classification, the maximum height threshold of any structure or building thereon shall be 35 feet.

b. Where the property abuts any other land located in the RA-2-4, RA-2-6, RA-2-8, RA-2-10, RU-2-4, RU-2-6, RU-2-8, RU-2-10, RU-2-12, RP or BU-1-A zoning classification, the maximum height threshold of any structure or building thereon shall be 45 feet.

c. Where the property abuts any other land located in the RU-2-15, RU-2-30, BU-1, BU-2, PBP, PIP, IU, IU-1, TU-1 or TU-2 zoning classification, the maximum height threshold of any structure or building thereon shall be 60 feet.

d. Where any structure or building exceeds 35 feet in height, all conditions enumerated in section 62-2101.5 as applicable shall be fully satisfied.

e. Structures or buildings may not exceed the maximum height thresholds stated in this subsection unless otherwise permitted by section 62-2101.5.

(8) **Other requirements.**

a. **Loading facilities and truck parking.** No shipping or receiving of goods shall be permitted within 100 feet of residentially zoned property. Where the lot abuts a commercial district, no truck parking and loading shall be permitted closer than 50 feet to the rear lot line. However, no rear yard is required where the lot abuts an existing or proposed railroad right-of-way or spur.

b. **Storage.** All storage areas shall be located to the rear of the primary structures. All open areas for storage shall be enclosed by a visual barrier when viewed from the public road right-of-way or adjacent lots not industrially zoned. Such enclosure shall be a minimum of six feet and a maximum of eight feet in height, and in no case shall materials be stacked or stored so as to exceed the height of the enclosure. The enclosure shall be either a masonry wall, opaque fence, landscaped berm or other materials adequate to create a permanent opaque barrier. The storage area's entrance and exit gates shall also be opaque when materials within it are visible from any public road right-of-way or adjacent lots not industrially zoned. Storage areas must be located at least 25 feet from any side or rear lot line. No motor vehicle which is inoperable or trailer which is unusable shall be stored or used for storage on any lot or parcel of ground in this zone unless it is within a completely enclosed building.

c. **Fencing.** When any property used for the uses permitted in this zoning classification is
contiguous to or abuts property zoned other than BU-1, BU-2, PBP, PIP, IU or IU-1, a six-foot fence shall be constructed on the contiguous property line and may be constructed within the front setback area, provided that the fence is not opaque, notwithstanding the requirements of section 62-2109.

d. **Lighting and utilities.**

1. Shaded light sources shall be used to illuminate signs, facades, buildings, and parking and loading areas, shall be so arranged as to eliminate glare from roadways and streets, and shall be directed away from properties lying outside the district.

2. Shaded light sources are lighting elements shielded with an opaque shade to direct the light.

3. No neon lights, intermittent lights or flashing lights or such lighted signs shall be allowed.

e. **Performance standards.** All permitted uses within this zone shall be subject to the performance standards outlined in division 6, subdivision III, of this article.

f. **Riverfront property.** On property bordering a river, a minimum of 30 percent of the river frontage shall be left open as breezeway/visual corridor.

(9) **Maximum floor area ratio.** The maximum floor area ratio shall be 2.48.

Sec. 62-1544. Heavy industrial, IU-1.

The IU-1 heavy industrial district is established to provide areas in which the principal use of land is primarily for manufacturing and other heavy uses. However, the application of performance and design standards should minimize many of the adverse effects of these heavy industrial uses. Property in this zoning classification shall have a structure located on the property with a minimum of 300 square feet prior to utilizing the property for any of the uses permitted in this section.

(1) **Permitted uses.**

a. The following uses are permitted, provided that they comply with the performance standards set forth in division 6, subdivision III, of this article:

All uses permitted in the BU-1, BU-2 and IU classifications, except, single-family
residence.

Fireworks sales, wholesale (as defined in F.S. Ch. 791.04)

b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Uses "permitted with conditions" will be controlled by section 62-1540 and performance standards.

Assisted living facility.

Commercial entertainment and amusement enterprises (small scale).

Power substations and transmission facilities.

Preexisting use.

Recovered materials processing facility.

Treatment and recovery facility.

Truss manufacturing plant.

(2) Accessory uses.

a. Customary accessory buildings and uses are permitted, including operations required to maintain or support any use permitted in this zone on the same lot as the permitted use, such as maintenance shops and machine shops.

b. The following uses are permitted as a convenience to the occupants thereof and their customers and employees:

   Convention or exhibition hall.

   Dining facilities.

   Laundry.

   Roadside stands used for the sale of agricultural produce as provided in chapter 86, article IV are permitted as an accessory use.

   Security trailers are permitted as an accessory use.

(3) Conditional uses. In addition to those specified in section 62-1540, conditional uses are as follows:
Alcoholic beverages for on-premises consumption.

Arsenals and explosives.

Cement, concrete and concrete building products.

Change of nonconforming agricultural use.

Commercial entertainment and amusement enterprises (large scale).

Commercial/recreational and commercial/industrial marina.

Flea markets.

Hazardous waste facility.

Heavy industry as defined in section 62-1102.

Land alteration (over five acres).

Metal salvage yards and junkyards.

Mining and smelting operations.

Motocross.

Solid waste management facilities.

Substantial expansion of a preexisting use.

Towers and antennas.

(4) **Minimum lot size.** Individual building sites shall be of such size that all space requirements provided in this chapter are complied with. All lots shall have a minimum size of 40,000 square feet, and have a minimum width of 200 feet and a minimum depth of 200 feet.

(5) **Minimum building size.** Minimum building size is 300 square feet.

(6) **Setbacks.**

a. **Front yard.** All structures shall be set back not less than 40 feet from the front property line.

b. **Side yard.** No building or wall shall be located closer than 20 feet to a side yard lot line. The width of a side yard which abuts a residential district shall be at least 100 feet, 20
feet of which shall be a buffer zone.

c. **Rear yard.** No building shall be located closer than 50 feet to the rear lot line. Where the lot abuts a residential district, no structures or truck parking and loading shall be permitted closer than 120 feet to the rear lot line. However, no rear yard is required where the lot abuts on an existing or proposed railroad right-of-way or spur. (See subsection (9)a of this section for provisions pertaining to truck loading and parking.)

(7) **Maximum lot coverage.** Building coverage, including storage areas, shall not exceed 50 percent of the area of the lot.

(8) **Structural height standards.**

a. Where the property abuts any other land located in the GU, AGR, AU, ARR, REU, RU-1-7, RU-1-9, RU-1-11, RU-1-13, RR-1, EU, EU-1, EU-2, SEU, SR, RVP, TR-1-A, TR-1, TR-2, TR-3, TRC-1, RRMH-1, RRMH-2.5, RRMH-5, EA, PA or GML zoning classification, the maximum height threshold of any structure or building thereon shall be 35 feet.

b. Where the property abuts any other land located in the RA-2-4, RA-2-6, RA-2-8, RA-2-10, RU-2-4, RU-2-6, RU-2-8, RU-2-10, RU-2-12, RP or BU-1-A zoning classification, the maximum height threshold of any structure or building thereon shall be 45 feet.

c. Where the property abuts any other land located in the RU-2-15, RU-2-30, BU-1, BU-2, PIP, PBP, IU, IU-1, TU-1 or TU-2 zoning classification, the maximum height threshold of any structure or building thereon shall be 60 feet.

d. Where any structure or building exceeds 35 feet in height, all conditions enumerated in section 62-2101.5 as applicable shall be fully satisfied.

e. Structures or buildings may not exceed the maximum height thresholds stated in this subsection unless otherwise permitted by section 62-2101.5.

(9) **Other requirements.**

a. **Loading facilities and truck parking.** No shipping or receiving shall be permitted within 100 feet of residentially zoned property. Where the lot abuts a commercial district, no truck parking and loading shall be permitted closer than 50 feet to the rear lot line. However, no rear yard is required where the lot abuts an existing or proposed railroad right-of-way or spur.

b. **Storage.** All storage areas shall be located to the rear of the primary structures. All open areas for storage shall be enclosed by a visual barrier when viewed from the public road right-of-way or adjacent lots not industrially zoned. Such enclosure shall be a minimum of six feet and a maximum of eight feet in height, and in no case shall materials be stacked or stored so as to exceed the height of the enclosure. The enclosure shall be either
a masonry wall, opaque fence, landscaped berm or other materials adequate to create a permanent opaque barrier. The storage area's entrance and exit gates shall also be opaque when materials within it are visible from any public road right-of-way or adjacent lots not industrially zoned. In those instances where the nature of the operation requires the use of piles of loose material such as surge aggregate, sand, coal or similar substances, the eight-foot height limitation on storage shall not apply, as long as the stored materials do not breach the enclosure. Storage areas must be located at least 50 feet from any side or rear lot line. No motor vehicle which is inoperable or trailer which is unusable shall be stored or used for storage of any items therein on any lot or parcel of ground in this zone unless it is within a completely enclosed building.

c. **Fencing.** When any property used for the uses permitted in this zoning classification is contiguous to or abuts property zoned other than BU-1, BU-2, PBP, PIP, IU or IU-1, a six-foot fence shall be constructed on the contiguous property line and may be constructed within the front setback area, provided that the fence is not opaque, notwithstanding the requirements of section 62-2109.

(10) Shaded light sources shall be used to illuminate signs, facades, buildings, and parking and loading areas, shall be so arranged as to eliminate glare from roadways and streets, and shall be directed away from properties lying outside the district.

(11) Shaded light sources are lighting elements shielded with an opaque shade to direct the light.

(12) No neon lights, intermittent lights or flashing lights or such lighted signs shall be allowed.

a. **Performance standards.** All permitted uses within this zone shall be subject to the performance standards outlined in division 6, subdivision III, of this article.

b. **Riverfront property.** On property bordering a river, a minimum of 30 percent of the river frontage shall be left open as breezeway/visual corridor.

(13) **Maximum floor area ratio.** The maximum floor area Ratio shall be 1.76.


**Secs. 62-1545--62-1570. Reserved.**

**Subdivision IX.**

**Special Classifications**

**Sec. 62-1571. Environmental areas, EA.**
The EA environmental area zoning classification recognizes the natural resource components as defined and provided for by the provisions of the conservation element of the comprehensive plan. The purpose is to conserve natural resource functions and features by retaining lands and waters in their pristine character and condition, but permit uses which are compatible with or which shall enhance or restore the functions and features of such natural resources. Specific criteria for lands to be considered for EA zoning are contained in subsection (9) of this section.

(1) **Permitted uses.**

a. Permitted uses are as follows:

   Single-family detached residential dwelling unit.

   Passive recreation.

b. Permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

   Group homes, level I, subject to the requirements set forth in section 62-1835.9.

(2) **Accessory buildings or uses.** Accessory buildings and uses customary to residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) **Conditional uses.** Conditional uses are as follows:

   Development rights receipt and transfer.

   Substantial expansion of a preexisting use.

   Temporary living quarters during construction of a residence.

(4) **Minimum lot size.** An area of not less than ten acres is required, having a width of not less than 125 feet and a depth of not less than 125 feet.

(5) **Setbacks.**

a. Principal structures shall be set back not less than 25 feet from the front or side street lot line, ten feet from the side lot lines, and 20 feet from the rear lot line. If a corner lot is contiguous to a key lot, then the side street setback shall not be less than 25 feet.

b. Accessory structures shall be located to the rear of the front building line of the principal building or structure and set back not less than 10 feet from side and rear lot lines.
(6) **Maximum lot coverage.** The total lot coverage by structures, excluding accessory structures, shall not exceed 3,000 square feet.

(7) **Fill.** The placement of fill on the lot shall be limited to the minimum required for a single vehicular accessway, house pad and septic system. Where fill is utilized for vehicular accessways traversing wetlands, a 12-inch culvert must be installed at intervals of 25 feet to provide for adequate surface water flow circulation. This requirement may be waived upon the review and approval of the office of natural resources management.

(8) **Criteria for lands to be considered for EA zoning classification.**

   a. This classification shall include wetlands identified on the National Wetlands Inventory Maps prepared by the U.S. Department of the Interior. The boundaries may be adjusted by the zoning official if the property owner shows proof through a site-specific vegetation and soil survey that all or a portion of the site should not be classified as a wetland.

   b. This classification shall include islands, which shall be identified as any land mass surrounded on all sides by water. Islands may be naturally formed or manmade by spoiling processes. An exception shall be made where an island is connected to the mainland, Merritt Island or Barrier Island via an existing bridge.

   c. This classification shall include the dune beach, which is identified as all land easterly of the county coastal construction setback line.

(9) **Maximum height of structures.** Maximum height of structures is 35 feet.  

**Sec. 62-1572. Government managed lands, GML.**

The purpose of the GML government managed lands zoning classification is to recognize the presence of lands and facilities which are managed by federal, state and local government, special districts, nongovernmental organizations (NGOs) providing economic, environmental and/or quality of life benefits to the county, electric, natural gas, water and wastewater utilities that are either publicly owned or regulated by the Public Service Commission, and related entities. Activities encompassed within this classification include but are not limited to aviation, education and public services. Emphasis is on protecting existing and future public and private investments, as well as ensuring that such activities are managed in accordance with the comprehensive plan and any regulations or ordinances relating to such activity. A concept plan may be required.

(1) **Permitted uses.** Each application for government managed lands zoning shall designate the intended use of the property as either Parks and Conservation (P), Institutional (I), Utility (U), or High-Intensity (H). The parks and conservation designation shall include active and passive recreational uses as well as permanent or temporary conservation uses. The institutional use designation shall include offices, schools, meeting rooms, parking garages, police and fire
stations, and hospitals. The utility designation shall include electric, natural gas, water and wastewater utilities that are either publicly owned or regulated by the Public Service Commission. The high-intensity designation includes industrial activities, correctional facilities, ports, airports or other transportation hubs and other high-intensity activities which are not considered institutional uses. Proposed conversions of any property zoned GML but not containing the (P), (I), (U), or (H) suffix designation to a more intense use will require a rezoning.

a. The following is a list of uses permitted within this classification, as well as the required use designation:

Administrative offices for government or other public agencies. (I)

Cemeteries and mausoleums. (I)

Fire stations. (I)

Group homes, levels I and II. (I)

Historical landmarks, sites and memorials. (I)

Libraries. (I)

Non-governmental organizations conducting life science, ocean, coastal and marine research, or environmental science research in partnership with a government entity. (I)

Parking lots or garages. (I)

Parks and recreational facilities. (P)

Ports and related activities. (H)

Post offices. (I)

Preservation and wildlife management. (P)

Public golf courses. (P)

Public museums. (I)

Public schools. (I)

Sewer lift stations. (H)

Space-related activities. (H)
Wellfields and water towers. (H)

b. The following uses require the high-intensity use designation and are permitted subject to development standards set forth for the light industrial zoning classification as delineated in section 62-1543:

Bus line shops and storage.

Laboratories and other facilities for research.

Printing, engraving and other reproduction processes, as well as publishing and distribution of printed material.

Public utility rights-of-way and publicly owned structures and garages.

Warehousing and storage yards.

Other similar public buildings and facilities.

c. Within the high intensity use designation, permitted uses with conditions are as follows (see division 5, subdivision II of this article):

Dredged material management areas.

d. Within either the institutional or high intensity use designations, permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Assisted living facilities.

Athletic complexes and stadiums.

Crematoriums.

Hospitals.

Recovered materials processing facility.

Towers and antennae.

e. Within either the parks and conservation, institutional, or high intensity use designations, permitted uses with conditions are as follows (see division 5, subdivision II, of this article):

Cattle grazing.

(2) Accessory uses. Uses secondary and incidental to permitted uses are permitted, including but not
limited to the following:

Caretaker's or watchman's residence.

Dining and recreational facilities for occupants of a site.

Laundry facilities.

Parking garages.

Power plants.

Machine shops.

Maintenance shops.

Temporary security trailer.

(3) Conditional uses. The following conditional uses require the high-intensity (H) or utility (U) use designation, as indicated. Conditional uses are as follows:

Airports and aviation-related activities, including industrial parks, subject to the development standards set forth in section 62-1544. (H)

Arsenals and explosives. (H)

Composting facility. (H)

Convention, civic or exhibition center. (H)

Electric, natural gas, water and wastewater utilities. (U)

Hazardous waste facility. (H)

Land alteration (over five acres and up to 30 acres). (H)

Manufacturing, processing and storage of asphalt and asphalt products, sand and gravel, subject to development standards set forth in section 62-1544. (H)

Motorcross. (H)

Mulching facility. (H)

Prison camp correctional facilities. (H)

Residential/recreational marina. (H)
Solid waste management facilities. (H)

Water and sewage treatment facilities. (H)

Zoological parks. (H)

(4) **Minimum floor area.** All principal structures shall contain at least 300 square feet of floor area.

(5) **Minimum lot size.** An area of not less than 7,500 square feet is required, having a width and depth of at least 75 feet.

(6) **Setbacks.** The front setback shall be 25 feet from the property line, the rear setback shall be 20 feet, and the side setbacks shall be ten feet. The side setback for corner lots shall be 15 feet from the side lot line which abuts a road. If a corner lot is contiguous to a key lot, the side setback shall be not less than 25 feet.

(7) **Structural height standards.**

   a. Where the property abuts any other land located in the GU, AGR, AU, ARR, REU, RU-1-7, RU-1-9, RU-1-11, RU-1-13, RR-1, EU, EU-1, EU-2, SEU, SR, RVP, TR-1-A, TR-1, TR-2, TR-3, TRC-1, RRMH-1, RRMH-2.5, RRMH-5, EA, PA or GML zoning classification, the maximum height threshold of any structure or building thereon shall be 35 feet.

   b. Where the property abuts any other land located in the RA-2-4, RA-2-6, RA-2-8, RA-2-10, RU-2-4, RU-2-6, RU-2-8, RU-2-10, RU-2-12, RP or BU-1-A zoning classification, the maximum height threshold of any structure or building thereon shall be 45 feet.

   c. Where the property abuts any other land located in the RU-2-15, RU-2-30, BU-1, BU-2, PIP, PBP, IU, IU-1, TU-1 or TU-2 zoning classification, the maximum height threshold of any structure or building thereon shall be 60 feet.

   d. Where any structure or building exceeds 35 feet in height, all conditions enumerated in section 62-2101.5 as applicable shall be fully satisfied.

   e. Structures or buildings may not exceed the maximum height thresholds stated in this subsection unless otherwise permitted by section 62-2101.5. (Code 1979, § 14-20.15(B); Ord. No. 95-47, §§ 70, 71, 10-19-95; Ord. No. 97-41, § 1, 10-14-97; Ord. No. 98-11, § 8, 2-26-98; Ord. No. 98-62, § 7, 12-3-98; Ord. No. 01-30, § 18, 5-24-01; Ord. No. 2003-03, § 30, 1-14-03; Ord. No. 03-18, § 1, 4-29-03; Ord. No. 04-29, § 32, 7-19-04; Ord. No. 2004-52, § 31, 12-4-04; Ord. No. 06-26, § 2, 5-4-06; Ord. No. 2007-59, § 5, 12-6-07; Ord. No. 08-40, § 1, 10-2-08)

Sec. 62-1573. Institutional Use, IN(L) and IN(H).

The purpose of the institutional use zoning classification is to provide for private, nonprofit or religious
uses which are intended to service the needs of the public for facilities of an educational, religious, health or cultural nature.

The classification is divided into two types, low intensity and high intensity. Low intensity uses are those that are of such limited scale and impact that they are compatible with residential uses in residential land use designations, or neighborhood commercial uses in neighborhood commercial land use designations. High intensity uses are more suited to community commercial or industrial areas. Location standards for low intensity and high intensity uses are established pursuant to Policy 2.17 of the Future Land Use Element of the Comprehensive Plan, and are regulated pursuant to paragraph (8) below. Low intensity use is designated on the official zoning maps as IN(L) and high intensity is designated as IN(H).

(1) **Permitted uses.** Uses that are listed in the "low intensity" column as "permitted" or "permitted with conditions" are subject to intensity limitations as established in paragraph (4) below. Uses listed as "permitted with conditions" in either designation are subject to specific conditions for that particular use as established elsewhere in division 5, subdivision II.

<table>
<thead>
<tr>
<th>Use</th>
<th>Low Intensity*</th>
<th>High Intensity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential/Health</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assisted living facility (Sec. 62-1826)</td>
<td>Permitted with conditions</td>
<td>Permitted with conditions</td>
</tr>
<tr>
<td>Group homes</td>
<td>Permitted with conditions</td>
<td>Permitted</td>
</tr>
<tr>
<td>Hospital (Sec. 62-1836)</td>
<td>Not permitted</td>
<td>Permitted with conditions</td>
</tr>
<tr>
<td>Independent living facility (Sec. 62-1836.5)</td>
<td>Permitted with conditions</td>
<td>Permitted with conditions</td>
</tr>
<tr>
<td>Medical clinic (Sec. 62-1832)</td>
<td>Not permitted</td>
<td>Permitted with conditions</td>
</tr>
<tr>
<td>Nursing home (Sec. 62-1841.6)</td>
<td>Permitted with conditions</td>
<td>Permitted</td>
</tr>
<tr>
<td>Treatment and recovery facility (Sec. 62-1826)</td>
<td>Not permitted</td>
<td>Permitted with conditions</td>
</tr>
<tr>
<td>Education</td>
<td></td>
<td></td>
</tr>
<tr>
<td>College, university, or seminary</td>
<td>Not permitted</td>
<td>Permitted</td>
</tr>
<tr>
<td>Dormitory</td>
<td>Not permitted</td>
<td>Permitted</td>
</tr>
<tr>
<td>School, private or parochial</td>
<td>Permitted</td>
<td>Permitted</td>
</tr>
<tr>
<td>Sorority/fraternity</td>
<td>Not permitted</td>
<td>Permitted</td>
</tr>
<tr>
<td>Religious/Cultural</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Athletic Complexes and Stadiums (Sec. 62-1825)</td>
<td>Permitted with conditions</td>
<td>Permitted with conditions</td>
</tr>
<tr>
<td>Cemetery and Mausoleum (Sec. 62-1831.3)</td>
<td>Permitted with conditions</td>
<td>Permitted</td>
</tr>
<tr>
<td>Civic, Philanthropic or Fraternal Organization (Sec. 62-1831.4)</td>
<td>Permitted with conditions</td>
<td>Permitted with conditions</td>
</tr>
<tr>
<td>Community center</td>
<td>Permitted</td>
<td>Permitted</td>
</tr>
<tr>
<td>Convent or monastery</td>
<td>Permitted</td>
<td>Permitted</td>
</tr>
<tr>
<td>Crematorium (Sec. 62-1834)</td>
<td>Permitted with conditions</td>
<td>Permitted with conditions</td>
</tr>
<tr>
<td>Museum</td>
<td>Permitted</td>
<td>Permitted</td>
</tr>
<tr>
<td>Worship, place of (Sec. 62-1831.5)</td>
<td>Permitted with conditions</td>
<td>Permitted with conditions</td>
</tr>
</tbody>
</table>

*All uses listed as permitted or permitted with conditions in the low intensity column are subject to the provisions in paragraph (4) below.
(2) **Accessory buildings or uses.** Accessory buildings and uses customary to commercial and residential uses are permitted. (Refer to definition cited in section 62-1102 and standards cited in section 62-2100.5).

(3) **Conditional uses.** Conditional uses are as follows:

Substantial expansion of a preexisting use.

(4) **Intensity limitations.** Where a use is listed as "permitted" or "permitted with conditions" in the "low intensity" column in the table above, the intensity of the use is regulated by using expected traffic generation as a proxy for intensity. Traffic generation is limited to that which would otherwise be expected by a representative use permitted at the density or intensity available in the residential or neighborhood commercial land use designation in which the parcel is located. "Trip Generation -- 7th Edition," Institute of Transportation Engineers, shall be used to compute expected traffic generation rates.

a. In the low intensity institutional (IN(L)) zoning classification, where low intensity uses are listed as permitted or permitted with conditions, the scale and impact of such uses shall be limited so that they are consistent in character and scope with the surrounding neighborhood.

b. Project size will be limited at the site plan or building permit stage of development based upon projected traffic generation. Projected traffic generation will be calculated so that it is not projected to exceed the amount that would otherwise be generated by representative uses on the same lots or parcels, according to table 1 below, if they were to be developed according to the comprehensive plan designation.

c. Projected trip generation will not be permitted to exceed the amount shown in the column entitled "Trip Generation/Acre" based upon the parcel's land use designation.

d. Calculations for determining traffic generation will be based upon expected traffic generation rates published in "Trip Generation -- 7th Edition," Institute of Transportation Engineers, or as amended from time to time.

### Table 1
Low Intensity Institutional Use Impact Equivalency Table

<table>
<thead>
<tr>
<th>Land Use Designation</th>
<th>Equivalent Density</th>
<th>Trip Generation/Unit*</th>
<th>Trip Generation/Acre</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>0.2 units/acre single family</td>
<td>9.57 trips/unit</td>
<td>1.91 trips/acre</td>
</tr>
<tr>
<td>Residential 1:2.5</td>
<td>0.4 units/acre single family</td>
<td>9.57 trips/unit</td>
<td>3.83 trips/acre</td>
</tr>
<tr>
<td>Residential 1</td>
<td>1.0 units/acre single family</td>
<td>9.57 trips/unit</td>
<td>9.57 trips/acre</td>
</tr>
<tr>
<td>Residential 2</td>
<td>2.0 units/acre single family</td>
<td>9.57 trips/unit</td>
<td>19.14 trips/acre</td>
</tr>
<tr>
<td>Residential 4</td>
<td>4.0 units/acre single family</td>
<td>9.57 trips/unit</td>
<td>38.28 trips/acre</td>
</tr>
<tr>
<td>Residential 6</td>
<td>6.0 units/acre single family</td>
<td>9.57 trips/unit</td>
<td>57.42 trips/acre</td>
</tr>
<tr>
<td>Residential 10</td>
<td>10.0 units/acre single family</td>
<td>6.72 trips/unit</td>
<td>67.20 trips/acre</td>
</tr>
<tr>
<td>Residential 15</td>
<td>15.0 units/acre single family</td>
<td>6.72 trips/unit</td>
<td>100.80 trips/acre</td>
</tr>
</tbody>
</table>
Residential 30 | 30.0 units/acre single family | 6.72 trips/unit | 201.60 trips/acre

<table>
<thead>
<tr>
<th>Land Use Designation</th>
<th>Equivalent Intensity</th>
<th>Trip Generation/Unit*</th>
<th>Trip Generation/Acre</th>
</tr>
</thead>
<tbody>
<tr>
<td>Neighborhood Commercial</td>
<td>10,890 s.f./acre commercial</td>
<td>44.32 trips/1,000 s.f.</td>
<td>482.64 trips/acre</td>
</tr>
</tbody>
</table>

*Trip Generation/Unit is based on "Trip Generation--7th Edition," Institute of Transportation Engineers. The most up to date trip generation values in "Trip Generation" may be substituted as they are published for the values shown in this column.

(5) **Minimum lot criteria.**

a. Minimum lot size shall be at least 7,500 square feet, with a minimum width and depth of at least 75 feet.

b. Where listed as a permitted use with conditions in the low intensity designation, institutional uses must be at least one (1.0) acre in size.

(6) **Setbacks.**

a. Front setback. The front setback shall be 25 feet from the front lot line.

b. Rear setback. The rear setback shall be 20 feet from the rear lot line.

c. Side setbacks.

1. Where a side lot line abuts a residential zone, such side setback shall be a minimum of 15 feet.

2. Where a side lot line abuts a non-residential zone, such side setback shall be five feet.

3. Where a side lot line abuts a combination of commercial, industrial or residential zonings, the respective side setbacks as stated in 1. or 2. above shall apply to the affected side yard area.

4. On a corner lot, the side street setback shall be 15 feet. If a corner lot is contiguous to a key lot, then the side street setback shall 25 feet.

d. Within the Merritt Island Redevelopment Area. On all lots in the Merritt Park Place Subdivision except corner lots, structures shall be set back not less than 15 feet from the front lot line where parking is located to the side or rear of the principal structure. Otherwise, all other provisions as described above shall apply.

e. Setbacks for buildings for public assemblage shall be at least 50 feet where adjacent to residential parcels.
(7) **Structural height standards.**

a. Where the property abuts any other land located in the GU, AGR, AU, ARR, REU, RU-1-7, RU-1-9, RU-1-11, RU-1-13, RR-1, EU, EU-1, EU-2, SEU, SR, RVP, TR-1-A, TR-1, TR-2, TR-3, TRC-1, RRMH-1, RRMH-2.5, RRMH-5, EA, PA or GML zoning classification, the maximum height threshold of any structure or building thereon shall be 35 feet.

b. Where the property abuts any other land located in the RA-2-4, R-2-6, RA-2-8, RA-2-10, RU-2-4, RU-2-6, RU-2-8, RU-2-10, RU-2-12, RP or BU-1-A zoning classification, the maximum height threshold of any structure or building thereon shall be 45 feet.

c. Where the property abuts any other land located in the RU-2-15, RU-2-30, BU-1, BU-2, PIP, PBP, IU, IU-1, TU-1 or TU-2 zoning classification, the maximum height threshold of any structure or building thereon shall be 60 feet.

d. Where any structure or building exceeds 35 feet in height, all conditions enumerated in section 62-2101.5 as applicable shall be fully satisfied.

e. Structures or buildings may not exceed the maximum height thresholds stated in this subsection unless otherwise permitted by section 62-2101.5.

(8) **Location standards.** The location of low intensity (IN(L)) and high intensity (IN(H)) institutional zoning classifications shall be subject to the following standards.

a. **Low intensity.** Where the proposed use requires a low intensity institutional designation, the parcel shall be subject to the following location standards.

1. Permitted in all residential land use designations and in the neighborhood commercial land use designation.
2. Access to a roadway classified as a local street or higher.
3. Pedestrian access required.
4. Building scale and design compatible with the surrounding neighborhood.

b. **High intensity.** Where the proposed use requires a high intensity institutional designation, the parcel shall be subject to the following location standards.

1. Permitted in the community commercial land use designation.
2. Access to a roadway classified as an arterial or higher.
3. Access to a roadway classified as a collector or higher in established community commercial areas.
4. Intrusion into residential areas shall be limited. High intensity institutional uses shall be located in areas where commercial development is planned or established.

c. **Exemption for pre-existing uses.** Where the property was developed as an institutional use as described in this section prior to August 15, 2004, the above location standards and intensity limitations shall not apply. The parcel shall be administratively rezoned to the institutional zoning classification with the intensity designation that more closely represents the previously approved use. The use shall have the same rights and privileges as a "pre-existing use" as established under section 62-1839.7.

(Ord. No. 04-29, § 33, 8-5-04; Ord. No. 2007-59, § 30, 12-6-07; Ord. No. 2009-06, § 3(Exh. A), 2-5-09)

**Secs. 62-1574--62-1800. Reserved.**

**DIVISION 5.**

**SPECIFIC CRITERIA FOR PERMITTED USES WITH CONDITIONS AND CONDITIONAL USES**

**Subdivision I.**

**General Provisions**

**Secs. 62-1801--62-1824. Reserved.**

**Subdivision II.**

**Permitted Uses With Conditions**

**Sec. 62-1825. Athletic complexes and stadiums.**

(a) Athletic fields and stadiums and associated structures shall be located a minimum of 100 feet from all property lines where adjacent to properties that are developed with single-family residential uses.

(b) A minimum lot area of five acres shall be provided for this use where located in a comprehensive plan residential designation of residential 6 or less.

(c) Accessory uses to an athletic complex or stadium shall include but not be limited to term quarters and offices for players and support personnel; cafeteria or other food services and preparation facilities for team players and personnel; physical fitness, training and health facilities; ticket, souvenir, gift, food, beverage and other similar concession sales; stadium management offices; visitor and reception centers related to the athletic complex or stadium; and related parking.

(d) Other uses not specifically listed in this section that the board of county commissioners finds appropriate and necessary to support the operation of an athletic complex or stadium may be considered upon application for the use in accordance with section 62-1151 and 62-1301.

(Ord. No. 04-29, § 40, 8-5-04)

**Editors Note:** Ord. No. 04-29, § 40, adopted August 5, 2004, amended § 62-1908 in its entirety, and redesignated said
Assisted living facilities and treatment and recovery facilities. Assisted living facilities and treatment and recovery facilities shall comply with the following requirements, where applicable:

1. **Dispersal of facilities.** The minimum distance between facilities, measured from the property line, shall be 1,000 feet.

2. **Neighborhood compatibility.** In the institutional zoning classification, the external appearance of the assisted living facility's or treatment and recovery facility's structures and building sites shall maintain the general character of the area. Exterior building materials, bulk, landscaping, fences and walls and general design shall be compatible with those of surrounding dwellings.

3. **Facility standards.**
   a. Prior to the granting of any permit for assisted living facilities or treatment and recovery facilities, the state department of health and rehabilitative services shall verify compliance with the following standards:
      1. There shall be not less than 250 square feet of floor space per assigned resident.
      2. There shall be one bathroom per two bedrooms. The bedroom square footage shall be not less than 75 square feet per assigned resident.
      3. Centralized cooking and dining facilities shall equal 30 square feet per assigned resident.
   b. If the request for a permit for assisted living facilities or treatment and recovery facilities is for a structure to be built, floor plans of the structure shall be submitted and approved prior to issuance of the permit.

4. **Reserved.**

5. **Off-street parking.** There shall be two parking spaces, plus two additional parking spaces for every five occupants for which the facility is permitted.

6. **Compliance with state regulations.** Violations of applicable statutes and regulations of the state shall be deemed violations of this division.

(Ord. No. 04-29, § 38, 8-5-04)

Sec. 62-1827. Automobile and motorcycle repair (major) and paint and body work.

Major automobile and motorcycle repair work and paint and body work shall be done only in conjunction with the sale of new or used automobiles or motorcycles. Such work shall be carried on within an enclosed building which has a permanent roof.
(Code 1979, § 14-20.16.2(B)(8); Ord. No. 95-49, § 3, 10-19-95)

Sec. 62-1828. Automobile parts (confined within a structure).

In the Merritt Island Redevelopment Area, there shall be no outside storage, and all repairs must be in an enclosed structure with no bay door openings located in the front face of the building.
(Ord. No. 93-20, § 2(3), 6-22-93)

Sec. 62-1829. Automobile sales and storage.

(a) All sales must be from a permanent structure, and the storage area must meet the requirements of the county site plan and landscaping regulations.

(b) In the Merritt Island Redevelopment Area, the site must be a minimum of one acre, unless it has a conditional use permit pursuant to section 62-1909. There shall be no outside storage other than vehicles for sale or rent, and all repairs must be in an enclosed structure with no bay door openings located in the front face of the building. When the use of a parcel of property is changed to allow automobile sales and storage, a Type "C" landscape buffer as defined in section 62-4341 will be required.
(Ord. No. 93-20, § 2(1), 6-22-93; Ord. No. 99-24, § 1, 4-8-99)

Sec. 62-1830. Automobile tires and mufflers (new) (sales and service).

In the Merritt Island Redevelopment Area, there shall be no outside storage, and all repairs must be in an enclosed structure with no bay door openings located in the front face of the building.
(Ord. No. 93-20, § 2(2), 6-22-93)

Sec. 62-1830.3. Bait and tackle shops.

All bait tanks and containers used in connection with a bait and tackle shop shall be inside a building. Holding, storage or sale of fish or seafood other than for bait purposes is prohibited.
(Code 1979, § 14-20.16.2(B)(9); Ord. No. 95-49, § 4, 10-19-95)

Sec. 62-1830.5. Boatbuilding facilities.

The manufacturing of boats in the planned industrial park zoning classification (PIP) shall meet the following criteria:

(1) Any part of the manufacturing process conducted or occurring outside of an enclosed building shall be completely buffered and screened from any property under different ownership and from all public road rights-of-way.
(2) All activities conducted on the subject property shall meet the criteria set forth in the performance standards of this article.
(Code 1979, § 14-20.16.2(B)(13); Ord. No. 95-49, § 8, 10-19-95)

Sec. 62-1830.8. Boat sales.

Boat sales may be of new or used boats, but shall not consist of the construction or the manufacture of boats. The enclosed sales office shall be located on the same premises as the boats offered for sale.
(Code 1979, § 14-20.16.2(B)(14); Ord. No. 95-49, § 9, 10-19-95)

Sec. 62-1831. Cabinetmaking and carpentry.

All cabinetmaking and carpentry operations shall be carried on within an enclosed building, and the dust and odors must be substantially contained within the structure.
(Code 1979, § 14-20.16.1(1))

Sec. 62-1831.1. Cattle grazing.

Cattle grazing in the GML (P), GML (I), and GML (H) zoning classifications is permitted contingent upon the following conditions:

(1) Property zoned for agricultural use (AGR, PA or AU) adjoins the subject property.

(2) Future land use map densities abutting the subject land do not exceed two dwelling units per acre. The minimum site size shall be ten acres.

(3) The site must be enclosed by a fence that will prohibit the movement of cattle from the subject land to other properties. The fence shall not consist of barbed wire where adjacent to residentially developed land.

(4) The applicant shall submit a management plan to the local USDA office. The USDA, based upon best management practices (BMP) for cattle grazing, will assist the applicant in determining the optimal number of cattle that the site could support. The total number of cattle to be grazed on site shall not exceed the number determined by the USDA using BMP.
(Ord. No. 03-18, § 3, 4-29-03)

Sec. 62-1831.3. Cemeteries and mausoleums.

A cemetery or mausoleum use must front on a road with a minimum width of 60 feet of right-of-way. The location must have proper elevation and drainage as approved by the county health department. Minimum site size shall be ten acres. Mausoleums shall be set back a minimum of 100 feet from all property lines.
(Code 1979, § 14-20.16.2(B)(16); Ord. No. 04-29, § 41, 8-5-04)

Editors Note: Ord. No. 04-29, § 41, adopted August 5, 2004, redesignated the former § 62-1917 as § 62-1831.3. The historical notation has been preserved for reference purposes.

Sec. 62-1831.4. Civic, philanthropic or fraternal organizations, including art galleries.
Civic, philanthropic or fraternal organizations, including art galleries, and including country clubs, golf courses, golf driving ranges and gun clubs, shall be subject to the following:

1. Applicants for approval of a civic, philanthropic or fraternal organization shall establish a maximum total membership of the organization. Permitted impacts shall be based upon this established maximum for purposes of section 62-1573, as applicable.

2. Article VIII of this chapter, pertaining to site plans, shall apply for the purpose of calculating minimum parking requirements.

3. Temporary membership or membership granted upon payment of a door or entrance fee or price does not qualify the activity or operation as a civic, philanthropic or fraternal organization.

4. Minimum site sizes for the uses mentioned in this section are as follows:
   a. Country clubs: 2.5 acres.
   b. Golf courses:
      1. Regulation 18-hole course: 120 acres.
      3. Par 3 course: 30 acres.
   c. Golf driving ranges: Eight acres, with a minimum 225-foot width and 900-foot depth.
   d. Gun clubs (trap and skeet): 30 acres per shooting area, having a 900-foot radius from the center of the shooting area measured in the shape of a half circle.

5. Lighting noise and other impacts shall be subject to performance standards in Sections 62-2251 through 62-2272, as applicable.

6. Parking requirements shall be in accordance with article VIII of this chapter.

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Sec. 62-1831.5. Worship, places of.

A day care center is an accessory use to a place of worship. Setbacks for places of worship shall meet the requirements of subsection 62-2121(d), pertaining to buildings for public assemblage.
Sec. 62-1832. Medical clinics.

Medical clinics shall be for outpatient services only, and they shall abut on a collector or arterial road with a minimum 60-foot right-of-way and shall be set back at least 25 feet from all property lines. Parking shall be in accordance with article VIII of this chapter, pertaining to site plans.
(Ord. No. 04-29, § 35, 8-5-04)


Sec. 62-1833. Coin laundromats.

No more than 20 washing machines and 20 dryers are permitted in a coin laundromat. The operation may contain such accessory functions as a dry cleaning pickup point or alterations. No dry cleaning facilities are permitted on the site.
(Code 1979, § 14-20.16.1(3))

Sec. 62-1833.5. Contractors' offices, plants and storage yards.

(a) Storage yards must be enclosed with a six-foot wall, louvered fence or chainlink fence.

(b) In the Merritt Island Redevelopment Area, contractor's plants and storage yards shall not be located on any parcel with frontage on State Road 520. Within the remainder of the Merritt Island Redevelopment Area, there shall be no visible outside storage. Storage yards must be enclosed with a six-foot opaque wall or fence. Contractors' offices not associated with plants or storage yards may be located on any parcel with frontage on SR 520.
(Ord. No. 93-20, § 2(4), 6-22-93; Ord. No. 99-24, § 4, 4-8-99)

Sec. 62-1833.7. Convenience store as accessory use to recreational vehicle park.

A convenience store, with or without gas sales, as an accessory use to a recreational vehicle park, shall be subject to the requirements of this section. The recreational vehicle park shall have a minimum of 250 sites or lots, and the convenience store shall be located internally to the park to best serve the guests of the park. The convenience store shall not be located on the perimeter of the project and shall be located so as not to attract a market substantially outside the project.
(Code 1979, § 14-20.16.2(B)(23); Ord. No. 95-49, § 10, 10-19-95)

Sec. 62-1834. Crematoriums.

Crematorium(s) shall be:

(1) Performed accessory to cemetery, columbarium or mausoleum use.

(2) Operated from within an enclosed building constructed so as to prevent the emission of smoke and odors from the structure.

(3) Set back a minimum of 100 feet from all property lines.
Located on a lot which meets a minimum lot size of two and one-half acres.
(Code 1979, § 14-20.16.1(4); Ord. No. 2009-06, § 4(Exh. A), 2-5-09)

Sec. 62-1834.5. Dredged material management areas.

(1) Dredged material management areas (DMMAs) are areas set aside for the settling, processing, removal or disposal of dredged material by public or quasi-public agencies responsible for the maintenance of public water bodies such as canals, rivers, lagoons, and intracoastal waterways.

(2) All DMMAs shall meet the following conditions:
   a. Only materials from projects managed by public or quasi-public agencies responsible for the maintenance of dredging of public water bodies shall be deposited into approved DMMAs.
   b. A vegetated berm that is at least six feet in height and at least 25 feet in width shall be constructed along the entire perimeter of the DMMA.
   c. The water’s edge of the DMMA shall be no closer than 400 feet from the lot line of any existing residence.
   d. The DMMA shall be subject to performance standards in sections 62-2251--62-2272.

(Ord. No. 03-18, § 2, 4-29-03)

Sec. 62-1835. Dry cleaning plants, accessory to pickup stations.

In the BU-1 zoning classification, limited dry cleaning plants may be included as an accessory use to dry cleaning pickup stations under the following conditions. Dry cleaning plants that do not meet all of the following conditions are permitted in the BU-2 and industrial classifications:

(1) The dry cleaning plant may serve no more than one additional dry cleaning pickup station in addition to the pickup station located on the premises.

(2) The applicant must show sufficient proof that the plant is not oversized to serve more than one additional pickup station.

(3) The vehicles used for transportation between dry cleaning sites shall be consistent with section 62-2117 regarding size of vehicles. Delivery vehicles shall be passenger type vans or pickup trucks not exceeding 24 feet in length.

(4) The dry cleaning plant shall not use perchloroethylene or other toxic solvents but shall use a hydrocarbon based or similar solvent.

(Ord. No. 01-07, § 4, 2-20-01)


Sec. 62-1835.3. Engine sales and service.
In the Merritt Island Redevelopment Area, there shall be no outside storage, and all repairs must be in an enclosed structure with no bay door openings located in the front face of the building. (Ord. No. 93-20, § 2(5), 6-22-93)

**Sec. 62-1835.4. Farm machinery sales and services.**

 Minimum site size for farm machinery sales and service is one acre, and the property must abut on a public right-of-way with a minimum width of 100 feet. All service areas must be enclosed in substantial buildings and located to the rear of the principal building. (Code 1979, § 14-20.16.2(B)(27); Ord. No. 95-49, § 12, 10-19-95)

**Sec. 62-1835.4.5. Fish camps.**

 Fish camps shall comply with the following conditions:

1. Must have contiguous frontage on an existing natural water body.
2. Shall be located in areas designated agricultural, residential 1:2.5 or residential 1 on the future land use map.
3. All structures shall be set back a minimum 200 feet from residentially developed lots, except that accessory restaurants, as described in subsection (6), shall be set back a minimum 400 feet from residentially developed lots.
4. A 15-foot type B semi-opaque buffer, as per section 62-4341, shall be established to screen the activity.
5. Recreational vehicles may be an accessory use pursuant to section 62-1841.
6. Restaurants accessory to fish camps shall be limited to 100 seats if located on an unpaved local road, and to 150 seats if located on a paved local road.
7. A conditional use permit for alcoholic beverages accessory to a restaurant may be requested pursuant to section 62-1906. (Ord. No. 97-46, § 7, 12-2-97; Ord. No. 2002-01, § 7, 1-8-02; Ord. No. 06-003, § 2, 1-10-06)

**Sec. 62-1835.5. Garage or mechanical service.**

 In the Merritt Island Redevelopment Area, there shall be no outside storage, and all repairs must be in an enclosed structure with no bay door openings located in the front face of the building. (Ord. No. 93-20, § 2(6), 6-22-93)

**Sec. 62-1835.7. Gasoline service stations.**

(a) Minimum lot size shall be not less than 15,000 square feet with a minimum width and depth of
100 feet in the BU-1 and BU-2 zoning classifications. Front, side and rear setbacks for the principal structure shall be not less than 25 feet, or the requirement for the zoning classification, whichever is more. Gasoline pumps islands at gasoline service stations or convenience stores shall be set back at least ten feet from all lot lines. Canopies covering pump islands shall be set back a minimum of ten feet from all lot lines, providing the support structures for the canopy meet the same setback as the pump island.

(b) In the Merritt Island Redevelopment Area, there shall be no outside storage, and all repairs must be in an enclosed structure with no bay door openings located in the front face of the building. (Ord. No. 93-20, § 2(7), 6-22-93; Ord. No. 95-17, § 4, 4-11-95; Ord. No. 99-07, § 23, 1-28-99)


Gasoline service stations shall meet the following requirements and specifications:

(1) Plans for paved areas, driveways or curb cuts shall be submitted and approved by the county manager or his designee, or, if a state road is involved, the area shall be approved by the department of transportation of the state.

(2) Minimum lot size shall be not less than 15,000 square feet, with a minimum width and depth of 100 feet.

(3) All setbacks shall be not less than 25 feet from any portion of the building, including pump islands.

(4) The following minor automobile repairs may be performed:

a. Sale and servicing of sparkplugs and batteries.

b. Tire repair and servicing, but no recapping.

c. Replacement of mufflers, tailpipes, water hoses, fan belts, brake fluid, lightbulbs, floor mats, seat covers, wiper blades and arms for windshield wipers, and replacement of grease retainers and wheel bearings.

d. Radiator cleaning and flushing.

e. Washing and polishing.

f. Greasing and lubrication.

g. Exchanging of fuel pumps and installing fuel lines.

h. Minor servicing and replacement of carburetors.

i. Emergency wiring repairs.
j. Tuning engines, with the exception of grinding valves, cleaning carbon or removing the heads of engines or crankcases.

(5) All accessories, tires, batteries, etc., shall be displayed and stored within the principal building.

(6) Enclosed trash storage facilities shall be provided.

(7) Wrecker service or storage of wrecked automobiles shall be prohibited.

(8) All parking service areas shall be paved according to the county road specifications.

(9) Unlike gasoline stations permitted in the BU-1 zoning classification, gasoline service stations allowed under this section may display and have retail sales of goods connected with the tourist-oriented facility. Such retail goods may include but are not limited to souvenirs, gifts, sales from fruit stands and any like products. Such sales may be from the principal building or from an accessory building, which accessory building shall have a minimum floor area of 300 square feet. All other requirements and specifications for accessory uses, maximum lot coverage, maximum height of structures, signs, loading facilities, truck parking, storage, landscaping, lighting and utilities, access design, performance standards and construction requirements found in the regulations for the BU-1 zoning classification set out in this chapter shall be the requirements for this use, and are hereby incorporated into and made a part of this section by reference. Although the requirements and restrictions found in the regulations for the BU-1 zoning classification shall apply to this use, where the restrictions and regulations conflict, the provisions enumerated in this section shall take precedence over those found in the regulations for the BU-1 zoning classification.

(Code 1979, § 14-20.16.2(B)(30); Ord. No. 95-49, § 13, 10-19-95; Ord. No. 99-07, § 24, 1-28-99)

Sec. 62-1835.9. Group homes.

All group homes shall comply with the following, as applicable:

(1) Dispersal of facilities and notification to the county.

a. The minimum distance between level I facilities in single-family or multi-family zoned areas shall be 1,000 feet. Notification to the county shall occur at the time of home occupancy pursuant to F.S. § section 419.001(2).

b. The minimum distance between level II facilities in multi-family zoned areas and other group homes shall be 1,200 feet. Such facilities shall also maintain a radius of 500 feet from an area of single-family residential zoning.

c. All distance requirements, stated in subsections a and b above, shall be measured from the nearest point of the existing home or area of single family zoning to the nearest point of the proposed home.

d. Written notification to the county for a level II facility shall be provided at the time of
site selection, pursuant to F.S. § 419(3)(a). Notification shall contain the specific address or legal description of the site, the residential licensing category, the number of residents and community support requirements. Notification shall also contain a statement from the state indicating the need for and licensing status of the facility and the most recently published data identifying all similar facilities in the county.

e. The owner or operator of a group home shall notify the county within 15 days of the discontinued use to enable the county to maintain accurate dispersal record keeping.

(2) **County procedures for level II group homes.** Pursuant to F.S. § 419(3)(b), the county may:

a. Determine whether the siting of the level II group home is in accordance with county regulations;

b. Deny the siting of the level II group home, based upon one or more of the following:

1. The use does not otherwise conform to existing zoning regulations applicable to other multi-family uses;

2. The use does not meet applicable licensing criteria established by the state;

3. The use would result in such a concentration of level II group homes in the area in proximity to the selected site or would result in a combination of such homes with other residences in the community, such that the nature and character of the area would be substantially altered. A home that is located within the minimum standards set forth in subsection (1)(b) shall be considered over concentration that substantially alters the nature and character of the area.

4. Nothing in this section shall permit persons to occupy a group home who would constitute a direct threat to the health and safety of other persons or whose residency would result in substantial physical damage to the property of others.

5. In the event that the county fails to respond to the notification within sixty (60) days of receipt, then the group home may be established at the selected site.

(3) **Procedures for considering reasonable accommodation.** In circumstances where the standards set forth in this section cannot be met, a request for reasonable accommodation can be sought. Such requests may be evaluated pursuant to section 62-305 or other applicable relief procedures set forth in this chapter.

(4) **Compliance with state regulations.** Violations of applicable statutes and regulations of the state shall be deemed violations of this division.

(Ord. No. 2003-03, § 31, 1-14-03; Ord. No. 2007-59, § 1, 12-6-07)

**Sec. 62-1836. Hospitals.**
A hospital use shall front on an arterial road having a minimum right-of-way width of 60 feet. Parking must be provided based on the provisions of article VIII of this chapter, pertaining to site plans.

(Code 1979, § 14-20.16.1(6); Ord. No. 04-29, § 36, 8-5-04)

**Sec. 62-1836.5. Independent living facilities.**

All independent living facilities shall comply with the following requirements:

1. **Dispersal of facilities.** The minimum distance between facilities, measured from the property line, shall be 1,000 feet.

2. **Density.** Density shall be limited by the comprehensive plan future land use map, except that, for the purposes of this section, a residential unit in this facility shall be considered the equivalent of 0.5 residential units. This equivalent residential unit multiplier is provided in recognition of the likelihood of reduced impacts to public facilities inherent in this type of use.

In addition to the above multiplier, applicants for proposed facilities may request consideration of additional density bonuses as indicated below based upon location and performance relative to the following bonus factors. Upon presentation of evidence by the applicant justifying the request, the board of county commissioners, in its sole discretion, shall determine the extent to which requested density bonuses should be awarded.

<table>
<thead>
<tr>
<th>Bonus Factor</th>
<th>Maximum Bonus</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community commercial designation and neighborhood commercial designation</td>
<td>50% of the closest residential designated area on the future land use map which is on the same side of the street</td>
</tr>
<tr>
<td>Character of built densities¹</td>
<td>Up to 4 units/acre</td>
</tr>
<tr>
<td>Direct access to arterial road²</td>
<td>Up to 4 units/acre</td>
</tr>
<tr>
<td>Direct access to collector road²</td>
<td>Up to 2 units/acre</td>
</tr>
<tr>
<td>Open space exceeding 30%</td>
<td>Up to 2 units/acre</td>
</tr>
</tbody>
</table>

¹ Determined by the extent to which developed densities in the vicinity exceed the density of the future land use map.

² A project may qualify for one or the other direct access bonus, but not both.

3. **Neighborhood compatibility.** In residential zoning classifications, the external appearance of the facility's structures and building sites shall maintain the general character of the area. Exterior building materials, bulk, height, landscaping, fences and walls and general site design, including, but not limited to, points of ingress/egress and parking layout, shall be compatible with those of surrounding dwellings.

4. **Residency.** This facility is intended to be occupied by adults over 55 years of age, or married
adults over 55 and their spouses. Each unit shall be occupied by no more than two persons. At least 80 percent of the occupied units shall be occupied by at least one person who is 55 years of age or older. The facility shall publish and adhere to policies and procedures in accordance with F.S. § 760.29(4) and 42 U.S.C. Section 3607(b). The facility shall also comply with the rules of the Secretary of the U.S. Department of Housing and Urban Development found in the Code of Federal Regulations and other applicable regulations.

(5) Services. It is the intent of this provision that service to the residents shall be a substantial portion of the total value of the lease or purchase agreement. The following services shall be provided by this facility, at a minimum.

a. Scheduled private transportation by bus or van to local shops and medical facilities shall be provided at least twice weekly to each resident.

b. Meal service consisting of at least two meals per day per resident, prepared at the direction of a licensed dietician, shall be provided. At least one [of] these meals shall be made available in a common dining area, at the option of the tenant.

c. On-site management personnel shall be provided by the facility. The facility shall be staffed 24 hours a day.

d. Housekeeping or linen service shall be provided at least once a week.

(6) Facility standards. The facility shall comply with the following standards:

a. Each facility shall have one or more common dining areas adequate in size to seat the entire population of the facility, in one or more seatings.

b. The facility may consist of efficiency, one or two bedroom units, but the number of two bedroom units shall not exceed 25 percent of the total number of units. The facility and units shall comply with all applicable "facility standards" for assisted living facilities in subsection 62-1826(3)(a).

c. The minimum size of each unit shall be as follows:

   Efficiency: 400 sq. ft.

   One bedroom: 500 sq. ft.

   Two bedroom: 750 sq. ft.

d. There shall be a common room or rooms with adequate capacity and construction to shelter the entire population of the facility during the event of a 140 m.p.h. hurricane. This shall be provided at a rate of 20 square feet per person at maximum capacity.

e. Each facility shall provide for its residents' on site common recreation needs, both
outdoors and indoors. At least 25 percent of the site shall be reserved for usable common open space as defined in section 62-1102. At least 10 square feet per unit of indoor recreation space shall be provided. Common dining areas which are made available for recreation during non-dining hours may constitute up to 50 percent of the indoor requirement, but the remainder shall be comprised of specific areas dedicated to indoor recreation, such as exercise rooms or activities rooms.

f. Elevators shall be provided in all structures exceeding one story in height.

g. Each unit shall be wheelchair accessible and have emergency call systems with 24-hour monitoring.

h. Individual kitchens in each unit are permitted but not required.

i. All structures shall contain fire alarms and fire protection systems satisfactory to the county.

(7) **Accessory uses.** Along with accessory uses permitted in the zoning district for a residential structure, the following additional accessory uses are permitted in such facilities: central kitchens, chapels, libraries, exercise rooms, examining rooms for visiting physicians (whose offices are licensed off premises), and offices used for the administration of the facility. These uses shall be operated exclusively to provide services to the residents and their guests.

(8) **Site plans and floor plans.** A site plan and floor plan of the structure shall be submitted and approved by the county prior to issuance of the building permit.

(9) **Off-street parking.** There shall be exactly 1.1 parking spaces per unit for resident and visitor parking, plus one additional parking space for each employee at the maximum shift, rounded to the nearest whole space.

(10) **Conversion.** Conversion of an independent living facility to an assisted living facility pursuant to section 62-1826 may be considered at the same density of the independent living facility upon approval by the board of county commissioners. Independent living facilities which are converted to other uses, including other residential uses, must comply with all development regulations applicable to the new use at the time of conversion.

(Ord. No. 99-33, § 2, 5-6-99; Ord. No. 2002-01, § 11, 1-8-02; Ord. No. 04-29, § 46, 8-5-04)

*Editors Note:* Ord. No. 04-29, § 46, adopted August 5, 2004, redesignated the former § 62-1935.8 as § 62-1836.5. The historical notation has been preserved for reference purposes.

**Sec. 62-1837. Landscaping businesses.**

A landscaping business shall comply with the following regulations and specifications as a minimum:

(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 conditional use permit.

(Code 1979, § 14-20.16.1(7))

Sec. 62-1837.1. Learning centers.

A learning center is a private organization that provides personalized instructional services to students of any age.

(1) Maximum daily enrollment.
   a. One student for each 200 square feet of site area up to sites of 7,500 square feet.
   b. One additional student per each 400 square feet for the portion of the site above 7,500 square feet to 15,000 square feet.
   c. One additional student per each 600 square feet for the portion of the site above 15,000 square feet.

(2) The student/teacher ratio shall not exceed 3:1.

(3) A learning center or a combination of a learning center with other RP uses on a single site which generate 100 or more average daily trips (ADT) must be located on road with functional classification of arterial or at the intersection of two collector roads. Traffic generation of a proposed facility on a site would be determined by a concurrency evaluation performed pursuant to the criteria established by section 62-601 et seq., at the time of site plan review.

(Ord. No. 2001-71, § 4, 11-1-01)

Sec. 62-1837.3. Building materials and supplies.

Within the Merritt Island Redevelopment Area, there shall be no visible outside storage of building materials or supplies. All outside storage of building materials and supplies must be enclosed with a six-foot opaque wall or fence.

(Ord. No. 93-20, § 2(8), 6-22-93; Ord. No. 99-24, § 5, 4-8-99)

Sec. 62-1837.4. Manufacturing, compounding, processing, packaging, storage, treatment or assembly of certain products.

Manufacturing, compounding, processing, packaging, storage, treatment or assembly of the following:

- Electronic assembly.
- Food, beverage and tobacco products.
Pottery and figurines.

Professional, scientific, photographic and optical instruments.

Technical and scientific products and materials.

The above uses shall be permitted in the BU-1 and BU-2 classifications subject to the following conditions:

(1) All uses shall be conducted on a lot with a minimum size of 20,000 square feet.

(2) All uses shall be conducted and confined within completely enclosed buildings with walls and a roof.

(3) The operation within the building shall be conducted so as to prevent the emission of smoke and odors from the structure.

(4) There shall be no outside storage for the facility, beyond that permitted by the applicable classification.

(5) All other requirements and specifications for minimum setbacks, minimum floor area, maximum height of structures, off-street parking, signs and fencing for the BU-1 or BU-2 zoning classification as provided in this chapter shall be requirements for this use and are hereby incorporated into and made a part of this section by reference.

(6) This use shall not include the rendering or refining of fats and oils, poultry and animal slaughtering or dressing, or fish canning.

(Ord. No. 97-23, § 5, 7-8-97)

Sec. 62-1837.5. Self storage mini-warehouses.

(a) In the Merritt Island Redevelopment Area, this use is prohibited on parcels with frontage on State Road 520.

(b) Where this use is located in the BU-1 (general retail commercial) zoning classification, the following conditions are required to ensure that the design and use of a self storage mini-warehouse facility occur in a manner that is compatible with the physical and visual characteristics of the BU-1 zoning classification. The following conditions shall apply.

(1) No unit within a self storage mini-warehouse shall be utilized as a place of business. No business tax receipt, other than that of the self storage mini-warehouse operator, shall be approved for a business operation on the property.

(2) No utilities, namely, electricity, water, telephone, cable TV, or gas, will be provided to the individual units. Lighting and air conditioning may be located in the hallways only.
In addition to height restrictions as described in the BU-1 zoning classification, structural heights shall be further limited by the heights of adjacent off-site buildings to the side or rear of the property. Where only one structure is contemplated on site, height is limited to the height of the lowest principle structure on any adjacent parcel. Where more than one structure is proposed on site, the height of each structure is limited to the height of the lowest principle structure on the closest parcel. Where the adjacent parcel is vacant, the height of the proposed structure shall be limited to one story.

No outside storage of commercial vehicles or heavy equipment as defined in and regulated by section 62-2117 shall be permitted. Recreational vehicles and recreational equipment so defined shall be permitted to be stored if screened from view from the street and from adjacent parcels by a minimum eight-foot opaque visual barrier.

The use of generators of any kind is prohibited.

The use or storage of hazardous materials is prohibited.

Signage shall be placed on each building indicating that no hazardous materials use or storage or generator use is permitted and that units cannot be occupied for business or industrial use.

The entrance gate shall be so designed and located to allow for a 33 foot-long vehicle to queue without extending into the public right-of-way.

Minimum lot size. An area not less than 20,000 square feet, having a minimum width of 100 feet, and a minimum depth of 200 feet.

Landscaping and screening. A landscape buffer and screening strip shall be provided within each side and rear setback. Said buffer and screening strip shall consist of any combination of berming, fencing and vegetation which will provide a six-foot high visual barrier. Where said property is contiguous to a parcel zoned residential, or used for residential purposes, the landscape buffer and screening strip shall be completely opaque to a height of six feet pursuant to chapter 62, articles VIII and XIII. A four-foot-high irrigated and landscaped berm shall be provided along the front property line (excepting the entranceway) and the side property lines for a minimum depth of the required front setback. Additional vegetation shall be added to the berm to achieve a total height of at least six feet. Chain link fence is prohibited.

Architectural requirements. The site shall be designed so that no mini-warehouse overhead doors are visible from the street or from any adjacent parcel zoned residential, or used for residential purposes. Perimeter structures shall have trussed roofs. Perimeter walls shall be designed with physical breaks, windows (real or not), facade material changes or other architectural details and features (not just paint) intended to mimic the style of a retail structure as opposed to a continuous, visually monotonous warehouse wall.

Maximum structural coverage. Forty percent of total lot area.

(Ord. No. 06-21, § 2, 4-25-06; Ord. No. 06-36, § 2, 5-24-06; Ord. No. 2007-003, § 16, 2-20-07)

Editors Note: Ord. No. 06-21, § 2, adopted April 25, 2006, amended § 62-1837.5 in its entirety to read as herein set out.

Sec. 62-1837.6. Minor automobile repairs.

(a) Such uses may be performed either in conjunction with a gasoline service station or as a separate business as described in the BU-1 classification.

(b) In the Merritt Island Redevelopment Area, there shall be no outside storage, and all repairs must be in an enclosed structure with no bay door openings located in the front face of the building.

Sec. 62-1837.7. Mobile home and travel trailer sales.

The use shall not be located on any parcel with frontage on State Road 520. Within the remainder of the Merritt Island Redevelopment Area, there shall be no visible outside storage.

Sec. 62-1837.7.5. Mobile home residential dwelling.

A mobile home may be used as the principal residential dwelling in the AU zoning classification if the property has a minimum lot size of ten acres. The mobile home residential dwelling shall be located at least 200 feet from all property lines.

Sec. 62-1837.8. Motorcycle sales and service.

In the Merritt Island Redevelopment Area, there shall be no outside storage, and all repairs must be in an enclosed structure with no bay door openings located in the front face of the building.

Sec. 62-1837.9. Outdoor restaurant seating.

The intent of this section is to allow licensed restaurants that are either "stand alone", part of a strip center or located within a shopping center to provide outdoor eating areas (open air) to their patrons adhering to the following conditions:

(1) Outdoor food service will terminate no later than 10:00 p.m. on weekdays (Monday--Thursday) and 11:00 p.m. on weekends (Friday--Sunday).

(2) The number of outdoor seats provided by a restaurant shall be counted as part of the restaurant's total permitted seating allotment and shall be shown on an approved site plan.

(3) Outdoor seats shall not cause a licensed restaurant's required parking to become inadequate.

(4) Outdoor seating areas shall not encroach upon public rights-of-way, or public easements. However, per conditions contained herein, private sidewalks that abut restaurants may be used...
for such seating area.

(5) Outdoor seating is restricted to the sidewalk or building frontage of the subject licensed restaurant, the rear yard or a side yard if the side yard is abutted by a non-residential use or zone unless otherwise specified in a binding development plan.

(6) An outdoor seating area must be clearly delineated with planters, decorative fencing, and/or hedges to distinguish such area from the parking area serving the restaurant. When such seating areas are permitted to locate on elevated walkways, piers or docks, this condition does not apply.

(7) Outdoor seating areas must comply with all county performance standards.

(8) Outdoor seating shall not encroach upon setbacks established in the surface water protection ordinance.

(9) Outdoor seating that is provided within a private sidewalk area shall either maintain a five foot wide clear pedestrian path or 50 percent of the sidewalk width, whichever is greater. Such clear pedestrian paths shall be maintained at all times.

(10) Tables and chairs shall not be placed within five feet of bus stops, fire hydrants, above ground public utilities, bike racks or any type of public street furniture.

(11) Outdoor seating areas must be maintained in a neat and orderly appearance at all times and must be cleared of all debris on a periodic basis during the day and at the close of each business day.

(12) If found to be necessary for the protection of the health, safety and welfare of the public, the county manager or his/her designee may require the subject property to immediately remove or relocate all or part of the tables, chairs, etc. of the outdoor seating area.

(13) The serving or consumption of alcoholic beverages within an outdoor seating area shall comply with the regulations of applicable government agencies.

(14) No advertising signs or business identification signs shall be permitted within the outside seating area unless permitted by the county sign regulations.

(15) This section shall not apply to outdoor seating areas that are depicted on site plans approved prior to April 1, 2003.

(Ord. No. 03-36, § 2, 8-7-03; Ord. No. 04-36, § 1, 8-24-04)

Sec. 62-1838. Outside sale of mobile homes.

Outside sales of mobile homes may be of new or used mobile homes, but shall not consist of the construction nor the manufacture of mobile homes. The enclosed sales office shall be located on the same premises as the mobile homes offered for sale. In the BU-1 zoning classification, the use shall be permitted only in conjunction with an abutting mobile home development.

(Code 1979, § 14-20.16.1(8))
Sec. 62-1839. Power plants and substations, telephone exchanges and transmission facilities, and telephone switching centers.

Temporary facilities for power plants and substations, telephone exchanges and transmission facilities, and telephone switching centers may be approved by the board of county commissioners for a time certain, not to exceed three years, and, if approved, shall be exempt from construction requirements. Such use shall be screened, fenced or landscaped so as to conceal the primary use from surrounding property. The buffer shall be consistent with the buffer requirements for BU-2 uses as provided in article XIII, division 2, of this chapter. Site plan approval is required for these uses, pursuant to article VIII of this chapter.

(Code 1979, § 14-20.16.1(9))

Sec. 62-1839.7. Preexisting use.

(a) Subject to the provisions of this section, after application and approval as set forth in (4) through (6) below, the preexisting use designation shall be assigned to any property meeting one or more of the criteria set forth in (1) through (3) below.

(1) Any property having a structure whose use is conforming to the county zoning regulation which has been made inconsistent by the adoption of, or an amendment to, the county comprehensive plan.

(2) Any property having a structure whose use is conforming to the county zoning regulations prior to administrative rezoning which has been made inconsistent by the adoption of, or an amendment to, the county comprehensive plan.

(3) Any property having a structure that is utilized for hotel or motel purposes whose use was conforming to the county zoning regulations and was made nonconforming by subsequent amendments to the zoning code and was also made inconsistent by the adoption of, or an amendment to, the county comprehensive plan.

(4) Application for preexisting use designation shall be submitted to the zoning official. The application must be verified as a complete and accurate application. In addition of the requirements set forth in section 62-1151, the application shall include the following:

   a. The property owner's name and address, a recorded deed indicating his ownership, and the legal description of the property.

   b. An affidavit executed before a notary public under penalty of perjury attesting to the existing use at the time that the application is made and the date the use was established.

   c. A sealed, as-built survey of the site, or a scale drawing of the site along with an affidavit executed before a notary public under penalty of perjury attesting that the information reflected on the drawing is true and correct to the best of the applicant's knowledge. Such survey or drawing shall show the dimensions, height and number of stories of all structures; the number of residential or hotel units, as applicable, and the square footage.
d. Clear and convincing evidence that demonstrates the existence of the preexisting use at the time of the comprehensive plan adoption or applicable amendment.

(5) The complete application must be submitted by the applicant prior to the destruction or damage of the structure by any cause where such damage exceeds 50 percent of the fair market value of such structure, or, if damage exceeding 50 percent of fair market value precedes the application, it must be supported by clear and convincing evidence of prior usage fully acceptable to the approving authority.

(6) The property must be verified as having a use which was conforming to the county zoning regulations at the time it was made inconsistent with the comprehensive plan by the adoption of or an amendment to the county comprehensive plan, or an administrative rezoning implementing an amendment to the comprehensive plan.

(b) A preexisting use may not be reestablished if at any time it is changed to a use that is consistent with the comprehensive plan, or if the preexisting use is abandoned for a period of three years or more.

(c) Replacement of mobile homes in nonconforming mobile home parks shall be addressed as provided in section 62-1186.

(d) Regardless of other provisions in this subdivision, properties with the preexisting use designation would be permitted to:

(1) Rebuild structures that are destroyed by fire, wind, flooding or any other similar act of God beyond 50 percent of the fair market value to the exact configuration (width, depth, height and bulk) at the time they were so designated, and reestablish the use. The new structure and support facilities shall conform to the greatest extent possible with this chapter, but may not be rebuilt such that the site is more nonconforming by design.

(2) Replace a designated preexisting use, if the structure is destroyed and is rebuilt pursuant to subsection (d)(1) of this section, with uses similar in characteristics to those permitted in the zoning classification that was in place on the property at the time it became inconsistent with the comprehensive plan.

(3) Expand the floor area by 25 percent through administrative review and approval so long as the expansion meets all county land development regulations. This administrative approval shall not permit expansions which exceeds the maximum permitted by the zoning classification or the comprehensive plan. In order to expand a preexisting use beyond the 25 percent administrative approval limit, a conditional use permit pursuant to section 62-1949.7, Substantial expansion of a
preexisting use, shall be required.

(e) Support facilities to support the existing preexisting use (such as parking, drainage facilities, landscaping, signage, etc.) may be expanded where necessary to bring the site into closer compliance with the county's land development regulations.

(Ord. No. 95-47, § 72, 10-19-95; Ord. No. 99-07, § 25, 1-28-99)

Sec. 62-1840. Private parks and playgrounds.

(a) A conditional use permit for private parks and playgrounds is not required where the tract is specifically designated on the plat as a private recreational tract or private park. The park or playground shall be internal to the platted subdivision and not intrude into adjacent residential areas. This internalization of the tract is described by the park being encircled on all sides by lands within the plat.

(b) No buildings or structures shall be permitted in an area designated as a private park or playground, except for structures which complement the park or playground such as restroom facilities, showers and cabanas. Facilities such as tennis courts, shuffleboard courts, swimming pools and other similar recreational uses are the only uses permitted in such designated area. The applicant shall designate the exact location of such use, and such designation shall become a binding condition on the use of the land and the designation shall be noted on the official zoning maps of the county.

(c) Dwelling units are expressly prohibited in this area, and therefore there shall be no density designation for the area encompassed by the private park or playground. If the applicant is the owner of contiguous property, the area designated for recreational facilities may be considered in determining the total acreage for maximum density purposes. If the applicant's property is divided by a public or private roadway, street, alley or easement, the property may be considered as contiguous for the purposes of this subsection only.

(d) Lot size for such facilities shall be a minimum of one-half acre, regardless of zoning classification, and all facilities shall be set back a minimum of 25 feet from all property lines.

(e) Private parks and playgrounds of one-fourth acre in size or larger are permitted under the following conditions:

1. The park or playground is located east of SR A1A and provides beach access for the subdivision's residents.

2. The park or playground provides access to the Indian, Banana, or St. Johns Rivers for the subdivision's residents.

(Code 1979, § 14-20.16.1(10); Ord. No. 99-12, § 1, 3-4-99)

Sec. 62-1840.5. Railroad, motor truck and water freight and passenger stations.

In the Merritt Island Redevelopment Area, this use is prohibited entirely.

(Ord. No. 93-20, § 2(13), 6-22-93)

Sec. 62-1840.5.5. Recovered materials processing facility.
Recovered materials processing facilities shall comply with the conditions of F.S. § 403.7045(1)(F) and shall be performed within a completely enclosed building when operated from parcels zoned BU-2.
(Ord. No. 98-11, § 9, 2-26-98)

Sec. 62-1841. Recreational vehicles.

Recreational vehicles may be permitted as an accessory use at fishing camps or flea markets. Such vehicles shall be self-contained and shall not be connected to any utility except electricity. The length of stay for such vehicles shall be limited to 72 hours. There shall be a maximum of ten vehicles per acre, but no more than 30 vehicles, at any fishing camp or flea market, regardless of the size of the fishing camp or flea market. (Code 1979, § 14-20.16.1(11))

Sec. 62-1841.5. Recreational vehicle park destination resort.

A recreational vehicle park destination resort is a large scale, low density RV park oriented to the longterm permanent or parttime/seasonal resident. As such, it will offer facilities that exceed that of a standard RV park including more open space and recreational facilities and supporting commercial facilities. Open space, recreational and commercial facilities are permitted as described in the planned unit development classification.

(1) Permitted uses. Same as RVP except resort homes may comprise up to 50 percent of the permitted spaces or lots. Resort homes and park trailers may be considered as a permanent residence, and may be occupied by the owner for more than 180 consecutive days. A resort home, for the purpose of this section, is a site built single family residential structure intended for short term vacation or seasonal use or long term/permanent use.

(2) Accessory uses. Same as RVP except the total combined structural coverage of a recreational vehicle unit or resort home and any one or more of the permitted accessory structure shall not exceed 50 percent of the area of the recreational vehicle lot or resort home lot, not including a carport.

Where one or more accessory structures are located on a lot designed for and limited to use by a self-contained recreational vehicle, one accessory structure may contain a full kitchen. However, the site may not be occupied unless a self-contained recreational vehicle is parked on the site at the time of occupation. The accessory structure shall not be used as a separate, stand alone living unit.

(3) Site size shall be a minimum of 50 acres.

(4) The density of recreational vehicle park destination resorts located within lands designated neighborhood commercial or community commercial on the future land use map (FLUM) shall not exceed a maximum density of five recreational vehicle site or lots per acre. For recreational vehicle park destination resorts located outside of neighborhood commercial or community commercial land use designations on the FLUM, there shall be a maximum of five recreational vehicle site or lots per acre, or the residential density of the comprehensive plan, whichever is
less. Density allowances shall also apply to tent resort dwellings, park trailers and camping areas.

(5) Lot size for resort home lots shall be a minimum of 4,000 square feet with a minimum lot width of 40 feet.

(6) Common open space. Twenty-five percent of the gross site acreage shall be delineated as tracts for common recreation and open space. Allocation of common recreation and open space facilities shall be determined utilizing the definition of “usable common open space” in section 62-1102 of this chapter.

(7) Commercial uses.

a. Commercial uses will be limited to those uses permitted in the BU-1-A (restricted neighborhood retail commercial zoning classification) for projects of a size equal to or greater than 250 units but less than 1,000 units, and to those uses permitted in the BU-1 (general retail commercial use zoning classification) for projects of a size equal to or greater than 1,000 units. Commercial uses are not permitted in projects under 250 units. More intense commercial uses may be permitted by use on review.

b. The maximum commercial use area permitted shall be one acre per each 250 units. Such areas shall be situated internally and buffered so as not to create detrimental effect on residential areas. Such areas shall be located so as to best serve the residents of the project. Said areas shall not be located at the perimeter of the project with frontage on or direct access to a major through road so as to attract a market substantially outside of the project, unless such location is consistent with the location standards of the future land use map series for such uses.

c. Commercial use area shall be constructed and fully improved by the developer at a rate equivalent to, but not exceeding, construction of residential structures.

Sec. 62-1841.5.5. Resort dwellings.

Where a resort dwelling is listed as a permitted use with conditions in certain residential zoning classifications, it must meet the following qualifying conditions:

(1) Location standards. Resort dwellings shall be restricted to parcels that are:

a. Developed with a nonconforming multi-family residential use;

b. Located east of State Road A1A but do not abut single family detached uses or lots zoned for single family detached uses;

c. Located on the west side and have direct frontage on State Road A1A, but do not abut single family detached uses or lots zoned for single family detached uses; or
d. Located within a multifamily tract in a PUD or RPUD, or located in a single family tract if submitted as part of a preliminary development plan application and approved by the board of county commissioners in public hearing.

(2) Performance standards. All resort dwellings qualifying under this section, except where the owner lives on site and holds a homestead exemption, shall meet the following performance standards. These performance standards shall be included in the rental agreement and conspicuously posted inside the unit.

a. Parking. For single family resort dwellings, there shall be at least one designated and available off-street parking space for each bedroom in the residence. Occupants shall not park their vehicles on the street.

b. Maximum occupancy. The number of persons occupying the resort dwelling at any given time shall not exceed the number of rooms in the residence, as established by a submitted floorplan. The maximum occupancy of the structure shall be established by the planning and zoning office at the time of business tax receipt review.

c. Excessive or late noise. Noise emanating from the resort dwelling shall not disturb the peace and quiet of the vicinity in which the residence is located. Any noise whose measurement exceeds the sound level limits set forth for residential zoning in section 62-2271 or violates the provisions of chapter 46, article IV is considered excessive noise. Additionally, sounds produced from any radio, stereo, television, amplifier, musical instrument, phonograph or similar device shall not be discernable at the property line of the resort dwelling after 10:00 p.m. and before 7:00 a.m.

d. Local management. Each resort dwelling shall have a designated local manager. The local manager shall be a permanent resident of the county and shall be available 24 hours a day, seven days a week, to address neighborhood complaints. The local manager's name and telephone number shall be registered with the planning and zoning office and shall be posted on the property in a manner visible from the street.

e. Manager's responsibility. The local manager is responsible for assuring compliance with the performance standards in section 62-1841.5.5(2)e. The local manager shall satisfactorily address complaints by concerned residents of violations of the performance standards ((2)a., (2)b., and (2)c.) in this section within one hour of receipt of the complaint. The resort dwelling's business tax receipt may be revoked if more than two unresolved complaints are received by the county. An unresolved complaint is a complaint that is filed with the county by an individual residing in the same neighborhood who has previously filed the complaint with the local manager, but the local manager did not resolve the complaint to the satisfaction of the individual within one hour. Revoked licenses may not be reissued for a period of one year from the date of revocation.

f. Penalty. In addition to the penalties enumerated in chapter 2, article VI, division 2 of this
Code, the code enforcement special magistrate may suspend or revoke the resort
dwelling's business tax receipt under the following conditions: If the special magistrate
finds a violation or recurring violation of this section, the special magistrate may suspend
the resort dwellings' business tax receipt for a period of not more than 30 days or until the
issue is resolved, whichever is later; and if the special magistrate finds a repeat violation
of this section or a violation of a suspension order, the special magistrate may revoke the
resort dwelling's business tax receipt. Revoked licenses may not be reissued for a period
of one year from the date of revocation. Additionally, the county may enforce this section
by any other means provided by law.

(Ord. No. 05-27, § 4, 5-19-05; Ord. No. 06-06, § 3, 1-24-06; Ord. No. 2007-003, § 17, 2-20-07; Ord. No. 2007-53, § 2, 10-9-07)

Editors Note: The scrivener's errors in Ord. No. 2007-53, § 2 have been corrected to reflect the actual subsections that
should have been referenced.

Sec. 62-1841.6. Nursing homes.

Property must abut a 60-foot right-of-way. The minimum area is five acres. Setbacks shall be as
provided in subsection 62-2121(d) for buildings for public assemblage.

(Ord. No. 04-29, § 37, 8-5-04; Ord. No. 05-40, § 11, 8-23-05)

Editors Note: Ord. No. 04-29, § 37, August 5, 2004, amended § 62-1841.6 in its entirety to read as herein set out. Formerly,

Sec. 62-1841.7. Security mobile home.

A mobile home may be used as a permanent security residence in the BU-1 and BU-2 zoning
classifications when accessory to an on-site permitted use. The mobile home and site improvements shall meet
all setback and vegetative buffer requirements for principal structures in the BU-2 classification as set forth in
section 62-4341, as well as the conditions in section 62-1946. As a permanent security residence, the mobile
home under this provision must pay any applicable impact fee as assessed by the county at the time of the
building permit for such permanent structures. If the owner so chooses, or if the site cannot meet the standards
described above, the owner may still request the conditional use permit for temporary security mobile homes as
established in section 62-1946.

(Ord. No. 95-51, § 6, 10-19-95; Ord. No. 99-07, § 26, 1-28-99)

Sec. 62-1841.8. Service station for automotive vehicles and U-haul service.

In the Merritt Island Redevelopment Area, there shall be no outside storage, and all repairs must be in an
enclosed structure with no bay door openings located in the front face of the building.

(Ord. No. 93-20, § 2(14), 6-22-93)


In the PBP and PIP zones, property owners who purchased such property prior to October 19, 2004 are
permitted to construct single family residences. Such development must be consistent with all applicable
regulations contained within this chapter. In addition, single family residences are permitted regardless of the
date of ownership when the property within the PBP zone is deed restricted to allow only residential uses. Such
deed restrictions must exist prior to October 19, 2004.
Sec. 62-1842. Snack bars and restaurants.

Snack bars and restaurants must comply with the applicable parking requirements, and the establishment shall not have more than 49 seats. All snack bars and restaurants with up to 30 seats as of July 30, 1998, wishing to expand up to 49 seats shall comply with all applicable development regulations.

(Code 1979, § 14-20.16.1(12); Ord. No. 98-46, § 1, 8-27-98)

Sec. 62-1842.5. Tenant dwellings.

One unit is permitted for each five acres of land under the same ownership. Tenant dwellings must be 100 feet from property of different ownership.

(Ord. No. 97-46, § 3, 12-2-97)

Sec. 62-1842.6. Temporary living quarters during construction of a residence.

A temporary mobile home, temporary travel trailer or recreational vehicle (self-propelled motor home) may be permitted for temporary residential use pending construction of a permanent residential unit, where the site has a minimum area of one acre, subject to the following specific restrictions and conditions:

1. A building permit for the anticipated construction shall be issued prior to the application for this temporary residential use, and a copy of the building permit shall accompany the application.

2. The temporary mobile home, travel trailer or recreational vehicle allowed under this section shall be hooked up to a public sewer system; otherwise, a septic tank permit must be obtained from the county health department prior to the application for this temporary residential use.

3. The applicant shall submit a copy of the approved plot plan for the active residential construction and indicate on the plot plan where the temporary mobile home, travel trailer or recreational vehicle will be located, with dimensions regarding size, property line setbacks and distance from the structure under construction.

4. A building permit for a temporary mobile home, travel trailer or recreational vehicle for temporary residential use during the construction of a residence shall not be approved until one of the following conditions are met:

   a. The foundation or slab and the rough plumbing for the residence has been completed. Both the foundation and the rough plumbing must be inspected and approved by the county building department before the applicant may locate the temporary mobile home, travel trailer or recreational vehicle on the property. A copy of the approval shall accompany the application.

   b. The applicant has pre-paid the impact fee for the permitted single-family residence. Where the impact fee has increased since the pre-payment, the property owner will be required to pay the difference before the certificate of occupancy is issued.
Once the applicant has complied with the provisions of subsection (3) of this section, the temporary mobile home, travel trailer or recreational vehicle may be moved onto the affected property in accordance with subsection (4) of this section; however, the wheels and axles shall not be removed from the mobile home, travel trailer or recreational vehicle. [Ord. No. 98-08, § 4, 2-10-98] 
Editors Note: Ord. No. 98-08, § 4, adopted Feb. 10, 1998, set out provisions intended for use as § 62-1842.5, temporary living quarters during construction of a residence. Inasmuch as there were already provisions so designated, the provisions have been redesignated as § 62-1842.6, at the discretion of the editor.

Sec. 62-1843. Tenant dwellings; mobile home.

A mobile home may be used as a tenant dwelling in the AGR, PA and AU zoning classifications if the property has a minimum lot size of 20 acres of improved agricultural pursuit. One tenant dwelling per each 20 acres of improved agricultural use may be permitted. The tenant dwellings shall be located at least 300 feet from all property lines. (Code 1979, § 14-20.16.1(13); Ord. No. 95-51, § 8, 10-19-95)

Sec. 62-1844. Reserved.

Sec. 62-1844.5. Tourist efficiencies and hotels and motels.

(a) Hotels and motels. Hotels and motels may be permitted in the general retail BU-1 zoning
classification up to a maximum of 30 units per acre in areas designated community commercial on the future
land use map. This use shall be subject to the development criteria in the general tourist commercial zoning
classification (TU-1).

(b) **Tourist efficiencies.** Dwelling units which contain kitchen facilities for a single family and which
are held out for rent or lease to the general public may be permitted in the general tourist commercial zoning
classification (TU-1) under the following conditions:

1. The maximum size of each unit shall be 525 square feet.
2. No unit shall interconnect internally with another unit.
3. Each unit shall contain only one bedroom and one bath.
4. No unit shall be leased or rented for a period in excess of 90 days; provided, however, that the
   manager or any member of the hotel or motel staff may live on the premises permanently.
5. The building shall have a lobby, reservation desk and checkout area, and other facilities normally
   associated with a hotel or motel may be included.

(Code 1979, § 14-20.16.2(B)(51); Ord. No. 95-49, § 21, 10-19-95; Ord. No. 2002-01, § 9, 1-8-02)

Sec. 62-1845. Warehouses.

In the Merritt Island Redevelopment Area, this use is prohibited on parcels with frontage on State Road
520. This section shall not preclude a warehouse which is incidental to and used in conjunction with an office
which is the primary use of the parcel on which it is located.

(Ord. No. 93-20, § 2(16), 6-22-93; Ord. No. 99-24, § 8, 4-8-99)


Subdivision III.

Conditional Uses

Sec. 62-1901. Generally.

(a) **Permitted uses.** In addition to the permitted uses specified in each zoning classification, there are
also additional uses specified in each zoning classification which may be considered subject to the specific
restrictions and conditions specified in this subdivision. These conditional uses shall be reviewed pursuant to
the general standards specified in subsection (c) of this section.

Conditional use permits issued to properties which subsequently are divided into two or more lots or
parcels shall be retained only on those parcels that still meet the conditions of the conditional use permit which
are in effect at the time the land is subdivided.

(b) **Approval procedure.** An application for a specific conditional use within the applicable zoning
Any applicant who seeks a conditional use permit shall submit with the application a site plan as described below. If a CUP not listed in Exhibit "A" below is requested on a site which is either undeveloped or which is to be altered by 50 percent or greater of the original floor area or seating capacity of an existing structure, a reproducible site plan signed by a registered engineer, land surveyor or architect must be presented. The site plan shall depict the structure, parking, ingress/egress, landscaping, refuse, screening or buffering, height and stormwater retention areas. For an existing structure not to be altered more than 50 percent of the original floor area or seating capacity, or for a CUP specifically listed in Exhibit "A" below where practical, a scaled dimensional sketch plan may be presented as an alternative which delineates parking, landscaping, external structural changes, and ingress/egress. Either site plan referenced herein shall be binding on the use of the property if the conditional use permit is approved. Minor modifications to the approved site plan which, in the opinion of the county manager or designee, do not deviate from the intent of the original approved may be approved administratively at the time of the development permit.

### Exhibit A. Conditional Use Permits Requiring Scaled Dimensional Sketch Plan Only

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Other information which may be requested by the county manager or designee, planning and zoning board, or board of county commissioners relative to a specific conditional use permit application must be provided at least two weeks prior to the time of the applicable public hearing.

In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odor, glare and noise, particulates, smoke, fumes and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

(c) **General standards of review.**

(1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon a consideration of the factors specified in section 62-1151(c) plus a determination that the following general standards are satisfied. The board shall make the determination whether an application meets the intent of this section.

a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1) the number of persons anticipated to be using, residing or working under the conditional use; (2) noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3) the increase of traffic within the vicinity caused by the proposed conditional use.

b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.

c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebutably presumed to have occurred if abutting property suffers a 15 percent reduction in value as a result of the proposed conditional use. A reduction of ten percent of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The board of county commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an MAI certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.

(2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:

a. Ingress and egress to the property and proposed structures thereon, with particular
reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1) adequate to serve the proposed use without burdening adjacent and nearby uses, and (2) built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20 percent, or ten percent if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at level of service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable county standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the board of county commissioners.

b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.

c. Noise levels for a conditional use are governed by section 62-2271.

d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.

e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.

f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.

g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to, traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.

h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.

i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.
j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

(d) **Modification, revocation, penalty.**

(1) The board shall have the authority to modify or revoke a previously granted conditional use permit where there has been no development, construction, or implementation of the conditional use. Such modification or revocation may occur when the board finds the use of the conditional use permit:

a. Would cause substantial and adverse impact to the general health, safety or welfare through the effect of emissions, particulates, noise, or other negative impact;

b. Due to changed conditions created by the person or entity owning the property to which the CUP was issued, would not meet the original standards for such approval;

c. Would not meet the specific review standards or conditions attached by the board as part of the approval; or

d. Due to changed conditions in the surrounding neighborhood as it has developed, would now cause substantial and adverse impact to the general health, safety or welfare of adjacent or nearby residents that would not have been apparent at the time of approval.

(2) The board shall have the authority to modify or revoke a previously granted conditional use permit where there has been development, construction, or implementation of the conditional use. Such modification or revocation may occur when the board finds the use of the conditional use permit has failed to comply with any of the conditions and restrictions imposed in the conditional use permit, has created an unforeseen negative impact such as emissions, particulates, noise, or other negative impact, or has otherwise caused substantial and adverse effects on the general health, safety or welfare of adjoining and nearby property owners and residents, and the owner has had adequate opportunity to correct the deficiency through code enforcement procedures or other avenues of due process. This provision shall apply retroactively.

(3) All special use permits and conditional use permits as described below shall be subject to revocation. Such permits are as follows:

- Special use permits issued to properties prior to the removal of such permits from the Brevard County Code on August 2, 1973;

- Conditional use permits which have been removed from the Brevard County Code or from the applicable zoning classification; and

- Conditional use permits approved prior to the effective date of Ordinance No. 99-43
which remain unused three years or more after the effective date of Ordinance No. 99-43.

Such uses constructed or under construction at the time of the Code amendment shall be considered nonconforming uses.

(4) Modification or revocation proceedings shall be initiated and processed in the same manner as an administrative rezoning.

(5) It shall be unlawful to use any land designated for a conditional use on the official zoning maps in violation of the restrictions and conditions placed on the conditional use of the land under the provisions of this division or the applicable resolution of approval. Any person found guilty of violating this subsection shall be deemed guilty of an offense and shall be punished by a fine not exceeding $500.00, or by imprisonment in the county jail for a period not to exceed 60 days, or by both such fine and imprisonment. The board also reserves the right to seek injunctive relief or any other appropriate legal remedy to enforce compliance with applicable land use regulations.

(e) Rezoning, effect. Existing conditional use permits shall be presumed to be waived when a rezoning application is granted, unless the applicant requests renewal of the conditional use permit(s). In the event of a rezoning request wherein the subject property also has an approved conditional use permit, upon request, the board shall renew, modify, or revoke each existing conditional use permit. Unless reauthorized, conditional uses constructed or under construction at the time of the rezoning shall be considered nonconforming uses.

(f) Expiration. Conditional use permits approved after the effective date of Ordinance No. 99-43 shall expire within three years from the date of approval if the approved use is not constructed or under substantial and continuous construction. One administrative extension of up to two years may be approved by staff prior to expiration if the applicant has submitted an application for a development order. Renewals of expired conditional use permits may be considered by the board in public hearing pursuant to subsection 62-1901(b) if the applicant can demonstrate compliance with all current standards or review criteria.

(Code 1979, § 14-20.16.2(A), (C)--(E); Ord. No. 99-43, § 1, 8-3-99; Ord. No. 2002-40, § 1, 8-13-02; Ord. No. 2005-25, § 6, 5-19-05; Ord. No. 06-004, § 1, 1-10-06; Ord. No. 2009-06, § 5(Exh. A), 2-5-09)

State Law References: Penalty for ordinance violations, F.S. § 125.69.

Sec. 62-1902. Reserved.

Sec. 62-1903. Reserved.
Editors Note: See note at § 62-1826.

Sec. 62-1904. Agricultural pursuits.

(a) Any agricultural use, pursuit or activity permitted in the agricultural zoning classifications (AU or AGR) may be considered as a conditional use for the general use zoning classification (GU), provided that the applicant specifies the exact use in the request or application for the conditional use and meets all criteria for the use, if any, as set forth for the AU zoning classification. Finally, the use must be reasonably compatible with the surrounding development and the criteria of section 62-1901(c) must be satisfied. A conditional use permit
is not required on GU parcels equal to or exceeding five acres.

(b) Land areas to be utilized as agricultural pursuits in any other zoning classification which allows them as a conditional use must be clearly defined and legally described.

(c) Land areas which are to be used for agricultural pursuits in a planned unit development (PUD) must be designated in a particular tract as defined in that zoning classification. The following are the criteria and regulations for agricultural pursuits in a planned unit development:

(1) **Permitted uses.** Permitted uses for a planned unit development are as follows:

   a. Residential units.

   b. Accessory uses as follows: garages, private boat piers and other uses customary to residential development, and barns or stalls for housing of horses, provided such structures are at least 100 feet from any residence, whether within the tract, on a PUD, or on property adjacent to the tract.

   c. Agricultural uses as follows: horses, two per acre, and horticultural pursuits. Horticultural pursuits are permissible provided that no resale of produce shall be permitted from the premises.

   d. Swimming pools with required screen enclosures or fences.

(2) **Density.** Density within the agricultural tract shall not exceed one unit per acre.

(3) **Design criteria.**

   a. Twenty-five percent of the gross acreage of the tract shall be improved as common open space or recreational space for activities such as equestrian and horticulture activities.

   b. Grazing and stabling of horses shall be controlled and contained within the agricultural tract and properly separated from all residential structures within the tract by fencing if necessary.

(Code 1979, § 14-20.16.2(B)(3); Ord. No. 95-49, § 1, 10-19-95)

**Sec. 62-1905. Airplane runways.**

The minimum length of an airplane runway shall be 1,800 feet. The runway shall be situated so as to minimize the noise and ensure safety for adjoining property. Such runway must comply with the rules and regulations of the department of transportation of the state. In the agricultural zoning classifications (PA, AGR and AU), the airplane runway must be for private use only in conjunction with agricultural pursuits. See also division 6, subdivision II, of this article.

(Code 1979, § 14-20.16.2(B)(4); Ord. No. 95-49, § 2, 10-19-95)

**Sec. 62-1906. Alcoholic beverages for on-premises consumption.**
The sale of or serving of alcoholic beverages on the premises shall only be permitted in accordance with the following conditions:

(1) a. A bar or cocktail lounge may be a conditional use in a general retail zoning classification (BU-1), a retail warehousing and wholesale business zoning classification (BU-2), a general tourist commercial zoning classification (TU-1) and a transient tourist zoning classification (TU-2). Such conditional use shall be considered in the same manner and according to the same standards of review as specified in this division.

b. A bar or cocktail lounge is prohibited within the restricted neighborhood commercial zoning classification, BU-1-A. The on-premises sale or serving of alcoholic beverages in BU-1-A may be a conditional use as accessory to a snack bar and restaurant pursuant to section 62-1842. Such conditional use shall be considered in the same manner and according to the same standards of review as specified in this division.

(2) The on-premises sale or serving of alcoholic beverages may be a conditional use as an accessory use to civic, philanthropic or fraternal organizations, lodges, fraternities and sororities, or marinas, golf courses, stadiums or other similar recreational uses, in those zoning classifications in which such uses are permitted. Such conditional use shall be considered in the same manner and according to the same standards of review as specified in section 62-1151. The conditional use shall be granted only as an accessory use to the primary use requested. Bottle clubs shall be considered commercial uses subject to the requirements of this section.

(3) Except for restaurants with more than 50 seats, no alcoholic beverages shall be sold or served for consumption on the premises from any building that is within 300 feet from the lot line of a school or church if the use of the property as a school or church was established prior to the commencement of the sale of such alcoholic beverages. For the purposes of this subsection, a school shall include only grades kindergarten through 12. For the purpose of establishing the distance between the proposed alcoholic beverage use and churches and schools, a certified survey shall be furnished from a registered engineer or surveyor. Such survey shall indicate the distance between the front door of the proposed place of business and all property lines of any church or school within 400 feet. Each survey shall indicate all such distances and routes.

(4) For restaurants with more than 50 seats located in shopping centers, no conditional use permit is required for on-premise consumption of alcoholic beverages.

(5) Imposition of additional operational requirements. When deemed appropriate, as based upon circumstances revealed through the general and specific standards of review set forth in this division, the Board shall have the option of imposing operational requirements upon an establishment approved for a conditional use for on-premises consumption of alcoholic beverages. Requirements may include, but are not limited to, the following: maximum number of patrons; hours of operation; limitations upon outdoor seating and service of alcoholic beverages; limitations upon outside music and/or public address systems; additional buffering requirements; additional parking requirements; internal floor plan arrangement; or other specific restrictions based upon special neighborhood considerations. Additional requirements shall not exceed the
limits of regulatory authority granted to local governments in the State Beverage Law, F.S. § 562.45.

(6) Expansion of conditional use permit. The square footage area or location of premises designated for a conditional use permit for on-premises consumption of alcoholic beverages shall not be expanded beyond that approved by the conditional use permit without filing a new application for a conditional use permit in accordance with the requirements contained in this section and section 62-1901 and having same approved by the board of county commissioners. "Expansion," as used herein, shall include the enlargement of space for such use and uses incidental thereto as well as the extension of a beer and/or wine use to include intoxicating liquor. The new application must cover both the existing approved designated area as well as the proposed expanded area. All areas approved shall be regulated under the same business license and shall be subject to uniform rules and regulations.

(Code 1979, § 14-20.16.2(B)(5); Ord. No. 93-24, § 1, 11-10-93; Ord. No. 2002-63, § 1, 12-17-02; Ord. No. 04-29, § 39, 8-5-04; Ord. No. 06-54, § 2, 10-5-06)

Sec. 62-1906.5. Reserved.

Editors Note: Ord. No. 02-014, § 2, adopted March 19, 2002, repealed the former § 62-1906.5, which pertained to aquaculture (case II) and derived from Ord. No. 93-26, §§ 2(14-20.16.2(B)), 3(14-20.70), adopted November 10, 1993, and Ord. No. 94-09, § 1, adopted March 16, 1994.

Sec. 62-1907. Arsenals and explosives.

All principal activities and structures for arsenals and other uses involving explosives shall be set back a minimum of 200 feet from all property lines.

(Code 1979, § 14-20.16.2(B)(6))

Sec. 62-1908. Reserved.

Editors Note: See note at § 62-1825.

Sec. 62-1909. Automobile sales and storage (under one acre in the Merritt Island Redevelopment Area).

(a) In the Merritt Island Redevelopment Area, this conditional use permit is required only if the site is less than one acre in size. Sites equal to or greater than one acre in size, or sites outside of the Merritt Island Redevelopment Area regardless of size, are subject to section 62-1829.

(b) All sales must be from a permanent structure, and the storage area must meet the requirements of the county site plan and landscaping regulations.

(c) There shall be no outside storage other than vehicles for sale or rent, and all repairs must be in an enclosed structure with no bay door openings located in the front face of the building.

(d) When the use of a parcel of property is changed to allow automobile sales and storage, a Type "C" landscape buffer as defined in section 62-4341 will be required.

(Ord. No. 99-24, § 2, 4-8-99)

Editors Note: Prior to its reenactment by Ord. No., 99-24, Ord. No. 95-49, § 3, adopted October 19, 1995, moved the former § 62-1909 to § 62-1827 in order to list automobile and motorcycle repair (major) and paint and body work under permitted uses with conditions. Formerly, such section was listed under conditional uses.
Sec. 62-1910. Reserved.

Editors Note: Ordinance No. 95-49, § 4, adopted October 19, 1995, moved § 62-1910 to § 62-1830.3 in order to list bait and tackle shops under permitted uses with conditions. Formerly, such section was listed under conditional uses.

Sec. 62-1911. Reserved.

Editors Note: Ordinance No. 95-49, § 5, adopted October 19, 1995, deleted § 62-1911 in its entirety in order to be consolidated with § 62-1935. Formerly, such section pertained to barns and derived from § 14-20.16.2(B)(10) of the 1979 Code.

Sec. 62-1912. Bed and breakfast inns and boardinghouses.

Bed and breakfast inns shall meet the following criteria as a conditional use in single-family zoning classifications. A conditional use permit is not required for either use in multifamily classifications as long as the following criteria are met:

1. **Density.** Bed and breakfast and boardinghouse facilities shall be limited to the density limitation of the zoning classification. Where an existing single-family house is being utilized as a bed and breakfast or boardinghouse facility, the guest accommodations shall not exceed 50 percent of the floor area of the principal residence.

2. **Parking.** The proposed facility shall provide a minimum of one on-site parking space per guestroom and an additional two on-site parking spaces for the resident manager or innkeeper. No parking shall be permitted in the front yard in residential zoning classifications.

3. **Signs.** In single-family zoning classifications, wall-mounted signs up to four square feet in size shall be permitted. In agricultural, multiple-family and residential-professional zoning classifications, wall-mounted or freestanding signs up to eight square feet in size and a maximum of six feet in height shall be permitted.

4. **Dining facilities.** These facilities shall have common kitchen and dining facilities, and individual rooms that are rented shall not contain cooking facilities. Meals shall be provided to overnight guests only.

5. **Business tax receipt.** A business tax receipt shall be required.

6. **Distance between establishments.** No bed and breakfast inn may be located closer than 500 feet to any previously approved and established bed and breakfast inn in single-family zoning classifications.

7. **Definition.** For purposes of this section, a bed and breakfast inn shall be defined as follows: "a bed and breakfast inn is a structure originally built as a single-family residence, or a new structure which is designed as and appears externally as a single-family residence, where short-term lodging rooms and meals (usually breakfast only) are provided to overnight guests. The use is an accessory use to the primary use as a single-family residence of the operator who shall live on the premises."

(Code 1979, § 14-20.16.2(B)(11); Ord. No. 95-49, § 6, 10-19-95; Ord. No. 2007-003, § 18, 2-20-07)

Sec. 62-1913. 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 in the AU and AGR zoning classifications. A conditional use permit shall not be required where the number of horses does not exceed four per acre.

(Code 1979, § 14-20.16.2(B)(12); Ord. No. 95-49, § 7, 10-19-95)

Sec. 62-1914. Reserved.
Editors Note: Ordinance No. 95-49, § 8, adopted October 19, 1995, moved § 62-1914 to § 62-1830.5 in order to list boatbuilding facilities under permitted uses with conditions. Formerly, such section was listed under conditional uses.

Sec. 62-1915. Reserved.
Editors Note: Ordinance No. 95-49, § 9, adopted October 19, 1995, moved § 62-1915 to § 62-1830.8 in order to list boat sales under permitted uses with conditions. Formerly, such section was listed under conditional uses.


(a) Access. Property being utilized for the production of cement, concrete and concrete building products must abut a street classified as a major arterial or highway, as defined in article VII of this chapter, or have direct access to such major arterial or highway through a nonresidential area.

(b) Perimeter setback. All structures utilized for the production of cement, concrete and concrete building products shall be set back not less than 200 feet from any major arterial or highway. A 20-foot-deep strip of property within the perimeter setback from any major arterial or highway must be maintained as a landscaped screen, which screen shall be at least six feet in height.

(c) Performance standards. Use of the property for the production of cement, concrete and concrete building products shall meet all requirements of division 6, subdivision III, of this article, pertaining to performance standards, as such standards relate to industrial zoning classifications.

(Code 1979, § 14-20.16.2(B)(15))

Sec. 62-1917. Reserved.
Editors Note: See note at § 62-1831.3.

Sec. 62-1917.5. Change of nonconforming agricultural use.

A change of a nonconforming agricultural use to another agricultural use shall meet the following criteria as a conditional use:

(1) On parcels of five acres or more devoted to nonconforming agricultural use, supporting structures of an agricultural nature may be erected. Such structures shall meet all setback requirements of the agricultural zoning classification.

(2) In addition to the general standards contained in section 62-1901(c)(1)b. and c., above, proposed agricultural use may be changed to another agricultural use if it is considered to be a similar use or a less intensive use, as shown below.
a. Type 4 nonconforming agricultural uses are the most intensive uses, and may only be changed to other type 4 agricultural uses, or less intensive type 1, type 2 or type 3 agricultural uses described below. Type 4 agricultural uses are: feed lots, chicken farms and other intense animal husbandry uses; hog farms; pet kennels with outdoor runs; and dude ranches with a minimum area of 40 acres (barns and stables shall be 200 feet from any property line).

b. Type 3 nonconforming agricultural uses may be changed to other type 3 agricultural uses, and less intensive type 1 or type 2 agricultural uses described below. Type 3 agricultural uses are: fowl raising; farmer's market; and pet kennels without outdoor runs.

c. Type 2 nonconforming agricultural uses may be changed to other type 2 agricultural uses, and less intensive type 1 agricultural uses described below. Type 2 agricultural uses are: plant nurseries; landscaping businesses; and horticulture such as row crops, ornamental.

d. Type 1 nonconforming agricultural uses may be changed to other type 1 agricultural uses only. Type 1 agricultural uses are: bee keeping; boarding or horses and horses for hire; groves and orchards; and raising and grazing of animals.

(Ord. No. 96-16, § 71, 3-28-96)

Sec. 62-1918. Reserved.


Sec. 62-1919. Reserved.


Sec. 62-1919.5. Reserved.


Sec. 62-1920. Cluster development of mobile homes.

Cluster development of mobile homes is a conditional use in the TRC-1 zoning classification. The cluster concept may be used for cooperative mobile home development, in which mobile homes may be oriented around a common nonvehicular plaza, park or vegetated open space, under the following conditions:

(1) In no case shall density exceed six units per gross acre.

(2) No minimum lot size shall be required with the cluster concept.

(3) No individual sites or lots shall be platted or sold in a cluster development.

(4) Principal and accessory uses must be set back not less than 20 feet from the edge of any public right-of-way or private street. A minimum distance of 15 feet must be maintained between all principal and detached accessory structures.
The required site plan shall contain the precise location of all mobile homes and the exact maximum dimensions of each mobile home for its respective site.

Twenty-five percent of the parking requirement may be provided in one or more common parking areas that will serve as overflow parking and recreational vehicle parking. Overflow parking may be exempted from the paving requirement and be provided in a stabilized surface.

Design requirements with respect to streets, sidewalks and drainage may be waived by the board of county commissioners upon the recommendation of the county manager or designee.

Twenty-five percent of the development must be provided in the form of usable common recreation and open space.

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 county 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 county services and to generally ensure the health and safety of the residents of the development.

(Code 1979, § 14-20.16.2(B)(19); Ord. No. 97-49, § 13, 12-9-97)

Sec. 62-1921. Commercial entertainment and amusement enterprises.

(a) **Definition.** For purposes of this section, commercial entertainment and amusement enterprises are defined as commercial recreational facilities, including but not limited to golf driving ranges, amusement parks, attractions, amphitheaters, arenas, stadiums and exhibits, which take place in an open area with a minimal number of structures.

Commercial entertainment and amusement enterprises are divided into two types, small scale and large scale. A small scale enterprise may not include motorized vehicles or paid spectator seating. Free spectator seating shall be limited to 100 seats or less. Typical uses include miniature golf, batting cages, tennis courts, BMX courses, paintball and golf driving ranges. Small scale enterprises are conditional uses in the BU-1 classification, and permitted uses in the BU-2 and industrial classifications subject to the provisions of this section.

Large scale commercial entertainment and amusement enterprises may include motorized vehicles, or spectator seating for paid events. Such uses may have amplified music or loudspeakers, or other noise sources. Typical uses include amphitheaters or outdoor music events, theme parks, equestrian facilities, rodeos, circuses, skateboard parks, race tracks, go karts, ATV or motorcycle tracks, and sports stadiums or arenas. Large scale enterprises are conditional uses in the BU-1, BU-2 and industrial zoning classifications.

(b) **Location.** No outdoor attraction or other commercial amusement as indicated in subsection (a) of this section shall be permitted within 300 feet of an existing residential development or an area designated by the county comprehensive land use plan for residential development.
(c) **Minimum lot area.** Uses permitted under this section shall provide a minimum lot area of one-half acre for small scale enterprises, and five acres for large scale enterprises.

(d) **Performance standards.** The operation of these facilities shall conform to all rules and regulations of all governmental agencies having appropriate jurisdiction and the performance standards of this article. Upon request by the board of county commissioners, the applicant may be required to provide appropriate studies of similar or comparable uses relating to specific performance standards to support compliance.

(e) **Fencing and screening.** Where deemed necessary by the board of county commissioners to protect the general public and abutting property, additional fencing or landscape screening beyond that which is specified by the land development regulations may be required.

(f) **Perimeter setbacks.** No building, mobile home, trailer, vehicle or mechanical equipment shall be located closer to the property line than 75 feet.

(g) **Parking and loading.** All uses authorized shall be subject to the off-street parking requirements as set forth in article VIII of this chapter, with the following requirements:

1. Parking areas shall be stabilized or hard surfaced.
2. Outdoor attractions, with or without grandstands, shall provide one parking space for each three fixed seats, and one parking space for each 20 square feet of seating or spectator area where no fixed seats exist, plus one space for each two employees.
3. Privately operated recreation areas or structures shall provide five spaces for each acre of outdoor attractions, plus one space for each 50 square feet of total floor area, plus one space for every two employees.

(h) **Site plan.** A detailed site plan shall be submitted in conjunction with the application for a conditional use permit in accordance with the requirements of this section and article VIII of this chapter. (Code 1979, § 14-20.16.2(B)(20); Ord. No. 01-07, § 6, 2-20-01)

Sec. 62-1921.5. **Composting facility.**

Composting facilities shall be subject to the site plan requirements of this chapter and the requirements of chapter 94 of this Code. The following conditions are the minimum conditions necessary to meet the intent of this section.

1. Sites shall be located with direct access to roadways designated as minor arterial or principal arterial roadways, or be located such that access is through areas designated by the comprehensive plan as Heavy or Light Industrial.

2. A minimum lot size of ten acres shall be required for this use.
(3) An eight-foot high visually opaque vegetative buffer shall be required to be developed and maintained along the perimeter of a site approved and developed under this conditional use permit request where the adjacent lot is not zoned Heavy Industrial (IU-1).

(4) All processing activities and structures (except office and equipment storage buildings) shall meet a minimum setback of 300 feet from all property lines. All storage activities shall meet a minimum setback of 200 feet from all property lines. The applicant may submit justification to the board during the application of this conditional use permit to reduce the required setbacks to 100 feet.

(5) Office building setbacks shall be consistent with the standard setbacks imposed by that specific zoning classification.

(6) Equipment storage for on-site activity shall be located at least 50 feet from all property lines with bay door openings away from adjacent residential property.

(Ord. No. 98-11, § 10, 2-26-98)

Sec. 62-1922. Reserved.


Convenience stores, with or without gasoline sales, in a BU-1-A zoning classification are subject to the following:

(1) The property must abut a public road right-of-way having a minimum width of 60 feet, must be located near the intersection of two collector roadways or near the intersection of an arterial and a collector roadway, and should be spaced at least one-half mile from an existing convenience store in the urban areas or at least one mile from an existing convenience store in the rural areas.

(2) Where gasoline pumps are proposed, the gasoline pumps shall be located at least 15 feet from all property lines. The location of the pumps shall not interfere with traffic circulation or with on-site parking.

(3) There shall be no mechanical work done to motor vehicles on the site.

(Code 1979, § 14-20.16.2(B)(22))

Sec. 62-1924. Reserved.

Editors Note: Ord. No. 2009-06, § 5(Exh. A), adopted Feb. 5, 2009, deleted § 62-1924, which pertained to crematoriums. See the Code Comparative Table for complete derivation.

Sec. 62-1925. Development rights receipt and transfer.

(a) Criteria for evaluation of receipt of development rights. A property for which receipt of development rights is proposed shall be evaluated pursuant to the following conditions, and the proposal shall be submitted with sufficient information and data to permit a thorough and comprehensive review of the...
proposal in relation to these conditions:

1. The property shall be located within a TDR receiving district as delineated in the official zoning map.

2. A binding concept plan shall be submitted. The proposed development, along with the TDR, shall be designed in such a manner as to be compatible with existing adjacent land uses. For example, transitional residential densities and architectural styles would be considered necessary between an existing adjacent single-family residential land use and a medium- to high-density development proposal.

3. The amount of development rights proposed for receipt shall not exceed 20 percent of the density permitted by the existing zoning classification. The compatibility of the proposed development with the existing character of the general area and the existing land uses of the adjacent properties shall be a strong consideration.

4. Development rights from properties within a receiving district may be transferred to other properties within the same receiving district.

5. The community services and facilities necessary to support residential development shall be evaluated relative to the impacts associated with the proposed TDR enhanced development. The degree to which these impacts exceed the capabilities of the existing community services and facilities shall be identified and quantified, as applicable. These extra impacts shall be considered as to whether such extra impacts are acceptable to the community relative to the public benefit being gained by the TDR.

6. The public benefit shall be quantified, including a full description of that benefit to be derived should such a TDR receipt be accepted and approved.

7. If the TDR receipt is deemed acceptable and approved, such approval shall be subject to the submitted binding concept plan and all conditions and requirements contained therein and in any document or text submitted in conjunction with the binding concept plan.

(b) **Criteria for evaluation of transfer of development rights.** A property from which a development rights transfer is being proposed shall be evaluated pursuant to the following conditions, and the proposal shall be submitted with sufficient information and data to permit a thorough and comprehensive review of the proposal in relation to these conditions:

1. The property shall be an oceanfront property or property designated or proposed for designation as productive agricultural or environmental areas by the official zoning map.

2. The area of the property, or parts thereof, from which transfer of development rights is proposed shall be accurately presented by a sealed survey prepared by a registered land surveyor or licensed professional engineer.

3. Calculation of development rights for transferral shall be as follows:
a. Productive agricultural (PA): One dwelling unit per acre.

b. Environmental areas (EA): One dwelling unit per five acres, except that, where an overriding public benefit has been determined to be a result of a proposed transfer, the transfer development right value may be calculated at up to, but not less than, one dwelling unit per acre; provided, however, development rights may be transferred on the same piece of property to land zoned for residential use at a rate of one dwelling unit per acre. If the land designated EA comprises 15 percent or less of the total site, including the residentially zoned land, the owner may apply for and be awarded a transfer of up to four dwelling units per acre based upon the binding site plan. In order to receive more than one dwelling unit per acre for on-site transfer the binding site plan must provide for the following:

1. A 200-foot setback from the EA area.
2. The EA area shall be retained in its natural state and deeded to the public for preservation.
3. All stormwater shall be retained onsite.
4. Total site density shall be compatible with adjacent zoning and land uses.

c. Other properties:

1. All of the development rights, as calculated on the existing density permitted by the zoning classification within which the property lies, may be considered for transferral to property located in an acceptable receiving district as enumerated in subsection (c) of this section.
2. For oceanfront properties, an existing development right may have a transfer value of up to, but not to exceed, 1.3 dwelling units per acre.

(4) Calculation of development rights to be retained shall be as follows:

a. Productive agriculture (PA): Development rights of up to, but not to exceed, one dwelling unit per 20 acres.

b. Environmental areas (EA): No development rights shall be retained.

c. Other properties:

1. Development rights to be retained shall be the difference between the existing total development rights and the number being transferred.
2. For oceanfront properties, no more than 50 percent of the existing development
rights shall be retained.

(c) **Receipt and transfer districts.**

(1) The following schedule designates TDR districts within the county that have been approved as either receiving or transfer development rights districts. These districts are matched to identify the areas of transfer from which development rights may be received by properties in a designated receipt district.

<table>
<thead>
<tr>
<th>Receipt Districts</th>
<th>Transfer Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>RD-1</td>
<td>TD-1 and TD-2</td>
</tr>
<tr>
<td>RD-2</td>
<td>TD-1, TD-2 and TD-3</td>
</tr>
<tr>
<td>RD-3</td>
<td>TD-1, TD-2, TD-3 and TD-4</td>
</tr>
</tbody>
</table>

(2) The districts referred to in subsection (c)(1) of this subsection are delineated in area by the official zoning map. The boundaries of the TD-2 and TD-3 districts related to the lower water's edge of wetlands can be more precisely defined by soil classifications indicative of wetlands and may be legally described by survey and submitted by the applicant with prior verification by the U.S. Soil Conservation Service. Such classifications are:

a. Canova peat (Cd).

b. Chobee sandy loam (Ct).

c. Eau Gallie, Winder soils ponded (Ew).

d. Felda and Winder soil ponded (Fg).

e. Floridana, Chobee and Felda soils, flooded (Fo).

f. Holopaw sand (Ho).

g. Malabar, Holopaw and Pineda soils (Mb).

h. Myakka sand ponded (Mp).

i. St. Johns soils, ponded (Sc).

j. Tomoka muck (Tw).

k. Swamp (Sw).

l. Terra Ceia (Tc).

m. Tidal marsh (Tm).

n. Tidal swamp (Ts).
o. Micco peat (Mc).

p. Montverde peat (Me).

(3) The soils atlas for the county prepared by the U.S. Soil Conservation Service, as amended from
time to time, shall be used to identify and delineate these soil classifications for the purpose of
defining the boundaries of the TD-2 and TD-3 districts.

(d) Joint application required. The transfer and receipt of development rights, by its nature, involves
at least two different parcels of real property. Therefore, any TDR proposal submitted shall be a joint
application by the respective property owners.
(Code 1979, § 14-20.16.2(B)(24))

State Law References: Regulations authorizing transfer of development rights encouraged, F.S. § 163.3202(3).

Sec. 62-1926. Electric, natural gas, water and wastewater utilities in the GML(U) zoning classification.

Certain electric, natural gas, water and wastewater utilities may be permitted as a conditional use in the
GML(U) zoning classification under the following conditions:

(1) The utility must be either publicly owned or regulated by the Public Service Commission.
"Merchant" or "wholesale" electric generation facilities shall be regulated as a heavy industrial
use as described in section 62-1102.

(2) The applicant shall provide data and analysis demonstrating that that the facility will meet all
applicable performance standards of chapter 62, article vi, division 6, subdivision iii, Brevard
County Code.

(3) The board may require additional setbacks, buffers or other means to mitigate any potential
adverse impacts and insure compatibility with the surrounding land uses according to the general
standards of review in section 62-1901(c).

(4) Electric generation facilities shall also meet the following location standards:

<table>
<thead>
<tr>
<th>Location</th>
<th>Maximum Generating Capacity</th>
<th>Maximum Trip Generation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local streets</td>
<td>2 MW</td>
<td>20 trips per day</td>
</tr>
<tr>
<td>Collector streets</td>
<td>10 MW</td>
<td>100 trips per day</td>
</tr>
<tr>
<td>Arterial streets</td>
<td>No limit</td>
<td>No limit</td>
</tr>
</tbody>
</table>

(Ord. No. 08-40, § 2, 10-2-08)

Sec. 62-1927. Farm animals and fowl.

The keeping of farm fowl and farm animals, including but not limited to cattle, fowl, goats, bees and
rabbits, or no more than one hog, may be permitted as a conditional accessory use on a 2 1/2-acre minimum lot
in the rural residential zoning classification (RR-1) and the rural residential mobile home zoning classifications
(RRMH-1, RRMH-2.5 and RRMH-5), on the specific condition that the farm fowl or farm animals, including
but not limited to cattle, goats, bees, rabbits or one hog, are for the personal, noncommercial use of the occupants only. A conditional use permit may be granted on less than two and one-half acres in cases where the animal is necessary to alleviate a bona fide medical hardship. When claiming medical hardship, the applicant shall submit documentation showing the necessity for the animal from a medical doctor licensed to practice medicine in the state. This conditional use permit, when approved on the basis of medical hardship, shall expire after five years, or upon the sale of the property. The applicant for a conditional use permit shall specify the number and type of farm animals and fowl at the time of application for the conditional use permit.

(Code 1979, § 14-20.16.2(B)(26); Ord. No. 98-26, § 1, 4-30-98)

Sec. 62-1928. Reserved

Editors Note: Ordinance No. 95-49, § 12, adopted October 19, 1995, moved § 62-1928 to § 62-1835.4 in order to list farm machinery sales and service under permitted uses with conditions. Formerly, such section was listed under conditional uses.

Sec. 62-1929. Farmers' markets.

(a) For purposes of this chapter, a farmers' market means a designated area for farmers and gardeners to sell fresh agricultural produce to the general public. Sales may be conducted from trucks, open booths or temporary structures. A building permit is not needed for such booths or temporary structures. The landowner must provide adequate and safe ingress to and egress from the sales area.

(b) 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. All parking for salespeople and customers shall be on the property of the landowner, and there shall be no parking permitted on a right-of-way.

(c) A farmers' market shall also be subject to the following conditions and requirements, and a site plan shall be submitted with the application with the following minimum requirements:

(1) The site plan shall include the name, location and designer of the proposed project and the total square footage area of the sales area.

(2) The site plan shall show the location of the site in relation to surrounding properties, including the means of ingress to and egress from such properties and any screening or buffers on such properties.

(3) The site plan shall show the location and dimensions of all existing and proposed parking areas, with a minimum of one space, ten feet by 20 feet in size, to be provided per 50 square feet of sales area.

(4) The site plan shall show the location of all property lines, existing rights-of-way, utility drainage easements and existing streets. In addition, the following minimum setbacks shall be required:

a. The front setback shall be 50 feet from the front lot line.

b. The side setback shall be 30 feet from the side lot line.

c. The rear setback shall be 30 feet from the rear lot line.

(Code 1979, §14-20.16.2(B)(28); Ord. No. 96-46, § 12, 10-22-96)
Sec. 62-1930. Flea markets.

Flea markets are subject to site plan approval, with the following minimum requirements:

(1) The site plan shall include the name, location and designer of the proposed project and the total square footage of sales area.

(2) The site plan shall show the location of the site in relation to surrounding properties, including the means of ingress to and egress from such properties, and any screening or buffers on such properties.

(3) The site plan shall show the location and dimensions of all existing and proposed parking areas, with a minimum of one space, ten feet by 20 feet in size, to be provided per 50 square feet of sales area.

(4) The site plan shall show the location of all property lines, existing rights-of-way, utility drainage easements and existing streets. In addition, the following minimum setbacks shall be required:
   a. The front setback shall be 25 feet from the front lot line.
   b. The side setback shall be 15 feet from the side lot line.
   c. The rear setback shall be 15 feet from the rear lot line.

(Code 1979, § 14-20.16.2(B)(29))

Sec. 62-1931. Reserved.

Editors Note: Ordinance No. 95-49, § 13, adopted October 19, 1995, amended and moved § 62-1931 to § 62-1835.8 in order to list gasoline service stations under permitted uses with conditions. Formerly, such section was listed under conditional uses.

Sec. 62-1932. Guesthouses or servants' quarters.

(a) Guesthouses or servants' quarters are subject to the following minimum requirements:

(1) The structure shall contain no kitchen facilities except where consistent with paragraph (c) below.

(2) The structure shall be a detached accessory structure located to the rear of the principal structure and shall not be attached to any other accessory structure.

(3) The structure shall not exceed the maximum size permitted for accessory structures in the applicable zoning classification. Where there is no maximum, the structure shall not exceed 50 percent of the size of the principal structure.

(4) The structure shall be used for the accommodation of family members, temporary guests (maximum six months), or servants only.
The structure shall not be used for rental purposes.

The structure shall be set back a minimum of ten feet from the side and rear lot lines.

This conditional use shall not be granted on a parcel of land containing less than one-half acre. A conditional use permit shall not be required on parcels equal to or exceeding one acre in size.

A guesthouse or servants' quarters may contain kitchen facilities on parcels of at least one acre in size where the resulting density of the lot including the guesthouse or servants' quarters is consistent with the zoning regulation and comprehensive plan density designation. All other conditions enumerated above shall apply.

Sec. 62-1933. Hazardous waste facility.

Hazardous wastes shall be subject to the site plan requirements of this chapter and the requirements of chapter 94 of this Code. Wastes shall be stored in appropriate containers as approved by the county health department, and in no way shall such wastes be stored so as to contaminate the ground or groundwater.

Sites shall be located with direct access to roadways designated as minor arterial or principal arterial roadways, or be located such that access is through areas designated by the comprehensive plan as Heavy or Light Industrial.

A minimum lot size of ten acres shall be required for this use.

An eight-foot high visually opaque vegetative buffer shall be required to be developed and maintained along the perimeter of a site approved and developed under this conditional use permit request where the adjacent lot is not zoned Heavy Industrial (IU-1).

All activities and structures (except office and equipment storage buildings) shall meet a minimum setback of 400 feet from all property lines. The applicant may submit justification to the board during the application of this conditional use permit to reduce the required setbacks to 100 feet.

Office and equipment storage building setbacks shall be consistent with the standard setbacks imposed by that specific zoning classification.


For the purposes of this chapter, a hog farm shall be considered as the keeping of more than four pigs or hogs, six months of age or older. A minimum of ten contiguous acres is required before a hog farm may be considered for approval as a conditional use.

(Code 1979, § 14-20.16.2(B)(31); Ord. No. 95-49, § 14, 10-19-95; Ord. No. 97-29, § 1, 8-12-97; Ord. No. 2000-03, § 2, 1-11-00)

(Hazardous wastes shall be subject to the site plan requirements of this chapter and the requirements of chapter 94 of this Code. Wastes shall be stored in appropriate containers as approved by the county health department, and in no way shall such wastes be stored so as to contaminate the ground or groundwater.)

Sites shall be located with direct access to roadways designated as minor arterial or principal arterial roadways, or be located such that access is through areas designated by the comprehensive plan as Heavy or Light Industrial.

A minimum lot size of ten acres shall be required for this use.

An eight-foot high visually opaque vegetative buffer shall be required to be developed and maintained along the perimeter of a site approved and developed under this conditional use permit request where the adjacent lot is not zoned Heavy Industrial (IU-1).

All activities and structures (except office and equipment storage buildings) shall meet a minimum setback of 400 feet from all property lines. The applicant may submit justification to the board during the application of this conditional use permit to reduce the required setbacks to 100 feet.

Office and equipment storage building setbacks shall be consistent with the standard setbacks imposed by that specific zoning classification.

(Code 1979, § 14-20.16.2(B)(32); Ord. No. 98-11, § 11, 2-26-98)

For the purposes of this chapter, a hog farm shall be considered as the keeping of more than four pigs or hogs, six months of age or older. A minimum of ten contiguous acres is required before a hog farm may be considered for approval as a conditional use.

(Code 1979, § 14-20.16.2(B)(33))
Sec. 62-1935. Horses, mules, goats and barns.

A minimum lot size of five acres shall be required for keeping of horses, mules, and/or goats in the SEU classification. One horse, mule or goat shall be permitted for each 20,000 square feet of land area, with a maximum of six such animals per parcel or tract of land under one ownership. The application shall specify the number of each animal. A concept plan showing the locations where the animals will be kept, and the type of fencing or other method of containment to be utilized, shall be included with the application and will be a binding condition of the conditional use permit.

(1) A barn to house horses, mules or goats shall have the following minimum setbacks:
   a. The front setback shall be 125 feet from the front lot line.
   b. The side setback shall be 50 feet from the side lot line.
   c. The rear setback shall be 50 feet from the rear lot line.

(2) The barn shall be accessory to the principal residence, and no building permit shall be issued for the construction of a barn prior to the construction of the principal residence. The barn may only be constructed after the completion or in conjunction with the construction of the principal residence.

(CODE 1979, § 14-20.16.2(B)(34); Ord. No. 95-49, § 15, 10-19-95; Ord. No. 98-58, § 1, 11-30-98)

Sec. 62-1935.5. Reserved.


Sec. 62-1935.8. Reserved.

Editors Note: See note at § 62-1836.5.

Sec. 62-1936. Land alterations.

(a) The minimum size for land alteration is five acres. The maximum size for land alteration is 50 acres.

(b) The approval of a conditional use permit for a land alteration shall be subject to the applicant's obtaining a land alteration permit meeting the requirements and conditions of article XIII, division 4, of this chapter, or a private lake permit meeting the requirements and conditions of article XIII, division 5, of this chapter, from the office of natural resources management.

(c) A land alteration shall be set back 50 feet from all property lines, and 75 feet from any right-of-way or major arterial street as defined in article VII of this chapter. A land alteration shall be set back 250 feet from all residentially zoned properties and AU and GU zoned properties which are not owned by the applicant. A minimum side slope shall be no steeper than five feet horizontal to one foot vertical (5:1) to a mean water depth of five feet. Slopes deeper than five feet shall be no steeper than 2:1.

(d) A conceptual site plan, binding on the property owner, shall be submitted which shows the
The size and location of the land alteration.

The location of any equipment and equipment storage.

The points of ingress and egress.

The extent of buffering, and other associated operational components.

Rock crushing operations must be specified and the exact location described during application submittal.

Identify the maximum number of truck trips per day to and from the site.

A vicinity map shall be provided that reflects the removal routes that trucks and other vehicles will use to haul sites or areas external to the alteration site.

Location of areas where explosives, blasting agents, or detonators may be used in conjunction with land alteration activities.

Land alteration activity must be located with direct access to collector or arterial roads except for projects within commercial and industrial zoned properties.

Land alteration activities shall be limited to operations between dawn to dusk and prohibited on Sundays.

If deemed necessary by the county manager or designee, where the intensity of the operation would have a potential to damage an existing paved public road or street, a performance bond to guarantee repair of the road or street shall be required.

No concurrent applications shall be filed on the same site. Subsequent applications may be submitted in conjunction with the closing of the previously approved alteration activity on the site.

Such conditional use may be limited to a time specific duration as set by the board of county commissioners.

In the event that explosive, blasting agents or detonators, as defined in section 62-4391, may be used in conjunction with land alteration activities, the notice required pursuant to subsection 62-1151(b) must disclose the intent to use such materials.

Sec. 62-1937. Marinas.

All applications for a marina must meet the following conditions:
The site for a marina must be at least one acre in size.

When a site abuts a residential zone, it shall be screened by a masonry wall with a minimum height of six feet.

The applicant shall verify with the natural resources management office that the site meets all locational criteria outlined in objective 5 of the coastal element of the comprehensive plan.

The application shall include a conceptual layout of the marina indicating the maximum allowable number of slips. The layout shall include the applicant's statement of affirmation indicating that the final site design must comply with all applicable land development and natural resource regulations.

(Code 1979, § 14-20.16.2(B)(36); Ord. No. 07-13, § 1, 4-5-07)

Sec. 62-1938. Metal salvage yards and junkyards.

When a metal salvage yard or junkyard abuts any zoning other than IU-1, the use shall be fenced with an eight-foot-high masonry wall, except, where the use abuts or is visible from a public road right-of-way, a 20-foot buffer area planted with trees or hedges as a screen may be substituted. Such screen shall reach a height of 12 feet within 12 months and shall be perpetually maintained by the property owner.

(Code 1979, § 14-20.16.2(B)(37))

Sec. 62-1939. Mining and smelting operations.

(a) **Minimum alteration size.** The minimum alteration size for a mining or smelting operation or a combined mining and smelting operation shall be 50 acres.

(b) **Land alteration permit.** Approval of a conditional use permit for a mining or smelting operation shall be subject to the applicant's obtaining a land alteration permit meeting the requirements and conditions of article XIII, division 4, of this chapter from the office of natural resources management.

(c) **Location of mining operations.** No mining operations, except temporary storage of excavated materials, shall be performed within:

1. Three hundred feet from a public park boundary, cemetery or historical site, or permanent buildings, including mobile homes, used for residential, commercial, church or public purposes, on the site at time of application for the mining use permit.

2. One hundred fifty feet from an existing public right-of-way or public easement for drainage, utilities or road purposes, in areas not controlled by subsection (c)(1) of this section.

3. One hundred feet from the property line if the abutting property is zoned for residential development.

4. Fifty feet from the permittee's property line in areas not controlled by subsections (c)(1), (c)(2)
and (c)(3) of this section.

(d)  Location of settling and thickening ponds. No settling or thickening pond shall be constructed within:

1. Three hundred feet from a public park boundary, cemetery or historical site, or permanent buildings, including mobile homes, used for residential, commercial, church or public purposes, on the site at the time of application for the mining use permit.

2. Five hundred feet from any right-of-way line of any public road.

3. Two hundred feet from the permittee's property line in areas not controlled by subsections (d)(1) and (d)(2) of this section.

(e)  Location of piles of materials. No excavation material or stockpile shall be left within the mining or smelting operator's property line longer than 30 days, unless such material is located:

1. Three hundred feet within the permittee's property line which abuts a public park boundary, cemetery or historical site, or permanent buildings, including mobile homes, used for residential, commercial, church or public purposes, when such other uses were in place at the time of application for the mining use permit.

2. One hundred feet from an existing public right-of-way or public easement for drainage, utility or road purposes, in areas not controlled by subsection (e)(1) of this section.

3. One hundred feet from the property line if the abutting property is zoned for residential development.

4. Fifty feet from the permittee's property line in areas not controlled by subsections (e)(1), (e)(2) and (e)(3) of this section.

(Code 1979, § 14-20.16.2(B)(38))

Sec. 62-1940. Motocross.

A motocross shall comply with the following regulations and specifications:

1. Minimum site size. The minimum site size shall be 30 acres.

2. Setbacks. Building setbacks shall conform to the setbacks found in the regulations for the IU-1 zoning classification set out in this chapter. Track surfaces shall be set back not less than 100 feet from property lines, and track surfaces shall be set back not less than one-quarter mile or 1,320 feet from all residential dwellings.

3. Fencing. The entire track area shall be enclosed with a six-foot fence of chain link or solid construction, and shall be maintained so as to prevent access to the track area by nonparticipants and unauthorized persons.
Parking. A minimum of one acre of parking area shall be provided for the first 30 acres, and an additional 400 square feet shall be provided for each acre beyond the minimum site size. The parking area may be paved or unpaved, and if unpaved it shall be stabilized.

Site plan. The applicant shall provide the following information as part of his site plan at the time of application for a conditional use permit:

a. The name, location, owner and designer of the proposed development.

b. A general location map including all areas within a one-mile radius of the site, which shall identify the closest residential development and provide the specific distance to that area from the site, provide a complete legal description of the property, describe adjacent land use, and provide the location and names of all streets within the vicinity.

c. The present zoning of the property and other conditional use permits relative to the property, if any.

d. The date, north arrow and graphic scale (to be not less than one inch equals 50 feet) of the site plan.

e. The location and dimensions of all existing and proposed parking areas and motocross type tracks within the site.

f. The location and dimensions of all property lines, existing rights-of-way, streets and proposed site access roads and driveways.

g. The location and dimensions of all permanent structures and areas where temporary structures, such as concession stands, portable sanitary facilities, etc., will be placed; setbacks and distances between structures, including temporary structures; floor areas; and percent of property to be covered by permanent structures.

h. The location of all trash receptacles.

i. The location and extent of sanitary facilities.

j. The location, size and type of fencing proposed.

k. The proposed method of site drainage, along with the location and size of any lakes, ponds, canals or other waters or waterways currently existing.

(Code 1979, § 14-20.16.2(B)(39))

Sec. 62-1941. Mulching facility.

Mulching facilities shall be subject to the site plan requirements of this chapter and the requirements of chapter 94 of this Code. The following conditions are the minimum conditions necessary to meet the intent of
this section.

(1) Sites shall be located with direct access to roadways designated as minor arterial or principal arterial roadways, or be located such that access is through areas designated by the comprehensive plan as Heavy or Light Industrial.

(2) A minimum lot size of ten acres shall be required for this use.

(3) An eight-foot high visually opaque vegetative buffer shall be required to be developed and maintained along the perimeter of a site approved and developed under this conditional use permit request where the adjacent lot is not zoned Heavy Industrial (IU-1).

(4) All processing activities and structures (except office and equipment storage buildings) shall meet a minimum setback of 300 feet from all property lines. All storage activities shall meet a minimum setback of 200 feet from all property lines. The applicant may submit justification to the board during the application of this conditional use permit to reduce the required setbacks to 100 feet.

(5) Office building setbacks shall be consistent with the standard setbacks imposed by that specific zoning classification.

(6) Equipment storage for on-site activity shall be located at least 50 feet from all property lines with bay door openings directed away from adjacent residential property.

(Ord. No. 98-11, § 12, 2-26-98)


Sec. 62-1941.5. Performance Overlay District.

A request for a POD will be granted based upon the current CUP review criteria (sec. 62-1901) as well as the following location criteria. The following location criteria will need to be satisfied prior to the application being accepted for board consideration. The location criteria will include:

(1) The site must contain an existing shopping center or structure that is at least ten years old.

(2) The site shall contain at least 21,800 square feet of floor area.

(3) The site shall not abut a residential zoning classification.

(4) The site shall have a vacancy ratio of 50 percent or greater.

(5) The site shall have tenant space that has been vacant for at least one year.

(Ord. No. 2000-50, § 6, 10-31-00)

Sec. 62-1942. Plant nurseries (with outside bulk storage of mulch, topsoil, etc.).
Plant nurseries, located within the BU-1 zoning classification, which utilize outside bulk storage shall meet the following requirements:

(1) Plant nursery storage areas are accessory only to the principle use "plant nursery." The minimum lot characteristics for this use are: lot width of 150 feet, lot depth of 100 feet, and lot area of 15,000 square feet.

(2) Setbacks for the plant nursery storage area(s), excluding display areas, shall be as follows:
   a. The front setback shall be 50 feet. In corner lot situations, the side street setback shall be 25 feet regardless if adjacent to a key lot.
   b. A minimum side and rear setback of 15 feet shall be required when this use is adjacent to nonresidential zoning; if adjacent to residential zoning, the side and rear setbacks shall be 40 feet.

(3) Enclosures shall be utilized to contain loose materials such as mulch, topsoil, etc., which are accessory to the plant nursery operation. Enclosures shall be, at a minimum, a three-sided structure constructed with sides a minimum of six feet and a maximum of eight feet in height. In no case shall loose materials be stored so as to exceed the height of the enclosure. Enclosures shall be constructed from any of the following materials: masonry, landscaped berm or other opaque materials adequate to contain the loose material. The entrance into an enclosure shall not face adjacent residentially-zoned property. Additionally, a cover shall be placed over the loose material to prevent wind dispersal when such material is not being transported to or from the storage bin/enclosure.

(4) Only commercial vehicles necessary for the operations of the business shall be stored on-site. At the close of the business day, such heavy commercial equipment, vehicles or trailers shall be stored within a completely enclosed building with walls and roof. During regular operational hours, such heavy commercial equipment, vehicles or trailers shall be located at least 40 feet from the property line of any adjacent residentially-zoned land.

(Ord. No. 97-52, § 1, 12-11-97)

Sec. 62-1943. Prison camp correctional facilities.

Prison camp and juvenile detention correctional facilities may be permitted as a conditional use in the agricultural zoning classification (AU) and general use zoning classification (GU), under the following criteria:

(1) A minimum of 50 acres is required for a prison camp correctional facility.

(2) A site plan shall be submitted and approved by the development plans review division.

(3) The facility may not be used to hold prisoners beyond medium security requirements.

(Code 1979, § 14-20.16.2(B)(42))

Sec. 62-1943.3. Private boat docks accessory to adjacent single-family residential lots.
A *private boat dock*, for the purposes of this section, is a boat dock that is used in connection with a waterfront lot or parcel which may be undersized for the residential zoning classification in which it is located, and is therefore associated with and considered part of an adjacent residential lot. The term *adjacent*, for the purposes of this section, means any lot within the same neighborhood as described below in paragraph (1).

A conditional use for a private boat dock on a waterfront lot or parcel may be considered as an accessory use to an adjacent developed or undeveloped buildable residential lot in any residential zoning classification under the following conditions. Owners of docks established prior to November 17, 2008, as evidenced by a certified survey or other irrefutable evidence, may request a waiver of any of the below conditions as part of the conditional use permit review process.

1. The lot or parcel upon which the dock is to be constructed must be owned and used by the owner of a residential lot or parcel (or residential tenant of said lot or parcel) located within either the same platted subdivision or within 1,000 feet of the dock parcel. The owner of the dock lot or parcel and the residential lot shall maintain fee simple ownership to both properties at all times.

2. The lot or parcel shall have at least 30 feet of water frontage, except where located on the Indian or Banana River Lagoons, where it shall have river frontage equal to or exceeding the minimum lot width requirement of the parcel's zoning classification.

3. The boat dock may contain slips for no more than two boats and shall not be used for commercial purposes.

4. No other accessory structures are permitted on the dock lot or parcel.

5. The dock lot or parcel shall not be used to store a boat trailer, nor shall it be used to launch a boat.

6. The dock shall meet all applicable development standards described in section 62-2118.

(Ord. No. 08-49, § 1, 11-17-08)

**Sec. 62-1943.5. Private heliports.**

Private heliports: Private heliports as an accessory use to a single-family residence may be permitted as a conditional use within the GU, PA, AGR, AU and REU zoning classifications subject to the following conditions:

1. No more than one helicopter may be located on any residential property.
   a. A conceptual site plan, binding on the property owner, shall be submitted which shows the following:
      1. Legal boundaries of said property.
      2. Display the overall dimensions of the actual landing and take-off areas.
3. Indicate the front, side, and rear setbacks from the closest point of private heliport.

b. Applicants shall submit a detailed map which depicts the approach zone for said heliport and the relation to existing single family homes.

c. Applicants shall present documentation as to the specific model of helicopter, including the noise characteristics, to be placed on the property.

d. Applicants shall submit a noise exposure map as prepared by a certified engineer for proposed flight path.

e. In order to maintain a reasonable decibel level for surrounding homes, the proposed flight paths shall not exceed current FAA noise requirements.

f. Surfacing of the landing facility shall be such so as to minimize the blowing of any dust, dirt or other objectionable material onto neighboring property.

g. Private heliport operations shall not be used for commercial purposes.

(2) No helicopter shall be permitted which is designed for carrying more than four persons.

(3) Take-off and landing areas and all attendant facilities shall be located at least 500 feet from all property lines. These areas shall be encircled by a fence or natural buffer not less than five feet in height. Each private heliport shall be limited to two round trips per day during daylight hours.

(4) Facilities for fueling are prohibited.

(5) The board of county commissioners shall make a finding that the proposed activity would have no adverse impact prior to approval of this conditional use.

(6) All property owners within 1,000 feet of the subject property shall be notified of the conditional use permit (CUP) request.

(7) Helicopters for agricultural purposes are exempt from the requirements of this section on parcels zoned PA, AU or AGR with 100 acres or more of improved agricultural use.

(8) Each owner shall be responsible to insure that the proposed private heliport be in compliance with F.S. ch. 330 and federal aviation regulations.

(9) Proposed private heliports shall comply with sections 62-2201 and 62-2202 of this chapter.

(Ord. No. 95-04, § 1, 1-26-95; Ord. No. 98-03, § 1, 1-29-98)

Sec. 62-1944. Reserved.
Editors Note: See note at § 62-1831.4.
Sec. 62-1945. Recreational facilities.

(a) A conditional use permit for private parks and playgrounds is not required where the tract is specifically designated on the plat as a private recreational tract or private park. The park or playground shall be internal to the platted subdivision and not intrude into adjacent residential areas. This internalization of the tract is described by the park being encircled on all sides by lands within the plat.

(b) No buildings or structures shall be permitted in an area designated as recreational facilities, except for structures which complement the recreational facilities such as restroom facilities, showers and cabanas. Facilities such as tennis courts, shuffleboard courts, swimming pools and other similar recreational uses are the only uses permitted in such designated area. The applicant shall designate the exact location of such conditional use, and, upon approval of the conditional use by the board of county commissioners, such designation shall become a binding condition on the use of the land, and the designation shall be noted on the official zoning maps of the county.

(c) Dwelling units are expressly prohibited in this area, and, therefore, there shall be no density designation for the area encompassed by this conditional use permit. If the applicant is the owner of contiguous property, the area designated for recreational facilities may be considered in determining the total acreage for maximum density purposes. If the applicant's property is divided by a public or private roadway, street, alley or easement, the property may be considered as contiguous for the purposes of this subsection only.

(d) Lot size for such facilities shall be a minimum of one-half acre, regardless of zoning classification, and all facilities shall be set back a minimum of 25 feet from all property lines.

(e) Private parks and playgrounds of one-fourth acre in size or larger are permitted under the following conditions:

1. The park or playground is located east of SR A1A and provides beach access for the subdivision's residents.

2. The park or playground provides access to the Indian, Banana, or St. Johns Rivers for the subdivision's residents.

(Code 1979, § 14-20.16.2(B)(44); Ord. No. 99-12, § 2, 3-4-99)

Sec. 62-1945.2. Resort dwellings.

Where a resort dwelling is listed as a conditional use in certain residential zoning classifications, it must meet the following qualifying conditions:

1. Location standards. Resort dwellings shall be restricted to parcels that are:

   a. Located east of State Road A1A but not abutting any single family detached uses or lots zoned for single family detached uses, or

   b. Located on the west side and having direct frontage on State Road A1A, but not abutting any single family detached uses or lots zoned for single family detached uses.
(2) **Performance standards.** All resort dwellings qualifying under this section shall meet the following performance standards. These performance standards shall be included in the rental agreement and conspicuously posted inside the unit.

a. **Parking.** For single family resort dwellings, there shall be at least one designated and available off-street parking space for each bedroom in the residence. Occupants shall not park their vehicles on the street.

b. **Maximum occupancy.** The number of persons occupying the resort dwelling at any given time shall not exceed the number of rooms in the residence, as established by a submitted floorplan. The maximum occupancy of the structure shall be established by the planning and zoning office at the time of business tax receipt review.

c. **Excessive or late noise.** Noise emanating from the resort dwelling shall not disturb the peace and quiet of the vicinity in which the residence is located. Any noise whose measurement exceeds the sound level limits set forth for residential zoning in section 62-2271 or violates the provisions of chapter 46, article IV is considered excessive noise. Additionally, sounds produced from any radio, stereo, television, amplifier, musical instrument, phonograph or similar device shall not be discernable at the property line of the resort dwelling after 10:00 p.m. and before 7:00 a.m.

d. **Local management.** Each resort dwelling shall have a designated local manager. The local manager shall be a permanent resident of the county and shall be available 24 hours a day, seven days a week, to address neighborhood complaints. The local manager's name and telephone number shall be registered with the planning and zoning office and shall be posted on the property in a manner visible from the street.

e. **Manager's responsibility.** The local manager is responsible for assuring compliance with the performance standards in this section. The local manager shall satisfactorily address complaints by concerned residents of violations of the performance standards ((2)a., (2)b., and (2)c.) in this section within one hour of receipt of the complaint.

f. **Penalty.** In addition to the penalties enumerated in chapter 2, article VI, division 2 of this Code, the code enforcement special magistrate may suspend or revoke the resort dwelling's business tax receipt under the following conditions: If the special magistrate finds a violation or recurring violation of this section, the special magistrate may suspend the resort dwelling's business tax receipt for a period of not more than 30 days or until the issue is resolved, whichever is later; and if the special magistrate finds a repeat violation of this section or a violation of a suspension order, the special magistrate may revoke the resort dwelling's business tax receipt. Revoked licenses may not be reissued for a period of one year from the date of revocation. Additionally, the county may enforce this section by any other means provided by law.

(Ord. No. 06-06, § 2, 1-24-06; Ord. No. 2007-003, § 19, 2-20-07)

**Sec. 62-1945.5. Roadside stands.**
Roadside stands are subject to site plan approval, with the following minimum requirements:

(1) All parking for salespeople and customers shall be on the property of the landowner, and there shall be no parking permitted on a right-of-way.

(2) Roadside stands shall be subject to site plan approval as provided in article VIII, site plans.

(3) Roadside stands shall meet the same setbacks required for primary structures located in the applicable zoning classification.

(Ord. No. 96-46, § 13, 10-22-96)


Mobile homes may be permitted as a conditional use for temporary security purposes subject to the following specific restrictions and conditions:

(1) In the agricultural zoning classification (AU), a minimum of five acres is required before application may be made for a security mobile home.

(2) When applying for the security mobile home, the applicant must provide information, in writing, to justify the need for a security guard. If alleged vandalism or other unlawful activities are used for such justification, the applicant shall provide written documentation from the sheriff’s department to substantiate any such activity that has occurred within six months of the application date. The applicant shall attach to the application a written discussion of his permanent plans for security for the property, after the expiration of the temporary security mobile home.

(3) Once the mobile home is placed upon the property, the wheels and axles should not be removed, and no building permit shall be approved for additions or structures accessory to the mobile home, except that in the agricultural zoning classification (AU) a screened room, cabana, porch or carport may be permitted provided that the addition or structure can be dismantled and stored within four hours.

(4) A septic tank is required for each mobile home as provided for in the health department regulations.

(5) In the agricultural residential zoning classification (AU), the mobile home shall be set back at least 100 feet from all road rights-of-way. All mobile homes shall be located at least 200 feet from any residence under different ownership.

(6) Where accessory to a church, the mobile home shall provide a 25-foot setback from the side and rear lot lines and a 50-foot setback from any road right-of-way. The security mobile home shall be screened and landscaped to reduce the visibility from adjacent properties. The temporary mobile home shall not be used for classrooms or as a place for public assembly.
Such conditional use shall be for a period of up to three years in all classifications where it is allowed as a conditional use. At the expiration of the original three-year period the owner of the affected property may apply to the county manager or designee for a one year extension. If the character of the neighborhood is substantially the same as when the original conditional use permit was granted, the ownership of the property has not changed, and the owner has complied with the provisions of this section, and if the need for a security mobile home is shown, then the county manager or designee may grant the extension administratively. Such administrative extension shall not be granted after the expiration of two one-year periods from the expiration of the original three-year period. The fee for such an application shall be established as part of the fee schedule. If the county manager or designee finds the extension is not warranted, and therefore the extension is not granted administratively, the landowner has the right to apply to the planning and zoning board and board of county commissioners for the conditional use under the provisions subsection (9), which include the requirement of an additional application fee for a continued use.

Where the conditional use is for property zoned BU-1 or BU-2, the security mobile home shall be located to the rear of the principal building, and parking requirements shall not be altered due to the placement of the mobile home on the property.

The purpose of this conditional use is to alleviate an urgent temporary need or to allow time for permanent facilities to be constructed. Therefore, the conditional use shall not be extended past the administrative renewal time limits set forth in subsection (7) of this section unless the board of county commissioners further restricts administrative renewal. Upon the effective date of Ordinance No. 2000-28, the maximum time period a property owner may utilize a security mobile home as conditional use shall be five years. Once that five-year time period has elapsed, no further applications can be made to extend the use of the security mobile home on the property, unless a change in property ownership occurs. If a change in ownership occurs after the five-year maximum time period elapses, the new owner may apply for a conditional use permit for a maximum of five years. If ownership changes in the midst of the five-year approval time, the new owner would be entitled to utilize a security mobile home for the time period remaining on the approval. Upon its expiration, said owner may apply for a conditional use permit to extend the use of the security mobile home provided, however, that the maximum cumulative time for a mobile home by any one owner can not exceed five years.

The maximum size permitted for a security mobile home as a conditional use shall be 1,000 square feet.

A second kitchen facility may be incorporated into a single-family residence, provided the second kitchen facility meets the following conditions, which shall be binding upon approval of the conditional use permit:

The second kitchen facility and the area or quarters it serves shall be integrated architecturally,
both internally and externally, with the single-family residence. Externally, the structure shall have the appearance of one residence. Internally, there shall be direct access to the kitchen facility and its area from the living area or quarters of the single-family residence.

(2) The area or quarters to be served by the kitchen facility shall not exceed 600 square feet, excluding the kitchen facility and bath area.

(3) A floor plan of the entire single-family residence, including the additional kitchen facility, shall be submitted to the growth management department in order to illustrate compliance with the conditions set forth in subsections (1) and (2) of this section, and the floor plan shall be binding upon all future construction plans in regard to the single-family residence and second kitchen facilities.

(4) No portion of the single-family dwelling unit shall be utilized for rental purposes, and the single-family dwelling unit shall be served by only one electrical meter.

(5) The single-family dwelling unit shall continue to be utilized by no more than one family as defined under this chapter.

(6) A conditional use permit shall not be required on lots equal to or exceeding one acre in size. (Code 1979, § 14-20.16.2(B)(46); Ord. No. 95-49, § 19, 10-19-95)


A skateboard ramp may be a conditional use in any residential zoning classification, provided it complies with the following regulations:

(1) Any ramp greater than four feet in any dimension shall require a conditional use permit.

(2) The minimum lot size is one-half acre.

(3) A building permit must be obtained for the skateboard ramp structure. The structural plans shall be sealed by a state-registered engineer or architect.

(4) The skateboard ramp must comply with the setback requirements for a principal structure in the relevant zoning classification, but in no case shall it be located forward of the front building line.

(5) Ramps shall not be lighted.

(6) Time of use shall be specified at the time of application and will become a binding condition if the application is approved.

(7) Ramps shall not be used for commercial purposes. (Code 1979, § 14-20.16.2(B)(47))

All solid waste management facilities shall be subject to the site plan requirements of this chapter and the requirements of chapter 94 of this Code. Both of the listed conditional uses "composting facility" and "mulching facility" may be applied for in addition to the remaining facilities defined in section 62-1102, specifically "air curtain incinerators," "biomedical waste incinerators," "materials recovery facility," "transfer station" and "volume reduction plant" from this conditional use; however, the application for the conditional use "hazardous waste facility" shall be required to be applied for from its own section, labelled section 62-1933 of this Code. The following conditions are the minimum conditions necessary to meet the intent of this section.

(1) Sites shall be located with direct access to roadways designated as minor arterial or principal arterial roadways, or be located such that access is through areas designated by the comprehensive plan as Heavy or Light Industrial.

(2) A minimum lot size of ten acres shall be required for transfer stations, materials recovery facilities, or incinerators; all other approved activities shall require a minimum lot size of 40 acres.

(3) An eight-foot high visually opaque vegetative buffer shall be required to be developed and maintained along the perimeter of a site approved and developed under this conditional use permit request where the adjacent lot is not zoned Heavy Industrial (IU-1).

(4) All activities and structures (except office and equipment storage buildings) shall meet a minimum setback of 400 feet from all property lines. The applicant may submit justification to the board during the application of this conditional use permit to reduce the required setbacks to 100 feet.

(5) Office and equipment storage building setbacks shall be consistent with the standard setbacks imposed by that specific zoning classification.

(Code 1979, § 14-20.16.2(B)(48); Ord. No. 97-46, § 11, 12-2-97; Ord. No. 98-11, § 13, 2-26-98)

Sec. 62-1949.7. Substantial expansion of a preexisting use.

(a) A designated preexisting use may be expanded beyond the preceding limitations by the board of county commissioners provided that the expansion is found to be compatible with the character of the area within which the preexisting use is located, and contains uses and proposed site improvements that will enhance the existing use and will substantially elevate the existing site toward full compliance with all current applicable land development regulations and impacts of which on the existing infrastructure meets all concurrency guidelines.

(b) Expansions to abutting properties may be permitted.

(c) Security trailers may be approved by the board of county commissioners at a public hearing conducted pursuant to section 62-1151, and subsection (8)c.4. Approval by the board of county commissioners of any security trailers may be for one year. One administrative approval may be granted. After two years, the applicant must have provided for permanent security.
(d) The application to expand shall be submitted to the zoning official and be accompanied by the following exhibits:

(1) A copy of the written confirmation issued by the zoning official designating the property as a preexisting use.

(2) A site development plan which conforms to section 62-2801 et seq. which shall illustrate the location and extent of all proposed expansions and their conformance to all applicable site improvement requirements, or the proposed rebuilding or replacement construction and the degree with which that construction meets or brings the site into more conformance with all applicable site improvement requirements.

(Ord. No. 95-47, § 73, 10-19-95)

Sec. 62-1950. Reserved.


Sec. 62-1951. Temporary medical hardship mobile homes.

The purpose of this conditional use is to permit a mobile home as temporary accessory housing for family members who are elderly, infirm, or disabled. Mobile homes may be permitted as a conditional use for temporary medical hardship purposes subject to the following specific restrictions and conditions:

(1) The conditional use permit may be requested only in the agricultural and mobile home zoning classifications. A minimum of two acres is required before application may be made for a medical hardship mobile home. The resulting density of the lot including the medical hardship mobile home must be consistent with the zoning regulation and comprehensive plan density designation.

(2) The medical hardship mobile home shall be considered an accessory use and shall meet all accessory use setbacks.

(3) The maximum size permitted for a medical hardship mobile home as a conditional use shall be 1,000 square feet.

(4) When applying for the medical hardship mobile home, the applicant must provide information, in writing, to justify the need for a medical hardship mobile home. The applicant shall provide written documentation from a doctor to substantiate any such need.

(5) Such conditional use may be permitted for a period of up to two years in all classifications where it is allowed. At the expiration of the original two-year period, the owner of the affected property may apply to the county manager or his designee for a one-year extension. If the continued need for a medical hardship mobile home is shown, the ownership of the property has not changed, and the owner has complied with the provisions of this section, then the county manager or his designee may grant the extension administratively. Such administrative extension shall not be granted after the expiration of an additional three one-year periods from the expiration of the
original two-year period. If the county manager or his designee finds the extension is not warranted, and therefore the extension is not granted administratively, the landowner may apply to the planning and zoning board and board of county commissioners for a new conditional use.

(6) Once the mobile home is placed upon the property, the wheels and axles shall not be removed, and no building permit shall be approved for additions or structures accessory to the mobile home, except for handicapped access ramps. The mobile home shall be removed when the permit expires or is not renewed.

(Ord. No. 97-29, § 3, 8-12-97)

Sec. 62-1952. Reserved.


This section shall not apply to antennas or antenna support structures owned by amateur radio service operators licensed by the Federal Communications Commission (FCC). However, such antennas or antenna support structures shall continue to be subject to accessory structure setbacks (excluding guy wires).

(a) Addition of antennas to existing structures.

(1) A conditional use permit (CUP) shall not be required to locate antennas on or within existing or permitted structures, regardless of the zoning classification, provided that the top of the antenna will be 20 feet or less above the highest point of the aforementioned existing or permitted structure. No combination of extensions exceeding 20 feet above the height of the original structure shall be permitted.

(2) The antenna elements must be painted to match the structure upon which they will be placed.

(b) The conditional use permit (CUP) for towers and antennas shall not be required to locate antenna elements on existing towers where the element does not exceed the height of the existing tower. Where an existing tower is nonconforming, the location of additional antenna elements on an existing tower pursuant to this subsection shall not be considered an expansion of a nonconforming use. Existing towers may be reconstructed, or removed and rebuilt, if the reconstruction is for the purpose of adding additional antennas which would otherwise require construction of a new tower, provided that the reconstructed tower does not exceed 200 feet and does not require lighting. Replacement towers shall be of the same type as the existing tower or improved aesthetically as follows. For the purpose of this section, a lattice tower is more aesthetic than a guyed tower, a monopole tower is more aesthetic than a lattice tower, and a stealth tower is more aesthetic than a monopole tower. Replacement towers shall either be constructed adjacent to the existing tower, or shall meet the following criteria:

(1) Replacement towers shall be set back from the nearest property line a distance equal to or greater than the existing distance to the nearest property line; and

(2) Replacement towers shall be set back from the nearest residentially zoned property a
distance equal to or greater than the existing distance to the nearest residentially zoned property.

(c) In the PBP, PIP, IU and IU-1 zoning classifications, towers and antennas may be permitted without a conditional use permit under the following circumstances:

(1) Towers and antennas which exceed 35 feet and are 200 feet or less in height shall be located on the site at a distance equal to or in excess of five times the height of the tower or antenna, (from the base of the tower or antenna) from existing off-site single-family residential homes or property zoned primarily for single-family residential use (including AU). Any tower shall be set back a minimum of 200 feet from all property lines. Such towers and antennas shall meet all rules and regulations of the Federal Communications Commission and all governmental bodies having jurisdiction over such matters.

(2) Such towers shall use construction techniques that do not require guy wires (e.g., lattice or monopole structures).

(d) In the PA and AGR zoning classifications, towers and antennas may be permitted without a conditional use permit under the following circumstances:

(1) Such towers and antennas are subject to the requirements of subsection (c) above.

(2) Towers must be spaced at least 3,500 feet from the nearest off-site tower.

(3) Any existing vegetation six feet in height or above along a 50-foot perimeter around the entire parcel upon which the tower is to be erected must be preserved until the property is developed and county land clearing and landscaping requirements are met.

(e) Noncommercial towers and antennas over 35 feet in height are permitted as a conditional use in any residential zoning classification on lots of one acre or more, provided they are set back from all property lines equal to the height of the tower. Such towers shall not exceed 100 feet.

(f) Provisions applicable to all commercial towers.

(1) The applicant may provide a bond and performance contract at the time of building permit which is sufficient to cover the cost of tower removal in the event the tower is dilapidated or abandoned.

(2) Towers which have not had active antennas for a period of six consecutive months shall be removed. Subject to subsection (j), failure to remove the tower within 60 days after notice shall either result in forfeiture of the above-referenced bond, which shall be applied to the cost of removal, or the county shall have the right to remove such tower and impose a lien for the cost of removal on the site which was the subject of the application. This provision is deemed a condition to the issuance of any permit and applicant seeking a permit waives and releases any claim for damages as a result of the county's invocation of the removal condition.
Every second year, the owner of any tower shall submit to the county building official a sealed statement from a certified civil engineer that the structure is sound. The certification shall be due by the end of the month upon each anniversary of the issuance of the building permit. If the report is not provided within 14 days after receipt of written notice by the CUP holder and property owner, towers which have not been certified shall be considered dilapidated and shall be removed by the property owner. Subject to subsection (j), failure of the property owner to remove the tower within 30 days after receiving notice to effect removal shall either result in forfeiture of the above-referenced bond which shall be applied to the cost of removal or the county shall have the right to remove such tower and impose a lien on the site which was the subject of the application.

Equipment buildings shall be fenced and shall be landscaped and maintained with opaque landscape buffer six feet tall and 15 feet deep. Security lighting for on-ground facilities and equipment shall be down-shielded to keep light within the boundaries of the site and minimize its potential attraction for birds.

In the GU and agricultural zoning classifications, equipment buildings shall be unmanned and not exceed 300 square feet.

Applicants seeking to erect new towers that require a conditional use permit shall demonstrate to the reasonable satisfaction of the county that no existing or approved tower or structure, irrespective of municipal and county jurisdictional boundaries, can accommodate the applicant's proposed antenna. The county reserves the right to hire an independent expert witness to evaluate any evidence submitted by applicants pursuant to this section. Evidence submitted to demonstrate that no existing or approved tower or structure can accommodate the applicants proposed antenna may consist of any of the following:

a. No existing or approved towers or structures are located within the required geographic area meet the applicant's engineering requirements.

b. Existing or approved towers or structures are not of sufficient height to meet applicant's engineering requirements.

c. Existing or approved towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing or approved towers or structures, or the antenna on the existing or approved towers or structures would cause interference with the applicant's proposed antenna.

e. The fee, costs, or contractual provisions required by the owner in order to share an existing or approved tower or structure or to adapt an existing or approved tower or structure for sharing are unreasonable. Costs exceeding new tower
development are presumed to be unreasonable.

f. The applicant demonstrates that there are other limiting factors that render existing and/or approved towers and structures unsuitable, as documented by a qualified and licensed professional electrical engineer, as applicable.

(7) All towers approved after December 14, 1999, including those granted as a conditional use permit, must be constructed to permit co-location by other providers. New communication towers approved after said date shall be designed and constructed, both structurally and electrically, to (a) provide sufficient excess capacity over the initial loading; and (b) permit at least two other comparable communication providers to use the approved tower where feasible and subject to reasonable terms. The term "where feasible," as it applies to co-location, means that utilization of a tower by another party would, at the time of such utilization, comply with sound engineering principles, would not materially degrade or impair the communication tower's utilization by existing users, would not unduly burden the tower structurally, and would not otherwise materially and adversely impact existing users. Reasonable terms for use of a communication tower that may be imposed by the owner include a requirement for reasonable rent or fees, taking into consideration the capitalized cost of the communication tower and land, the incremental cost of designing and constructing the tower so as to accommodate additional users, increases in maintenance expenses relating to the tower and a fair return on investment, provided such amount is also consistent with rates paid by other co-locators at comparable tower sites.

(8) Towers exceeding 200' in height must use the minimum number of warning and obstruction lights required by the Federal Aviation Administration (FAA).

(9) Towers exceeding 200' in height must use lights having the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) permitted by the FAA. The use of solid red or pulsating red warning lights shall be prohibited at night.

(10) On towers exceeding 1000' in height, only white strobe lights shall be used at night, where permissible by the FAA.

(11) Where lighting is required by Brevard County Mosquito Control on towers less than 200' in height, the frequency of high intensity lighting shall not exceed 20 flashes per minute.

(12) All lights on towers of any height shall be up-shielded. All existing towers shall comply with this provision within two years of the date of the adoption of this regulation.

(13) Where permitted, guyed towers shall use daytime visual markers (e.g., bird diverter devices) on the guy wires to reduce collisions by migratory birds.

(g) In the PA, AGR, GML, PBP, PIP, IU and IU-1 classifications, a waiver to one or more of the conditions enumerated in subsections (c) or (d) above may be considered by the board of county commissioners through a conditional use permit (CUP) application, provided the general section
62-1901(c) CUP standards are met. The applicant must also demonstrate technical necessity for the location of the tower, and that there are special existing or proposed circumstances pertaining to the structures or properties involved which will protect the public interests which the conditions in subsections (c) and (d) are intended to address. The applicant shall prepare an exhibit which will demonstrate to the board the visual impact of the proposed tower. The conditional use permit shall expire if a site plan for the tower is not submitted within one year of the conditional use permit approval or if the construction does not commence within two years.

(h) Towers in the GU, AU, ARR, BU-1, and BU-2 classifications; any tower in excess of 200 feet; or any other tower not permitted without a conditional use permit shall require a conditional use permit. The applicant must demonstrate consistency with (1) the general criteria set forth in section 62-1901(c); and (2) the requirements listed in subsections (c) and (d) above, failing which the applicant must demonstrate technical necessity for the location of the tower at the proposed site, and that there are special existing or proposed circumstances pertaining to the structures or properties involved which will protect the public interests which the conditions in subsections (c) and (d) are intended to address. The applicant shall prepare an exhibit which will demonstrate to the board the visual impact of the proposed tower.

(i) The conditional use permit or building permit for a tower shall expire if a site plan for the tower (if required) is not submitted within one year of approval or if construction does not commence within two years of approval.

(j) Prior to effecting the removal of any tower or forfeiture of any bond, the county shall provide notice and an opportunity to be heard to both the landowner and the CUP holder who shall show cause why the tower should not be removed in accordance with the provisions and requirements of the ordinance. A notice describing the reason for removal and the date of a hearing before the county commission shall be served by certified mail, fax, actual delivery, or U.S. mail (if otherwise undeliverable) at least 21 days prior to the hearing. The time for effecting removal shall be tolled pending a final determination by the board or, if an action is filed, by a court with jurisdiction.

(k) Third party (i.e., private sector tower company) tower construction projects on federal or state lands are subject to the provisions of this section, and all other applicable regulations, unless the third party is acting on behalf of the federal or state government. A tower constructed by a third party on behalf of the federal or state government does not require local permits; however, a tower constructed on federal or state property for a private sector endeavor shall comply with all local regulations.

(CODE 1979, § 14-20.16.2(B)(52); Ord. No. 97-11, § 1, 3-25-97; Ord. No. 97-15, § 1, 5-27-97; Ord. No. 98-57, § 1, 11-30-98; Ord. No. 99-64, § 1, 12-14-99; Ord. No. 02-05, § 1, 1-15-02; Ord. No. 03-35, § 2, 8-7-03; Ord. No. 06-38, §§ 1, 2, 7-11-06)

Sec. 62-1954. Trailer and truck rental.

All trailers and trucks for a trailer and truck rental use shall be parked within the confines of the lot, tract or parcel of land. No trailers or trucks shall be permitted on public streets, roads or rights-of-way, or on or across public sidewalks. All parking areas shall be paved.

Manufacturing and assembling activities in a truss manufacturing and assemblage plant may be conducted outdoors. All other requirements and specifications for minimum lot size, setbacks, lot coverage, height of structures, off-street parking, signs, loading facilities, truck parking, storage, landscaping, lighting and utilities, access design, performance standards and construction requirements found in division 6, subdivision III, of this article shall be requirements for this conditional use, and are hereby incorporated into and made a part of this section by reference. A conditional use permit shall not be required in the IU-1 classification. (Code 1979, § 14-20.16.2(B)(53); Ord. No. 95-49, § 22, 10-19-95)

Sec. 62-1956. Veterinary hospitals or clinics; pet kennels.

Veterinary hospitals or clinics and pet kennels shall be located at least 300 feet from the nearest residence. The minimum area of [is] two and one-half acres within the AU zoning classification. (Code 1979, § 14-20.16.2(B)(54); Ord. No. 97-46, § 12, 12-2-97)

Sec. 62-1957. Reserved.


Notwithstanding state permitting requirements for captive wildlife, properties that accommodate the possession and maintenance of captive wildlife shall require a conditional use permit. A conditional use permit for the possession, care and maintenance of captive wildlife shall be subject to compliance with the following:

(1) **Definitions:** For the purposes of this section, the following shall apply:

*Cage and/or enclosure* means the primary containment area for captive wildlife and shall be, at a minimum, in accordance with state requirements. Such containment areas may be larger than minimum state standards, unless otherwise prohibited by the state. The terms cage and/or enclosure are intended for interchangeable use, depending upon the type of containment required by the state.

*Captive wildlife* means wildlife as defined by the state fish and wildlife conservation commission as class I and class II species. Categorization of wildlife (class I and class II) as referenced herein shall be the same as set forth by the state fish and wildlife conservation commission.

*Facility* means the site at which class I or class II animals are kept or exhibited.

*Possessor* means the individual(s) granted permit(s) from the state fish and wildlife conservation commission to possess captive wildlife.

(2) **Zoning and minimum site area requirements.**

a. The possession and maintenance of captive wildlife shall only be permitted in the PA,
AGR and AU zoning classifications, subject to compliance with the requirements of this section.

b. Facilities for class I animals shall be constructed and maintained on five or more contiguous acres of property owned or leased by the possessor.

c. Facilities for class II animals shall be constructed and maintained on two and one-half (2.5) or more contiguous acres of property owned or leased by the possessor.

3. Minimum perimeter buffering requirements. The facility shall have a buffer zone of not less than 35 feet in width between the primary cage/enclosure area and the facility property line. Captive wildlife shall not be permitted within this perimeter buffer area.

4. Minimum spacing from other residential uses. No cage or enclosure shall be permitted within 300 feet of a residence under different ownership as measured from the closest wall of the primary cage(s) and/or enclosure(s) containing the wildlife to the nearest exterior wall of the closest residence.

5. Requirement for state licensure. The possessor shall be licensed by the state for the type(s) and number(s) of captive wildlife, the location of the facility and cage(s)/enclosure(s) utilized to maintain the wildlife.

6. Requirement for cages/enclosures. Cage(s) and/or enclosure(s) shall be designed and constructed to meet or exceed the minimum requirements of the state. The cage(s) and/or enclosure(s) of a facility shall be bounded by a fence in accordance with standards set forth by the state fish and wildlife conservation commission. This fencing is intended to prevent escape from the property of any wildlife that may escape from primary caging.

7. Existing facilities. The standards set forth in this subsection shall apply to facilities for captive wildlife established upon or after May 19, 2005. Expansion of facilities existing prior to May 19, 2005 for the purposes of accommodating additional captive wildlife shall require that the entire facility be brought into full compliance with the standards set forth in this subsection.

8. Existing facilities with approved conditional use permits. Conditional use permits for captive wildlife (formerly referred to as conditional use permits for wild animals and poisonous reptiles) granted prior to the date of adoption of this ordinance shall remain valid, provided that the facility and/or property approved for the conditional use permit is not expanded. Expanded facilities shall be subject to subsection (7) above.

9. Exclusions. The provisions of this section do not apply to parks, zoos, pet shops, veterinarians, licensed animal rehabilitators, medical or scientific institutions, or other places permitted under applicable zoning restrictions.

(Ord. No. 2005-25, § 6, 5-19-05)


(a) **Purpose and intent.** The purpose of a zero lot line subdivision is to permit an optional zoning alternative to provide for subdivision design flexibility, while maintaining the integrity of the single-family detached lifestyle. This zero lot line subdivision design allows a single-family structure to be placed on one side property line, thereby maximizing the utilization of land and individual lots in new subdivisions meeting the requirements of this section.

(b) **Minimum development area.** For a conditional use permit to be granted, the proposal shall have a minimum development area of five acres, and the concept plan shall show that all required rights-of-way, easements, streets, roads and other public facilities have been provided for within the minimum development area.

(c) **Design standards.**

1. **Minimum lot size, width and coverage.** The following minimum lot sizes and widths and maximum structural lot coverage shall apply in each zoning classification as noted in this subsection for a zero lot line conditional use permit:

<table>
<thead>
<tr>
<th>Zoning Classification</th>
<th>Minimum Lot Size (square feet)</th>
<th>Minimum Lot Width (feet)</th>
<th>Maximum Structural Lot Coverage (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>RU-1-7</td>
<td>5,000</td>
<td>50</td>
<td>45</td>
</tr>
<tr>
<td>RU-1-9</td>
<td>5,500</td>
<td>55</td>
<td>40</td>
</tr>
<tr>
<td>RU-1-11, RU-1-13</td>
<td>6,000</td>
<td>60</td>
<td>35</td>
</tr>
</tbody>
</table>

2. **Minimum setback and distance between structures.**

   a. **Setbacks for principal structures.** Setbacks for principal structures are as follows:

   1. The front setback shall be 15 feet.
   2. The rear setback shall be 20 feet.
   3. There shall be no minimum setback on one side and a setback of ten feet on the opposite side. The zero side yard shall not be adjacent to a public right-of-way or private street. No footer or structure shall be located on or beyond the side yard property line, nor shall the zero side yard setback exceed three feet so as to be consistent with the building envelope requirements of this section.

   b. **Setbacks for detached accessory structures.** Setbacks for detached accessory structures are as follows:

   1. The front setback shall be equal to the front building line.
   2. The rear setback shall be ten feet for garages and all accessory structures between 200 and 400 square feet in size, and five feet for accessory structures less than 200 square feet in size.
3. The side setback shall be five feet.

c. **Distance between structures.** A distance of ten feet shall be maintained between the detached principal structures. Fences, patios and other similar yard accessories shall not be located closer than five feet to a principal structure on an adjacent lot.

(3) **Building envelope.** A building envelope shall be established for each lot and shown on a plat for recording in the public records. All structures shall be constructed within the building envelope. No appurtenances shall extend beyond the perimeter of a building envelope. No windows, doors, air conditioning units or other openings or accessories shall be permitted within the zero side yard, and no portion of a structure, including appurtenances, shall project over or across any property line.

(4) **Maintenance access easement.** Utilization of a zero side lot line shall require the existence of a maintenance access corridor along the zero side lot line, which corridor shall be at least five feet in width. That portion of the maintenance access corridor which lies on the adjacent property shall be established and maintained through a maintenance access easement encumbering the adjacent property and in favor of the property utilizing a zero side lot line. The maintenance access easement shall be perpetual and run with the land, and the plat shall indicate to which lot the maintenance access easement is assigned.

(5) **Detached accessory structures.** Detached accessory structures shall not exceed 400 square feet in size, and shall comply with all setback requirements as stated in this section.

(d) **Development standards.**

(1) **Application.** In addition to the requirements of section 62-1151 regarding application requirements for amendments to the zoning map, the application under this section shall include the submission of a binding concept plan. The binding concept plan shall be drawn at a scale of no less than one inch equals 50 feet. Lot locations and dimensions with building envelope locations and dimensions shall be shown on the concept plan, as well as other graphics deemed necessary by the zoning official or his authorized agent.

(2) **Final plat.** Development of a zero lot line subdivision shall be in accordance with article VII of this chapter, and no building permit shall be issued for any lot within a zero lot line subdivision until the final plat has been approved by the board of county commissioners and duly recorded in the public records of the county. The plat shall identify all building envelopes and shall contain a note with the following language: "This is a zero lot line subdivision and all structures shall be constructed within the building envelopes as designated on this plat. No appurtenances shall extend beyond the perimeter of any building envelope, and no portion of any structure, including appurtenances, shall project over or across any property line."

(Code 1979, § 14-20.16.2(B)(58); Ord. No. 97-49, § 17, 12-9-97; Ord. No. 98-12, § 18, 2-26-98)

**Sec. 62-1960. Zoological parks.**
(a) **Definition.** For purposes of this chapter, zoological park means a zoological garden or collection of living animals, usually for public display. Included in this definition are serpentariums, aviaries and large public aquariums.

(b) **Location.** No outdoor attraction or structure for housing or exhibiting animals, fowl, reptiles or fish shall be permitted within 300 feet of property zoned for residential use, nor shall any such attraction or structure be permitted within 200 feet of property under different ownership.

(c) **Minimum site area.** Uses provided for in this section shall provide a minimum site area of ten acres.

(d) **Fencing and screening.** Where deemed necessary by the board of county commissioners to protect the general public and abutting property owners, fences, walls or landscape screens may be required.

(e) **Site plan.** A detailed site plan shall be submitted in accordance with the requirements of this section and article VIII of this chapter at the time a conditional use permit is requested.

(Code 1979, § 14-20.16.2(B)(59))

**Secs. 62-1961--62-2100. Reserved.**

**DIVISION 6. SUPPLEMENTSAL REGULATIONS**

**Subdivision I. General Provisions**

**Sec. 62-2100.5. Accessory building and accessory use standards.**

(1) Generalized standards for accessory buildings are as follows:

(a) The number of accessory buildings permitted on a single family zoned residential lot is regulated by Table I, listed below.

<table>
<thead>
<tr>
<th>Lot Area (sq. ft.)</th>
<th>Accessory Buildings</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;=7500</td>
<td>1</td>
</tr>
<tr>
<td>7501--25000</td>
<td>2</td>
</tr>
<tr>
<td>25001--35000</td>
<td>3</td>
</tr>
<tr>
<td>35001--45000*</td>
<td>4</td>
</tr>
</tbody>
</table>

* Plus one additional accessory building for each 15,000 square feet of land area beyond 45,000
square feet. Swimming pools, screened enclosures, docks, equipment/pump houses, and dog houses (not requiring a building permit) are exempt from the accessory building number limitation imposed by this section. Sports courts such as basketball or tennis are not considered to be accessory structures for the purposes of this subsection.

(b) Except as noted in subsections: (1)(g), (1)(h), (1)(i), (1)(j), and (1)(k), in no instance shall the total floor area of all detached accessory buildings exceed the floor area of the principal structure.

(c) Setback provisions for accessory buildings can be found within the general or specific setback provisions stated within each zoning classification.

(d) The size limitation of accessory buildings or structures, when secondary to single family residential uses, is further limited as follows: Each detached accessory building or structure shall not exceed 600 square feet or 50 percent of the living area of the principal building, whichever is greater.

(e) Accessory buildings or structures may be administratively expanded beyond the provision stated above in section (1)(d) provided that the residential lot is one acre or larger in area and the floor area of the proposed accessory building does not exceed 1,000 square feet. In no case shall the accessory structure's actual floor area exceed that of the principal residential building.

(f) In those instances where the principle use of a multi-family zoned lot is one single-family residence, one single-family garage apartment may be developed accessory to said residence and shall be exempt from the residential density limitations imposed by the comprehensive plan and zoning classification. In those instances where multiple residential structures have been developed, a garage apartment may be developed if consistent with the density limitations imposed by the comprehensive plan and zoning classification.

(g) Accessory buildings in the agricultural zoning classification, and barns, where permitted, are exempt from standards listed above in subsections: 1(a, b, and d).

(h) Within the residential attached, multi-family, RP, PUD, & RPUD zoning classifications, accessory buildings or structures accessory to residential uses located within common areas are exempt from standards listed above in subsections: 1(a, b, and d).

(i) Within the PUD & RPUD zoning classifications, accessory buildings which are ancillary to on-site commercial uses are exempt from standards listed above in subsections: 1(a) and 1(b).

(j) Within commercial, industrial and government managed lands zoning classifications, accessory buildings are exempt from standards listed above in subsections: 1(a) and 1(b). Accessory buildings must meet all setback requirements for a principal structure and maintain a minimum spacing distance of 15 feet between structures.
Within residential zoning classifications, accessory buildings which are ancillary to on-site agricultural uses are exempt from standards listed above in subsections: 1(a, b, and d).

Within the RP zoning classification, detached accessory structures for professional uses shall be prohibited.

2 Accessory agricultural uses: The keeping of horses and agricultural pursuits are accessory to a principle residence within the following rural residential zoning classifications: (REU, RR-1, RRMH-1, RRMH-2.5 & RRMH-5) pursuant to the following limitations. Horses, not to exceed four per acre, are permitted for the personal, noncommercial use of the occupant of the property, provided there is a minimum of 10,000 square feet of land for each animal. Agricultural pursuits shall be limited to the keeping of horses and activities of a horticultural nature. No other farm animals or fowl shall be kept on the property except as provided in this chapter, and no produce shall be sold from the premises.

Sec. 62-2101. Accumulations of fill material on or near residential areas.

The accumulation of uncovered sand, dirt or other fill material in excess of six feet in height shall be prohibited within 1,000 feet of any single-family or multifamily dwelling. Where accumulations of sand, dirt or other fill material in excess of six feet in height are located within 1,000 feet of a single-family or multifamily dwelling, such accumulations shall be covered in such a manner as to prevent the distribution by wind of the fill material so covered.

Sec. 62-2101.5. Additional building height.

(a) All building heights above 35 feet, regardless of classification and as otherwise regulated by this chapter, are subject to the following standards, unless otherwise specified herein. For the purpose of this section, the term "residentially zoned parcel" shall mean any parcel zoned for single family detached residential or single lot mobile home residential use, including GU, PA, AGR, AU, ARR, REU, RR-1, SEU, SR, EU, EU-1, EU-2, RU-1-13, RU-1-11, RU-1-9, RU-1-7, RRMH-1, RRMH-2.5, TR-1-A, TR-1, TR-2, TRC-1 and comparable tracts in PUD or RPUD.

(1) The ratio between the distance to the lot line of the adjacent parcel (regardless of zoning or use) and the height of the structure shall be at least 1.25:1, and

(2) The ratio between the distance to the lot line of any residentially zoned parcel and the height of the structure shall be at least 2:1.

(b) Additional building height above the maximum thresholds as provided by this chapter is available on parcels only in the following specific zoning classifications or circumstances.

(1) For parcels zoned PUD or RPUD, or parcels designated "DRI" on the Future Land Use Element
of the Comprehensive Plan, the height of a structure may exceed the height threshold only under the following conditions:

a. Those conditions described in subsections (a)(1) and (2) above (applied to the perimeter of the project), and

b. Structures within the above-described distance must not exceed the height permitted in the adjacent zoning classification.

(2) For commercial (BU-1, BU-2, PBP) or government managed (GML) parcels, the height of a structure may exceed the height threshold only under the following conditions:

a. Those conditions described in subsections (a)(1) and (2) above, and

b. The parcel is located in an urban area described as 30 units per acre or 15 units per acre by the comprehensive plan, and

c. The parcel does not abut any residentially zoned parcel, and

d. The structure contains a mix of both commercial and residential uses, with at least the first floor being entirely commercial, and at least one other floor being entirely residential (except GML).

(3) For industrial (PIP, IU, IU-1) or government managed (GML) parcels, the height of a structure may exceed the height threshold only under any of the following conditions:

a. If the height of the structure is mandated by a state or federal agency in order to satisfy an environmental regulation, then only that condition described in subsection (a)(2) shall apply.

b. If the parcel abuts only other IU or IU-1 zoned parcels, then only that condition described in subsection (a)(2) shall apply.

c. If the parcel abuts any combination of parcels which in their entirety are zoned either industrial or commercial or both, and which include at least one parcel zoned PIP or at least one parcel zoned commercially, then both those conditions described in subsections (a)(1) and (2) shall apply.

(Ord. No. 01-30, § 21, 5-24-01; Ord. No. 07-34, § 1, 7-10-07; Ord. No. 08-40, § 3, 10-2-08)

Sec. 62-2102. Alteration of lot.

No person shall sever any lot in such a manner that a violation of any of the provisions of this chapter would be created on any new or altered lot, including their uses or structures.

(Code 1979, § 14-20.20; Ord. No. 00-51, § 1, 10-31-00)

Sec. 62-2103. Alteration of lot size;
structures and lot sizes made
nonconforming as a result of dedication or partial condemnation; access to lots.

(a) No existing lot or parcel shall be reduced in dimension or area below the minimum requirements applicable to such lot under the provisions of this chapter except as provided elsewhere in this section.

(b) When a lot is reduced in dimension or total area by 20 percent or less as a result of a portion of such lot being dedicated or condemned for public purposes, the lot shall be considered nonconforming and shall be considered to contain the dimensions and area it contained prior to such dedication or condemnation, however, that, for purposes of determining any other land development requirements, including setback requirements within this chapter, the dimensions and area of such lot as it exists after the condemnation or dedication shall apply.

(c) Every building or structure hereafter erected shall be located on a lot as defined in this chapter. Every building hereafter erected or structurally altered shall be on a lot, plot, tract or parcel which is consistent with section 62-102 regarding access.

(Code 1979, § 14-20.21; Ord. No. 2001-44, § 1, 9-4-01)

Sec. 62-2104. Boats used for residential or commercial purposes.

(a) Boats or other floating structures being used as dwelling units or commercial establishments, not at marinas, must meet the following criteria and shall be subject to an environmental assessment by the office of natural resources management for consistency with these criteria and the policies of the conservation element of the 1988 county comprehensive plan:

(1) The applicant shall be required to submit an application for approval, which shall be subject to a public hearing before the planning and zoning board and the board of county commissioners pursuant to section 62-1151.

(2) The boat or floating structure must be anchored or tied at the shoreline of a specific lot, parcel or tract of land, and the owner or occupant of the boat or floating structure shall be the owner of the lot, parcel or tract of land or shall be authorized by the owner of such lot, parcel or tract of land. Authorization to the applicant by the owner of the lot, parcel or tract, if different from the applicant, shall be in writing and in a form satisfactory to the zoning director.

(3) Where the boat or floating structure will be used for nonresidential purposes, the adjacent lot, parcel or tract of land must be properly zoned to allow for commercial or industrial use, and the location must be approved by the board of county commissioners at a public hearing; provided, specifically, however, that approval by the board of county commissioners shall not be construed as waiving any requirement for approval from any other state, local or federal agencies.

(4) Where the boat will be used as a live-aboard, the adjacent lot, parcel or tract of land must be zoned for residential use or in a marina approved for such use. In single-family zoning classifications, a live-aboard shall not be permitted on a lot, parcel or tract of land which has an existing residential structure. In multiple-family zoning classifications, a live-aboard may be considered if it does not have the effect of increasing the overall density of the lot, parcel or tract
of land over the maximum density allowed by the zoning classification.

(5) The boat or floating structure must have a county-approved waste treatment plan as an integral part of the boat or floating structure.

(6) Discharge of effluent or waste must be onshore and not into any water body, and any discharge or disposal shall be in accordance with the requirements of the county health department.

(7) A letter from the office of natural resources management indicating compliance with the criteria set out in this section shall be submitted as part of the application for approval of the boat or floating structure as regulated by this section.

(b) Boats or other floating structures being used as dwelling units or commercial establishments and not meeting the criteria set forth in subsection (a) of this section may not anchor or tie offshore in any of the waters of the county for longer than 48 hours, except at marinas.

(Code 1979, § 14-20.22)

Sec. 62-2105. Breezeway/visual corridors.

(a) Oceanfront. The oceanfront breezeway/visual corridor is a corridor across the full depth of oceanfront properties which shall be reserved to ensure unrestricted movement of ocean breezes and to provide visual access to the ocean. The corridor shall include all land from the mean low-water line to State Road A1A or other dedicated public right-of-way running parallel to the ocean, whichever lies closer to the ocean. No buildings, structures, berms or solid fences, or any combination thereof, more than four feet in height shall be permitted in the breezeway/visual corridor. Notwithstanding any other provision in this chapter to the contrary, all oceanfront property, except single-family residential shall have a minimum of 30 percent of the width clear as breezeway/visual corridor. Single-family residential structures on the oceanfront shall continue to be subject to State of Florida Department of Environmental Protection guidelines establishing a 60 percent coverage of the shore-parallel width of the property, pursuant to F.S. ch. 161.053, "Coastal Construction and Excavation" and Florida Administrative Code Chapter 16B-33.008.

(b) Riverfront. A riverfront breezeway/visual corridor is a corridor across the full depth of riverfront properties, which shall include all land from the mean low-water line to a distance of 250 feet or the closest dedicated public right-of-way running parallel to the water, whichever distance is less. No buildings, structures, berms or solid fences, or any combination thereof, more than four feet in height shall be permitted in the breezeway/visual corridor. Notwithstanding any other provision in this chapter to the contrary, the minimum 30 percent breezeway/visual corridor requirement shall apply to all riverfront properties, except single-family residential.

(c) Calculation of Breezeway/visual corridor. The breezeway visual corridor shall be calculated as the ratio between the minimum setback or distance between structures and the width of the lot. The breezeway width and lot width shall be measured on the same line parallel to the waterfront. The lot width for the purpose of determining the required breezeway shall be established at the location of the principle structure. The sum of the breezeway/visual corridors shall accumulate to at least 30 percent of the width of the lot.

(d) [Oceanfront and riverfront parcels.] For all oceanfront and riverfront parcels subject to
breezeway requirements, an additional one percent of breezeway above minimum requirements shall be provided for each additional one foot of building height over 35 feet, up to a building height of 55 feet, and an additional one-half percent of breezeway above minimum requirements shall be provided for each additional one foot of building height above 55 feet. However, additional building height above the height thresholds specified in this chapter are permitted only in accordance with section 62-2101.5.

(e) [Dedication of public access easements; credits.] Where the county criteria and standards for beach and riverfront land acquisition in regard to neighborhood beach walkways apply to a particular property under this division, the property owner may offer to dedicate, and the county may accept, a public access easement for pedestrian and bicycle access to the beach. The public access easement must be a minimum of 15 feet in width and a maximum of 30 feet in width. Where a property owner has dedicated and the county has accepted such a public access easement under this subsection, the property owner shall be granted a breezeway credit equal to twice the width of the dedicated public access easement.

(Code 1979, § 14-20.24; Ord. No. 95-03, § 2, 1-26-95; Ord. No. 01-30, § 22, 5-24-01)

Sec. 62-2106. Mixed use commercial and residential use.

(a) A portion of a commercial building or site located in a general retail commercial zoning classification (BU-1), a restricted neighborhood retail commercial zoning classification (BU-1-A), or a retail warehousing and wholesale business zoning classification (BU-2), as applicable, may be used for residential purposes. The total residential floor area of each residence shall adhere to the minimum floor area requirements of the RU-2-10 zoning classification. The density of the residential component shall be governed by the Future Land Use Element of the Comprehensive Plan, as described in Policy 2.13.

(b) The commercial portion of the property shall occupy at least a portion of the first floor of the structure and must be designed and permanently maintained for commercial use. Both commercial and residential uses may occupy the same structures on the property, or a detached single-family or multifamily dwelling may be constructed as the residential component of a mixed use facility pursuant to the criteria of this section.

(Ord. No. 05-18, § 1, 5-10-05)

Editors Note: Ord. No. 05-18, § 1, adopted May 10, 2005, amended § 62-2106 in its entirety to read as herein set out. Formerly, § 62-2106 pertained to compound commercial/industrial and residential use.

Sec. 62-2107. Density, use limitations and transfer of density in floodplain areas.

Density, use limitations and transfer of density in floodplain areas shall be regulated by the provisions found in article X, division 5, of this chapter, pertaining to floodplain protection.

(Code 1979, § 14-20.26)

Sec. 62-2108. Farm animals and fowl.

It shall be unlawful for any person to keep, harbor, breed or maintain upon any premises not zoned for agricultural use or otherwise excepted in accordance with this chapter, any of the following: bees, roosters, peacocks, horses, ponies, cattle, goats, pigs or other livestock, or more than one of the following: pigeons, chickens, ducks or other fowl. Any person who violates the provisions of this section shall be liable in accordance with sections 62-1105 and 62-1106.

(Code 1979, § 14-20.28; Ord. No. 98-04, § 1, 1-29-98)
Sec. 62-2109. Fences, walls and other obstructions.

(a) No fence or solid wall on any property shall exceed six feet in height in any residential zoning classification, eight feet in height in any agricultural, commercial, industrial or tourist commercial zoning classification, or ten feet in height (12 feet with a binding development plan) in any commercial, industrial or tourist commercial classification where located adjacent to a residential classification. However, wooden fencing within any residential zoning classification may be constructed to an additional three inches in height above that otherwise established within these land development regulations (e.g. 3' - 6", 4' - 0", 6' - 0") in order to facilitate linear cap features along the top edge and airflow along the bottom edge. In addition to linear cap features along the top edge of wooden fencing slats and vertical posts, decorative cap features of up to eight inches in height may be added at vertical fence post locations. However, where a residential lot abuts a property zoned commercial or industrial, a fence may be erected to a height not to exceed that otherwise permitted on the abutting commercial or industrial lot. These height limitations shall apply to all fences or solid walls, regardless of location on the property, except where further restricted as provided below.

(b) No obstruction, including, but not limited to, signs (with less than eight feet between the bottom of the sign and the ground), fences, walls, hedges or other structures, shall exceed three and one-half feet in height within the sight triangle of a street intersection. The sight triangle, for the purposes of this section, shall be defined as a triangle which is at least ten feet in length along a local road or bike path, and at least 30 feet in length along a collector or arterial road. A portion of these restrictions may be waived at the discretion of the county manager or his designee if it can be shown that public traffic, bicycle and pedestrian safety can be adequately addressed with a smaller sight triangle.

(c) In residential, commercial and tourist commercial zoning classifications, fences or walls shall not exceed four feet in height within the required front setback or within the required side street setbacks on a corner lot which is contiguous to a key lot that is less than 100 feet in width. 6-foot-high side street fencing, when allowed, shall not extend toward the subject lot's front lot line beyond a point even with the forward-most edge of the residential structure, excluding "snout" garages, porches or other features that protrude from the principal structure. In industrial and agricultural classifications, fences may be up to eight feet in height within the above described setbacks; except that, where such fence is within 25 feet of a street intersection or within 25 feet of the intersection of the subject property's driveway with the street, that portion of the fence exceeding four feet in height shall be non-opaque.

(d) On double-frontage lots other than a corner lot or a waterfront lot, a six-foot fence may be placed on the rear property line adjacent to an arterial or collector road, and in such instances such lot would not be a double-frontage lot for setback purposes. If the abutting houses face or have access to the arterial or collector road, the exception set out in this subsection shall not apply.

(e) Berms within the front setback, or within 25 feet of a street intersection, used in conjunction with fences or walls, shall be considered as included in the height restriction for such fences or walls. The height of a fence or wall shall be measured from finished grade prior to berming. The parcel's grade shall not be altered for the purpose of increasing the apparent height of the fence. The height of fences on property lines or parallel to property lines shall be measured from the lowest grade on either side of the property line. Where certain streets within the county have additional designated setbacks, subdivision walls, site perimeter buffer walls and other permanently constructed decorative structures shall be prohibited within such additional setbacks. Berms and
landscaping may be utilized in lieu of such buffer walls and structures in order to accomplish site buffering.

(f) Walls and fences shall be constructed so that the exposed framing, stringers and posts which support each section shall face the interior yard of the lot on which the fence or wall is placed, regardless of whether or not another fence already exists. However, shadowbox designs which indicate alternately located vertical wooden slats on the interior and exterior sides of the horizontal stringers may be approved. (Code 1979, § 14-20.29; Ord. No. 95-41, § 1, 9-26-95; Ord. No. 97-27, § 1, 7-24-97; Ord. No. 98-50, § 1, 9-24-98; Ord. No. 2000-04, § 1, 1-11-00; Ord. No. 2003-38, § 1, 8-12-03)

Sec. 62-2110. Floor area ratios.

Floor area ratio (FAR) allowances shall be based upon the future land use designation of the property. FAR allowances are as follows:

(1) A maximum FAR of 0.75 in areas designated as neighborhood commercial.

(2) A maximum FAR of 1.00 in areas designated as community commercial. (Ord. No. 2002-42, § 13, 8-27-02; Ord. No. 06-23, § 1, 4-25-06)

Sec. 62-2111. Garage sales.

Garage sales as defined in this section are permitted in all zoning classifications in the unincorporated area of the county; provided, however, such garage sales are subject to the following conditions:

(1) For purposes of this section, garage sales shall mean the retail sale of old, used or unwanted personal household articles and property and other personal effects displayed or offered for sale on a lot, parcel or tract of land in any area within the unincorporated areas of the county, as an incidental use to the primary use permitted in the applicable zoning classification. Such garage sales shall not include articles of property purchased for the purpose of resale. Such garage sales include sales from a garage, yard, shed, house or other related buildings. Nothing contained in this section shall be construed or interpreted to prohibit the isolated sale of specific personal household property or effects not purchased for the purpose of resale where the property and effects are not displayed openly but are kept within the interior of the building and where no signs or posters are displayed advertising such sales.

(2) A garage sale shall not be carried on for more than a 48-hour period, and no more than two such sales shall be permitted within a 12-month period from any single lot, parcel or tract of land within the unincorporated areas of the county.

(3) At the conclusion of such garage sales, all unsold articles and items shall be removed or packed in such a manner so as not to be visible from any public street or abutting property.

(4) The individual conducting the garage sale shall provide for and control adequate parking for motor vehicles so as to reasonably prevent unsafe conditions and traffic congestion on the public street adjacent to the premises upon which the sale is being conducted.
A person who conducts a garage sale in compliance with the conditions and provisions of this section shall not be required to obtain a business tax receipt for such garage sale or otherwise be controlled by the provisions of chapter 102, article II.

(Code 1979, § 14-20.31; Ord. No. 2007-003, § 20, 2-20-07)

Sec. 62-2112. Reserved.


Sec. 62-2112.5. Lambs, keeping of as a youth project.

The keeping of lambs as a project for FHA, FFA, 4-H or other recognized school clubs shall be permitted as an accessory use in those zoning classifications where horses are listed as an accessory use, subject to any requirements and conditions for the keeping of horses and the following additional conditions:

1. This use shall be limited to six months per calendar year.

2. In no case shall the total number of horses and lambs exceed the number of horses which would be permitted.

(Ord. No. 93-14, § 1(14-20.69), 6-22-93; Ord. No. 95-49, § 16, 10-19-95)

Sec. 62-2113. Limitation on keeping dogs.

No person shall keep or maintain more than four dogs, six months of age or older, in connection with any building erected in any zoning classification in which residential uses are permitted or in any residential unit in a multiple-family, recreational vehicle park or mobile home zoning classification. However, this section shall not apply to keeping of dogs in the agricultural zoning classifications. No person shall keep or maintain on vacant property or in connection with any building used for business, commercial or industrial purposes more than one dog. Nothing contained in this section shall be construed to permit the use of land or a building as a dog kennel unless the land or building is located in a zoning classification in which a dog kennel is a permitted use or where a conditional use is granted for a dog kennel.

(Code 1979, § 14-20.34)

Sec. 62-2114. Merritt Island redevelopment agency review.

When an application is made to the planning and zoning board for a change in zoning or approval of a conditional use permit, or to the board of adjustment for a variance, for property located in the Merritt Island redevelopment area, the application shall be forwarded to the Merritt Island redevelopment agency prior to the applicable public hearing before the planning and zoning board or the board of adjustment.

(Code 1979, § 14-20.35)

Sec. 62-2115. Metal buildings.

(a) Metal buildings are permitted in the BU-1 general retail commercial, TU-1 general tourist commercial, TU-2 highway transient tourist and the PBP planned business park zoning classifications subject to the following criteria:
(1) The front of the metal structure shall be galvanized, and shall utilize factory finished painted siding, at a minimum.

(2) The roofline shall be architecturally treated with a mansard roof or in another acceptable manner to enhance the appearance of the front of the metal structure.

(b) Accessory metal structures with exterior metal skin may be utilized in the commercial zones listed in this section if they are located to the rear of the rear building line of the principle structure and to the rear of the side building line of the principle structure from a side street.

(c) Nothing in this section shall prohibit the use of metal buildings for accessory structures in residential land use categories.

(d) This section shall not prohibit the use of metal buildings in BU-2 retail warehousing and wholesale business or any industrial zoning classification.

(Code 1979, § 14-20.36; Ord. No. 95-06, § 1, 1-26-95)

Sec. 62-2115.5. Package treatment sewer facilities.

(a) All new development located in the zero- to five-year future sewer service area (as depicted on Map 2 of the sanitary sewer element of the comprehensive plan) which requires centralized sewer facilities shall connect to the public wastewater treatment plant if capacity is available. If capacity is not available, a package treatment sewer facility may be permitted pursuant to subsections (1) through (4) in subsection (c).

(b) New development which is located outside of the zero- to five-year future sewer service area (as depicted on Map 2 of the sanitary sewer element of the comprehensive plan) which requires centralized sewer facilities may connect to the public wastewater treatment plant if capacity is available, or a package treatment sewer facility may be permitted pursuant to subsections (1) through (5) in subsection (c).

(c) A package treatment sewer facility, for the purpose of this regulation, shall be defined as a temporary, private treatment plant which is not owned by a permanent service provider. A package treatment sewer facility may be permitted pursuant to the following conditions:

(1) All above ground structures or protuberances shall be set back a minimum of 50 feet from all property lines, and a minimum of 300 feet from the perimeter of the project to be served by the facility.

(2) The package treatment sewer facility may serve only that area covered by the limits of the development order (site plan or subdivision plan) associated with the package treatment sewer facility and must meet the technical standards utilized by the county.

(3) Under no circumstances shall the approval of a package treatment sewer facility be used to increase the density of an area beyond the density permitted by the future land use map.

(4) The developer shall pay all future connection charges and other facility costs to the permanent
service provider prior to the issuance of a certificate of occupancy. A permanent service provider, for the purpose of this regulation, shall be a public entity or the owner of the Aquarina or Barefoot Bay sewer treatment facilities.

(5) The package treatment sewer facility serves a project meeting one of the following criteria (applies to subsection (b) only):

a. When environmental conditions exist which preclude on-site sewage disposal (use of a septic tank), connection to the central sewer system is not feasible, and the establishment of a package treatment sewer facility is the only alternative for wastewater treatment.

b. To serve other residential development in which a transfer of density would protect an environmentally sensitive area.

c. To serve commercial uses located at interstate interchanges to accommodate regional traffic.

d. To serve commercial uses located adjacent to existing residential uses in the Residential 4, Residential 6, Residential 10, Residential 15 or Residential 30 future land use map designations. Such uses shall reduce an existing deficiency in commercial area, defined as less than 160 square feet of commercial floor area for each residence within a two mile radius.

e. To serve planned unit developments and other residential development where existing residential development of a similar density exists. Proposed residential development utilizing a package treatment sewer facility shall not exceed the overall density limitation delineated on the future land use map series.

(Code 1979, § 14-20.16.2(B)(41); Ord. No. 94-10, § 1, 3-16-94; Ord. No. 95-49, § 18, 10-19-95; Ord. No. 2002-01, § 12, 1-8-02)

Sec. 62-2116. Parcels of land divided by public right-of-way.

For the purpose of determining building permit requirements, setback requirements and minimum lot sizes, those lots, plots, tracts or parcels of real property titled under common ownership, located within the unincorporated area of the county, that are separated or divided by a public or private right-of-way, street, road, alley or easement shall be defined as follows:

(1) Where the land area on each side of the public or private roadway or road meets the minimum requirement for lot size in the designated zoning classification, then the landowner shall be deemed the owner of two separate lots, plots, tracts or parcels for the purposes of this chapter.

(2) Where the land area on either side of the public or private right-of-way or road fails to meet the minimum requirements for lot size in the designated zoning classification, then the landowner shall be deemed the owner of one lot, plot, tract or parcel for the purposes of this chapter, and the principal structure or dwelling unit shall be located on the side or part having the greater land area.
(3) In platting new subdivisions or new roads, the land area must meet the minimum lot area requirements on at least one side of the public or private right-of-way or road.

(Code 1979, § 14-20.40; Ord. No. 2002-50, § 1, 10-1-02)

Sec. 62-2117. Parking, locating and storing of recreation vehicles and equipment, commercial vehicles and heavy equipment, and motor vehicles and recreational vehicles for sale.

(a) Definitions. For purposes of this section:

(1) Cargo van means any van under 24 feet where the area behind the driver is designed for transporting cargo or operated for general commercial use but has the same body shape as a passenger van.

(2) Commercial vehicles and heavy equipment means commercial, industrial or agricultural vehicles, equipment or machinery, whether or not the vehicle, equipment or machinery is licensed or otherwise authorized to travel upon the roads of the state, specifically including but not limited to: semi-trailers; tractors for semi-trailers; trucks; step-vans; box trucks; construction equipment; cement mixers; compressors; forklifts; buses; tow trucks; dump trucks; trucks with roll-back beds; trailers; any other similar vehicles, equipment and machinery classified as commercial by the manufacturer; and pickup trucks, passenger vans, and cargo vans used for commercial purposes.

(3) Developed property means that there is a structure or other improvement on the property that meets the requirements of the zoning classification.

(4) Driveway area means that area of a lot between the garage or motor vehicle parking area and the abutting right-of-way that is stabilized or paved and utilized for the purpose of giving access for moving motor vehicles from the motor vehicle parking area to the abutting right-of-way. As part of this definition, driveway access means a path for a vehicle giving access from abutting property to a road.

(5) Front yard area means that portion of the lot area extending along the full width of a front property line between side property lines and from the front lot line to the front building line of the residential building.

(6) Opaque barrier means complete visual screening accomplished by way of vegetation, wall or fencing, a minimum of six feet in height, but not exceeding the height standards set forth under section 62-2109 for walls and fences.

(7) Passenger van means any van under 24 feet where the area behind the driver is designed for carrying passengers.

(8) Pickup truck means any truck under 24 feet where the cab is designed for carrying passengers and the open bed is designed primarily for carrying property.
(9)  **Rear yard** shall mean that portion of the lot extending from the back building line of the principal structure between the side property lines and the back lot line.

(10) **Recreational equipment** means any vehicle, vessel or equipment designed for outdoor recreational use that is not otherwise defined as a recreational vehicle. Such equipment may include, but is not limited to, boats (including airboats and jet-boats), personal watercraft (jet-skies and the like), all-terrain vehicles (ATVs), dirt bikes, go-karts, golf carts, low-speed vehicles as defined by F.S. § 320.01 (such as neighborhood vehicles), and any other similar vehicle, vessel or equipment, but does not include trailers designed to haul such equipment (such as boat trailers).

(11) **Recreational vehicle** means any vehicle, as defined by F.S. § 320.01(1)(b), which is designed as temporary living quarters for recreational, camping, or travel use, which either has its own mode of power or is mounted on or drawn by another vehicle. Such vehicles include travel trailers, camping trailers, truck campers, motor homes, private motor coaches, van conversions and fifth-wheel trailers, but does not include park trailers, which are designed for permanent location and connected to utilities in a RV park.

(12) **Side yard** means that portion behind the front yard area of the primary structure between the side lot lines and the back yard area.

(13) **Stabilized area** means an area constructed of aggregates, concrete, asphalt, gravel, masonry, road base, or other similar type materials utilized to support the storage of recreational vehicles and equipment. For purposes of this section, the term stabilized shall not include a grassed area or an area that is only cleared of vegetation or mulched.

(14) **Trailer** means any vehicle, with or without full or partial walls or roof, which is designed to haul any type of cargo while being towed behind a motor vehicle on public roads. This does not include trailers for semi-trucks.

(b) **Recreational vehicles and recreational equipment.** Recreational vehicles and recreational equipment may be parked, located or stored at developed single-family or multiple-family residential properties (not on vacant properties) under the following conditions:

(1) **Use.** The recreational vehicle or recreational equipment shall:
   a. Be owned or used by the property owner, occupant or guest.
   b. Be for the personal off-site recreational use of the owner, occupant, or guest.
   c. Not be used for residential or commercial purposes.
   d. Not be connected to utilities to accommodate residential use.

(2) **Number and location.** The maximum number and location of recreational vehicles and recreational equipment is as follows:
a. Where the property is greater than 1/2 acre in size, there is no limitation upon the number of recreational vehicles and/or recreational equipment permitted on the property.

b. Where the property is 1/2 acre or less, the following requirements shall apply:

1. Not more than one recreational vehicle or recreational equipment shall be permitted in the front yard area. The recreational vehicle or recreational equipment shall be parked in a driveway area, shall observe the side/side street setback requirement of the applicable zoning classification, but not less than five feet, and shall be parked perpendicular to the street upon which the driveway is accessed. The interior edge of the driveway may be expanded to accommodate the parking and storage where the required side setback cannot otherwise be met without widening the driveway area.

2. The side yard areas may be used for the parking and storage of the recreational vehicle or recreational equipment, provided that said vehicle or equipment is parked/stored behind the front building line of the primary structure. In the event that the recreational vehicle cannot be entered or exited by the owner when parked behind the front building line, the recreational vehicle may extend forward of the front building line only to the extent to permit entry into/exit from the vehicle.

3. The rear yard area may be used for the parking and storage of recreational vehicle or equipment.

4. A maximum of two recreational vehicles or recreational equipment may be parked or stored on a property of 1/2 acre or less, in accordance with this subsection, without opaque screening. In the event that more than two recreational vehicles or recreational equipment are parked and stored on a property of 1/2 acre or less, said additional vehicles/equipment must be screened on all four sides by an opaque barrier.

c. There is no limit imposed for recreational vehicles or recreational equipment that are parked or stored in a garage or other completely enclosed structure.

d. Recreational vehicles or equipment may be temporarily parked in the right-of-way or front or side street yard (subject to local traffic regulations) only when expeditiously packing or unloading for up to 24 hours, but not in a manner that blocks the street or sidewalk.

e. Boats that are stored in the water or on a dock at waterfront lots are exempt from the limitations of this subsection.

f. A boat that must be transported by trailer shall be stored on a trailer.
g. Empty boat trailers and jet-ski trailers may be parked or stored in the five foot front-side property line setback.

(3) In any single-family or multiple-family residential development, the common storage of trailers, recreational vehicles and boats may be permitted if a portion of the project is specifically designed and designated on the plat or site plan for the storage of such vehicles. An enclosure providing a visual barrier for such areas shall be required as a condition of subdivision plat or site plan approval. All multiple-family developments of 30 dwelling units or more shall provide, at a minimum, one such space for each 15 dwelling units.
Section 1 - General:

1.1 Authority: This section is adopted pursuant to the authority granted in Section 19.21 of the Zoning Ordinance of the City of X.

1.2 Purpose: The purpose of this section is to provide guidelines for the installation and maintenance of public community facilities.

1.3 Scope: This section applies to all public community facilities located within the City of X.

2. Definitions:

2.1 Public Community Facilities: Any facility owned or operated by the City of X that is available for public use.

2.2 Maintenance: The act of keeping public community facilities in a safe and serviceable condition.

3. Requirements:

3.1 Design:

3.1.1 All public community facilities shall comply with the design standards established by the City of X.

3.1.2 The design shall take into account the safety, accessibility, and usability of the facility.

3.2 Construction:

3.2.1 Public community facilities shall be constructed in accordance with the City's building codes and standards.

3.2.2 All construction shall be performed by qualified contractors licensed by the City of X.

3.3 Maintenance:

3.3.1 Public community facilities shall be maintained on a regular basis to ensure their safe and serviceable condition.

3.3.2 Maintenance shall include regular inspections, repairs, and cleaning.

3.3.3 Any damage or malfunction of public community facilities shall be reported to the City of X immediately.

3.4 Inspection:

3.4.1 Public community facilities shall be inspected annually by qualified personnel.

3.4.2 Inspections shall be conducted to ensure compliance with the City's standards.

3.5 Appeals:

3.5.1 Any person aggrieved by a decision of the City of X concerning the installation, design, construction, or maintenance of public community facilities may appeal the decision to the City Council.

3.5.2 The appeal process shall be conducted in accordance with Section 19.21 of the Zoning Ordinance.

Figure 5: RV, Boat and Recreational Equipment Storage Locations Permitted on Lots of Less Than One-Half Acre 10/14/08

- 1 in Location A
- 1 in Location B
- 1 in Location C or Location D
- 1 in Location A plus 1 unscreened in Location B
- 1 in Location A plus 1 unscreened in Location C or D
- 1 in Location C plus 1 unscreened in Location D
- 1 in Location C or D plus 1 unscreened in Location B

Additional RV, boat or equipment must be stored in side or rear yard and must be screened on all four sides by an opaque visual barrier.

Scale: 1" = 10'
Figure 1
Permitted Location

Figure 2
Not Permitted

Permitted on Lots of Less Than One-Half Acre 10/14/06
RV, Boat and Recreational Equipment Storage Locations

Scale: 1" = 20 ft
Commercial motor vehicles; heavy equipment; commercial pickup trucks, passenger vans and cargo vans; and trailers.

Commercial motor vehicles and heavy equipment shall not be permitted to be parked or stored on any zoning classification or the abutting right-of-way unless specifically permitted under this chapter. Commercial vehicles shall not be parked, stored or located at any location in a manner
that blocks a street or sidewalk or causes a traffic sight obstruction.

(2) Commercial motor vehicles or heavy equipment shall be permitted to be parked, stored or located on developed BU2, GML, IU, IU-1, PBP and PIP zoned property.

(3) Commercial motor vehicles may be parked, stored, or located in any zoning classification or abutting right-of-way, if it is being temporarily utilized on the site in conjunction with a lawful or permitted activity on that specific lot, parcel or track of land, or is in the process of expeditiously loading or unloading goods or merchandise but not in a manner that blocks the street or sidewalk or causes a traffic sight obstruction.

(4) Commercial motor vehicles may be parked, stored, or located on developed BU-1-A, BU-1, and IN(H) zoned property under the following conditions:

   a. If the BU-1-A, BU-1, or IN(H) zoned property abuts residential zoned properties, then all commercial vehicles or equipment in conjunction with that business operations must be parked, stored, or located to the rear of the main structure and be completely screened on all four sides by an opaque visual barrier.

   b. If the BU-1-A, BU-1, or IN(H) zoned property does not abut residential zoned properties, then all commercial vehicles or equipment in conjunction with that business operations must be parked, stored, or located to the rear of the main structure or at a designated loading dock specifically designed and site planned for loading and unloading cargo, or in an area designated on a site plan that complies with section 62-3206.

(5) Commercial pickup trucks, passenger vans and cargo vans, and trailers.

   a. Pickup trucks, passenger vans, and cargo vans may be parked, stored or located on developed BU-1-A, BU-1 and IN(H) zoned properties if minimum conditions set forth in section 62-3206 have been satisfied.

   b. Pickup trucks, passenger vans, cargo vans and trailers may be parked, stored or located on developed IN(L) and any developed residential zoned property within the boundaries of the property lines.

(6) Commercial motor vehicles or heavy equipment of an agricultural nature which is accessory to a primary agricultural use shall be allowed to be parked, stored or located in the GU, AU, AGR, ARR, and PA zoning classifications. Equipment which is necessary to maintain privately maintained, unpaved roads or access easements and which is not otherwise used for offsite commercial purposes shall also be allowed to be parked or stored on lots within areas defined in section 62-1334.5. The lot on which such equipment is stored must be located on a privately maintained, unpaved road or access easement as described above, and if such road or easement is paved or becomes publicly maintained, the equipment must be removed from the lot within a six month period.

(7) Certain commercial motor vehicles may be parked in the TU-1 and TU-2 zoning classifications
under the following conditions:

a. Commercial buses may be parked at hotels, restaurants, and attractions so that passengers can temporarily utilize these facilities.

b. Commercial motor vehicles may be parked at hotels and restaurants if passengers of the vehicles are customers of such establishments.

c. Commercial vehicles shall not be parked within 50 feet of any property zoned for residential uses.

d. Commercial vehicles with refrigeration units shall not be permitted under any circumstances.

e. Commercial vehicles shall be expeditiously started for departure and their engines shall not be engaged except when entering and leaving the parking lot.

(8) Two-axle step-vans. Two-axle step-vans may be parked, stored or located on developed IN(L) and any developed residential zoned property within the boundaries of the property lines.

(9) Tow trucks. Tow trucks may be parked, stored or located on developed IN(L) and any developed residential zoned property if the tow truck is parked behind a six-foot high fence and behind the front building line.

(d) Motor vehicles or recreational vehicles for sale which are parked, stored or located on property not a licensed and permitted sales facility:

(1) No motor vehicle or recreational vehicle or equipment shall be placed for sale or parked, stored or located on unimproved vacant or vacant improved property unless the property has been specifically site planned for such placement or storage.

(2) At no time shall any vehicle for sale be parked, stored or located on the right-of-way.

Editors Note: Ord. No. 2005-47, § 1, adopted August 15, 2005, states the following: "Minimum Standards. It is the expressed intent of the Board of County Commissioners that these restrictions enumerated in this section are to be considered the minimum standards for the unincorporated area of Brevard County. This section shall not be construed to be a repeal of any legally recorded deed restriction."

Sec. 62-2117.5. Temporary storage units.

A portable temporary storage unit is any container designed for the storage of private property, which is typically rented for temporary use on a property, and which is delivered and removed from the site by truck.

(1) Residential areas.
a. Portable temporary storage units shall be permitted in all single family zoning classifications. For the purposes of this section, the TR-3 and RVP zoning classifications are not considered single family residential zones. The placement of portable storage units are subject to the following conditions:

1. The portable temporary storage unit is only permitted on single family residentially zoned properties that are improved with a single family residence.

2. A portable temporary storage unit shall not remain on the site longer than 15 days, including the days of delivery and removal. In all circumstances, the maximum stay for single units shall be 15 days. Multiple units are permissible provided that the units are delivered and removed on the same day.

3. In the case of a county-wide declaration establishing emergency conditions, or when localized emergency conditions such as a tornado, a flood, or a fire exist, the portable temporary storage unit may remain on site until such time that necessary repairs have been made to the principal structure. In all emergency circumstances, the maximum stay shall be one year.

4. A maximum of three 15-day stays shall be allowed per calendar year for a single family residence. A minimum of 30 days shall elapse between stays.

5. The placement of portable temporary storage units shall be limited to an existing driveway serving a single family residence, or in the side yard of a lot.

6. Portable temporary storage units may be located within a required setback if the following conditions are met:

   A. The portable temporary storage unit shall not be located in such a manner to obstruct the flow of pedestrian or vehicular traffic.

   B. The portable temporary storage unit shall not be located in such a manner to impair a motor vehicle operator's view of automobiles, bicycles, or pedestrians upon entering or exiting a right-of-way.

7. When a portable temporary storage unit is used in connection with permitted construction activity conducted on the property, the unit shall be placed on the lot in such a manner as to minimize impacts to neighboring residences. In such instances, the portable temporary storage unit shall not encroach upon sidewalks, right-of-ways, adjacent properties, or obstruct the view of motorists. The unit may remain on the lot for the duration of the construction in connection with an active building permit, but must be removed within five days of the issuance of a certificate of occupancy or final inspection. The placement of the storage unit is subject to approval during the single-family construction permit review.

   A. A portable storage unit shall not exceed eight feet in width, 16 feet in
length, and eight feet in height in a residential area.

B. Portable temporary storage units shall not be stacked vertically.

C. Hazardous materials such as flammable and biohazard substances shall not be stored in temporary portable storage units.

(2) **Non-residential areas.** A portable temporary commercial storage units are portable containers which are used for the storage of items such as excess inventory, equipment and tools, and seasonal items. The placement of such units shall be limited as follows:

a. Portable temporary commercial storage units shall be permitted in the BU-1 and BU-2, industrial and institutional zoning classifications, subject to the following conditions:

1. A portable temporary commercial storage unit shall not be used to operate a business or serve to meet the commercial business tax receipt requirements.

2. A portable temporary commercial storage unit shall not remain on the site longer than 90 days, including the days of delivery and removal. In all circumstances, the maximum stay for single units shall be 90 days. Multiple units are permissible provided that the units are delivered and removed on the same day.

3. A maximum of one 90-day stay per property shall be allowed in a 12-month period. Portable temporary commercial storage units shall not be placed on out-parcels or other such properties. Units shall be placed only on the property that contains the principal commercial or industrial structure. A minimum of 30 days shall elapse between stays.

4. The portable temporary commercial storage unit shall be located so as to minimize visibility from residential land uses and shall not be located between the front facade of the principal structure and any street right of way or in any required side or rear setback area. A portable temporary commercial storage unit that remains on site shall be screened from view from any public right of way (ROW) or residential area and maintain a minimum 15-foot setback to residential zoning classifications. Said screening shall consist of an opaque barrier, such as a fence or vegetation. Appropriate screening can also include conditions where the container is located in such manner that existing structures shield the container from ROWs and/or residential areas. Such storage units are prohibited to be placed in sidewalks, road rights-of-way, required parking spaces, driveway aisles, or required loading zones.

5. A portable temporary commercial storage unit shall not exceed eight feet in width, 45 feet in length, and ten feet in height.

6. Portable temporary commercial storage units shall not be stacked vertically.
7. Hazardous materials such as flammable and biohazard substances shall not be stored in temporary portable storage units.

8. The placement of portable temporary storage units in the BU-1 zoning classification shall be limited to "Big Box" retailers having a minimum floor area of 100,000 square feet and minimum site size of ten acres.

(Ord. No. 06-043, § 1, 8-3-06; Ord. No. 2007-003, § 21, 2-20-07)

Sec. 62-2118. Residential boat docks and piers.

(a) Purpose and intent. The provisions of this section are intended to regulate the size and location of boathouses, docks and piers located in canals, public drainage easements and drainage rights-of-way in all residential zoning classifications in the unincorporated areas of the county. This section also provides minimum structural standards for the construction of residential boat docks and piers.

(b) Definitions. For purposes of this section:

(1) Boathouse means a structure built at the water's edge used for storing boats, which may extend from a seawall or the shore over the water. A boathouse has a roof, and is partially or totally enclosed by sides.

(2) Covered boat dock means a structure built at the water's edge used for storing boats, which may extend from a seawall or the shore over the water. A covered boat dock has a roof, but shall be neither partially nor totally enclosed by sides of any type.

(3) Canal means a manmade or artificially improved natural waterway at least 80 feet in width which may be used for navigation or drainage.

(4) Dock and pier mean a platform extending from a seawall or the shore which is used to secure or provide access to boats. A dock or pier is supported by piles or pillars and has no sides or roof.

(5) Drainage easement or right-of-way means a stream or a manmade or artificially improved natural waterway less than 80 feet in width which has been accepted by the county and recorded as such.

(c) Required permits; site plan.

(1) A dock permit, if applicable, shall be obtained from the Army Corps of Engineers. The Army Corps of Engineers must also approve any excavation done in conjunction with the construction of a boat dock or pier. In cases where a canal may come under state jurisdiction, permits may also be required from the state department of environmental regulation and department of natural resources.

(2) Prior to the issuance of a building permit for a boat dock or pier, a site plan showing the location of the proposed construction in relation to the existing structures on the site or lot shall be submitted to the public works department for approval when the boat dock or pier is proposed to
be built in a public drainage easement or drainage right-of-way. In cases where the public works
director determines that the proposed dock or pier may interfere with the primary function of the
drainage easement or right-of-way, the applicant may be required to obtain approval from the
board of county commissioners.

(3) A building permit shall be obtained for the construction of a covered boat dock, boat dock or pier
located in canals, drainage easements and drainage rights-of-way in the unincorporated areas of
the county. Construction of any covered boat dock, boat dock or pier must meet the minimum
construction standards specified in subsection (e) of this section. In conjunction with the building
permit application for a covered boat dock, boat dock or pier, the applicant shall submit a site
plan bearing the approval of the public works department or the board of county commissioners
as described in subsection (c)(2) of this section.

(d) **General requirements.**

(1) A boat dock, covered boat dock or pier shall be an accessory use in all residential zoning
classifications in the unincorporated areas of the county. Boathouses shall be prohibited from
being constructed in a canal, drainage easement or drainage right-of-way in the unincorporated
areas of the county.

(2) A boat dock, covered boat dock or pier, including pilings, shall extend no closer than 7.5 feet to
the side property line, as projected in a straight line into the waterway.

(3) No boat dock, covered boat dock or pier, together with the watercraft being moored at the
structure, shall project into a manmade waterway more than 20 percent of the width of the
waterway or 30 feet, whichever is less, including pilings.

(4) Docks and piers shall be no higher than the property's seawall, if any exists, or no more than
three feet above the mean high-water line of the waterway if no seawall exists. No covered boat
dock shall exceed 20 feet in height, as measured from the mean high-water line to the highest
point of the roof of the covered boat dock.

(5) The deck of the dock, pier, boat lift or covered boat dock, including the platform and any
walkways attached to the dock, pier, boat lift or covered boat dock which extend out over the
water, shall not exceed 400 square feet in size. When a covered boat dock or covered boat lift is
constructed, the area under roof shall not exceed 500 square feet, and in no case shall the area
defined by the deck together with the roofed area exceed 600 square feet.

(e) **Construction standards.** In conjunction with all building permit applications, the applicant shall
submit two copies of plans and specifications, drawn to scale, with sufficient clarity and detail to indicate the
nature and character of the work. The design, construction, alteration and repair of the superstructure of
residential boat docks and piers shall conform to the provisions of the Standard Building Code, as adopted by
the board of county commissioners. Pile dimensions, spacing and embedment shall be designed according to
accepted engineering practices.

(f) **Final survey.** Upon completion of the boat dock or pier, a final survey prepared and certified by
an engineer or surveyor registered in the state, showing the as-built location and depicting compliance with the minimum setback requirements for the boat dock or pier, shall be submitted to the county building division for final approval.

(g) **Maintenance.** No owner of any parcel of property in the unincorporated area of the county shall permit any boat dock or pier located on or contiguous to his property to become dilapidated, deteriorated, structurally unsound, or a safety hazard, or otherwise be in violation of this chapter.
(Code 1979, § 14-20.44)

**Sec. 62-2119. Residential excavations.**

Residential excavations shall be regulated by the provisions found in article XIII, division 5, of this chapter, pertaining to regulations for private lakes.
(Code 1979, § 14-20.45)

**Sec. 62-2120. Reserved.**


**Sec. 62-2121. Special setback and access interval requirements; projections into required setback.**

(a) **Setback requirements for seawalls.** No construction shall be permitted within ten feet of any seawall or bulkhead, excluding a screen enclosure, landscaping retaining wall not to exceed 36 inches in height, or private boat pier or slip as an accessory use if permitted under the applicable zoning classification. Construction within setbacks from all surface water bodies shall also be consistent with article X, division 3, of this chapter, pertaining to surface water protection.

(b) **Setback and use restrictions for class I, class II and class III waters.** Setbacks from class I, II and III waters shall be regulated by the provisions found in article X, division 3, of this chapter, pertaining to surface water protection.

(c) **Construction setback on oceanfront property.** Coastal construction building setbacks from the Atlantic Ocean on oceanfront property shall be governed by the provisions of article XII of this chapter.

(d) **Buildings for public assemblage.** Buildings for public assemblage in areas other than commercial or industrial zoning classifications wherein provisions are made for 25 or more persons to assemble in one room, such as auditoriums, churches, clubs, amusement park structures, etc., 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.

(e) **Projections into required setback.** Certain appurtenances shall be permitted to be located within required setback areas subject to the following criteria:

1. Stairs, fire escapes, and chimneys may project no more than four feet into the required side or rear setback.

2. Wing walls or other structural extensions from the primary structure, including planting boxes,
may project into any required setback as long as they are four feet or less in height.

(3) Roof overhangs of four feet or less may project into any required setback.

(4) Elevated or cantilevered sun decks or balconies may project into the setback toward the water where the property is adjacent to a major water body.

(5) Air conditioning units and permanently installed whole house or back up generators may project no more than four feet into the required side or rear setback and are not subject to separation distances between structures. Pool pumps and equipment, irrigation pumps and equipment and other electrical or mechanical appliances and equipment accessory to residential use are not structures and are not subject to setbacks or separation distances between structures.

(Code 1979, § 14-20.47; Ord. No. 97-49, § 19, 12-9-97; Ord. No. 05-40, § 12, 8-23-05; Ord. No. 05-50, § 1, 10-11-05)

Sec. 62-2122. Reserved.


Sec. 62-2123. Swimming pools and screened enclosures as accessory use.

(a) Swimming pools and screened enclosures are hereby designated as an accessory use in all residential zoning classifications. Such swimming pools and screened enclosures shall be set back not less than five feet from the side and rear lot lines. Swimming pools shall be setback not less than five feet to the rear of the front building line of the principal building exclusive of open porches; provided, however, that swimming pools and screened enclosures thereof shall not encroach into any drainage, utility or other easements. On corner lots screen enclosures shall be required to meet the minimum side street setback of the applicable zoning classification; however, swimming pools on corner lots shall be set back five feet in addition to the required side street setback of the applicable zoning classification. The provisions of this section shall not be construed so as to alter the setback requirement for seawalls or bulkheads as specified in section 62-2121(a).

(b) On double-frontage lots where one frontage is a major natural water body, the swimming pool may be set forward of the front building line toward the water. The swimming pool and the screen enclosure must, however, meet the required front setback from the water. Where the swimming pool is set forward of the front building line, accessory structures which are located between the principal structure and the road right-of-way must meet the applicable front setback for the principal structure in the respective zoning classification from the road right-of-way.

(Code 1979, § 14-20.49(A), (B); Ord. No. 2000-01, § 4, 1-11-00; Ord. No. 06-40, § 1, 7-11-06)

Sec. 62-2124. Television dish receivers and antennas.

Television dish receivers and antennas are hereby permitted in all residential zoning classifications, as an accessory use to single-family residential use, under the following conditions:

(1) The maximum diameter of a dish receiver shall be four meters.

(2) The maximum height of a dish receiver shall be 14 feet.
The dish receiver or antenna shall be set back from all lot lines not less than a distance equal to the height of the dish receiver or antenna, and shall not be located to the front of the principal building.

The dish receiver or antenna may not be mounted on the roof of the principal or accessory structure, and must be detached from the principal structure.

The dish receiver or antenna must be capable of being placed in a "stow" position and tethered, unless engineered to withstand winds exceeding 120 miles per hour.

(Code 1979, § 14-20.50)

Sec. 62-2125. Temporary construction trailer or structure.

(a) Any person may obtain a permit from the building official for the construction and use of a temporary structure to be used as a construction shed and toolhouse for contractors and construction workers on the premises. Such temporary structure shall not be erected prior to the issuance of a building permit for the applicable construction, and shall be immediately removed upon the expiration of the building permit or the occupancy of the completed structure, or upon completion of the structure, or upon the expiration of a period of one year from the date of issuance of the applicable building permit, whichever event occurs first. The temporary construction structure may consist of a trailer; provided, however, that the axles and wheels shall not be removed. Neither a construction structure nor a construction trailer shall be used as a residence or as a live-in facility. The person applying for the permit shall designate the exact location of the temporary construction structure or trailer, and the building official shall have the authority to designate the exact location where the construction structure shall be located. It shall be a violation of this section for the temporary construction structure or trailer to be located at a place on the property other than that designated and approved by the building official.

(b) Notwithstanding subsection (a) of this section, any person may obtain a permit from the building official for a temporary construction trailer or structure to be used as a construction shed and toolhouse for contractors and construction workers on the premises, prior to the issuance of any building permits, for the following projects and under the following conditions:

(1) For a single-family residential subdivision with a minimum site size of ten acres.

(2) For a multifamily, tourist, commercial or industrial site development on a minimum of one acre.

(3) For all of the projects enumerated in subsections (1) and (2) of this subsection, site plan approval must be obtained within 30 days of locating the structure or trailer on the property, or plat approval must be obtained, as well as construction permits issued by the county engineer for the project, within 30 days of locating the structure or trailer on the property. All other provisions of subsection (a) of this section concerning the time limit for the use of the structure or trailer, the location of the structure or trailer, the allowed use of the structure or trailer, and the prohibition against removing wheels and axles are applicable to structures or trailers permitted under this subsection.

(Code 1979, § 14-20.51; Ord. No. 97-49, § 20, 12-9-97)
Sec. 62-2126. Reserved.

Editors Note: 26, § 38, adopted April 25, 2000, repealed § 62-2126 which pertained to temporary sales tents and derived from § 14-20.52 of the 1979 Code.

Sec. 62-2127. Temporary trailers for sales office purposes in residential zoning classifications.

Temporary trailers for sales office purposes may be approved by the zoning official in any residential zoning classification, subject to the following specific restrictions and conditions:

(1) Such trailer shall be permitted for sale of lots, houses or condominiums in a specific project, and such sales shall be restricted to the specific project.

(2) Where the specific project involves the sale of single-family residences, a minimum size of ten acres shall be required.

(3) Where the specific project involves a multifamily site development, a minimum of 25 units in the specific project shall be required.

(4) A site plan or plat must be submitted within 30 days of placing the trailer on the subject property, and approval and necessary building permits obtained within 120 days of placing the trailer on the subject property.

(5) No axles or wheels of any such trailer shall be removed, and the trailer shall not be used as a live-in facility.

(6) The trailer shall be removed upon completion of the first model unit or, in the case of a subdivision for land sale only, upon the expiration of a period of one year from the date of approval by the zoning official.

(7) The zoning official may, at his discretion, extend approval of the trailer for a period not to exceed three years from the date of initial approval.

(8) All such temporary sales trailers shall be provided with sanitary facilities pursuant to the rules and regulations of the county health department.

(9) In a mobile home park or mobile home subdivision of ten acres or more, or in a commercial zoning classification, where utilized in conjunction with the sale of mobile homes, a model unit may be used as a sales office.

(Code 1979, § 14-20.53; Ord. No. 97-49, § 21, 12-9-97)

Sec. 62-2128. Tennis courts as accessory use to single-family residence.

In order for a tennis court to be an acceptable accessory use to a single-family residence in any residential zoning classification, a minimum of one-half acre, including the residence, shall be required for an unlighted tennis court. For a lighted tennis court as an accessory use to a single-family residence in any residential zoning classification, a minimum of one acre, including the residence, shall be required. The
placement of any tennis court, backstop, nets, necessary supports and lighting shall be subject to all setback
requirements applicable to an accessory structure in the particular residential zoning classification; provided,
however, that the fence which serves as a backstop or enclosure for a tennis court may exceed the six-foot
maximum for a fence in a residential zoning classification, provided that the backstop or enclosure shall not
exceed 12 feet in height.
(Code 1979, § 14-20.54)

Sec. 62-2129. Towers and antennas.

Towers and antennas are permitted in every zoning classification in the unincorporated areas of the
county, provided such towers and antennas shall not exceed 35 feet in height, and provided such towers and
antennas are constructed according to the standards specified in section 62-1953. This section shall not apply to
antennas or antenna support structures owned by amateur radio service operators licensed by the Federal
Communications Commission (FCC). However, such antennas or antenna support structures shall continue to
be subject to accessory structure setbacks (excluding guy wires).
(Code 1979, § 14-20.55; Ord. No. 03-35, § 1, 8-7-03)

Sec. 62-2130. Water plants.

All aboveground structures or protuberances shall meet the setback requirements for an accessory
structure in the specific zoning classification, and shall be set back at least 50 feet from the perimeter of the site
to be served by the water plant.
(Code 1970, § 14-20.16.2(B)(56); Ord. No. 95-49, § 23, 10-19-95)

Sec. 62-2131. Temporary use agreements.

The board of county commissioners may consider a temporary use agreement for the temporary use of
property, regardless of the zoning of the property, where such temporary use results in a direct public benefit.
The purpose of the temporary use agreement is to acknowledge the need and public advantage to locate
temporary uses, such as equipment storage, materials storage, portable asphalt plants, etc. in locations that are
convenient to public improvement projects in such a manner that the temporary location would result in a
savings to the public, but which would not necessarily be appropriate as a permanent use according to the
comprehensive plan designation and zoning of the property. Temporary use agreements shall meet the
following conditions:

(1) Such temporary use agreement shall be approved only in those situations where the request is
necessary to fulfill the obligations of a federal, state or local government agency contract to
construct, maintain or improve a public facility.

(2) Such temporary use agreement shall specify the duration of the use, which shall not exceed one
year. Any extension shall be processed as a new agreement.

(3) Such temporary use agreement shall contain a hold harmless stipulation indemnifying the county
against liability.

(4) No building permits shall be issued for any permanent structure. All equipment shall be portable
and easily moveable.

(5) All temporary equipment, supplies, etc. shall be removed from the property prior to the expiration of the temporary use agreement.

(6) The temporary use agreement shall specify the location of all equipment storage areas and material storage areas, relative to the property lines.

(7) The temporary use agreement shall locate all storage areas such that adjacent developed properties are best protected from the impacts of the temporary use.

(8) The county shall provide written, individual notice to each property owner with 1,000 feet of the site of the proposed temporary use.

(9) The temporary use agreement shall be considered by the board of county commissioners in public meeting.

(Ord. No. 96-02, § 1, 2-6-96)

Sec. 62-2132. Administrative permit for commercial vehicle parking at a residence.

(a) Any residential property owner may request from the zoning official an administrative permit to park a commercial motor vehicle on a residential lot. Such a permit may be issued only under the following conditions:

(1) The parcel must be a developed single-family residential lot of at least two and one-half acres in size.

(2) The commercial motor vehicle must be operated by the occupant of the residence and must be essential to the occupant's principal means of employment.

(3) The commercial motor vehicle must be maintained in operating condition.

(4) The commercial motor vehicle may be a tractor cab but shall not include a trailer.

(5) The commercial motor vehicle, or any equipment or machinery on the vehicle, may not for any reason be left running for extended periods of time.

(b) Applicants for the administrative permit shall submit a letter to the zoning official setting forth the specific request and the need therefor. The letter shall have the following documents attached thereto:

(1) A signed affidavit from all property owners within 200 feet indicating no objection to the requested permit.

(2) Verification by certified survey, recorded deed or other means satisfactory to the zoning official to determine the size and developed status of the lot.
Failure of the applicant to obtain signatures of all property owners within 200 feet will result in denial of the administrative permit. Denial of the request for an administrative permit under the provisions of this section may be appealed to the board of county commissioners in public meeting. The county shall notify all property owners within 200 feet of the date, place and time of the meeting.

Administrative permits are valid for one year and are renewable for successive one-year periods. However, if the activity ceases to be compatible with the character of the neighborhood, as evidenced by code enforcement investigation, the permit shall not be renewed and may be revoked. The owner will be notified in writing if the permit is revoked or will not be renewed administratively. Renewals of permits that are revoked administratively or which are not renewed administratively may be reconsidered only by board of county commissioners action pursuant to subsection (c) above.

Sec. 62-2133. Administrative permit for a farm animal as a pet at a residence.

Any residential property owner on a GU zoned lot may request from the zoning official an administrative permit for a farm animal as a pet at a residence. The intent of this permit is to allow certain exotic or miniature species such as Vietnamese Pot Bellied Pigs or Pygmy Goats, which would otherwise be classified as farm animals under this regulation, to be permitted as pets. Such a permit may be issued only under the following conditions:

1. The applicant shall specify the number and species of animals to be kept as pets.
2. The request shall be made on a residentially developed lot zoned GU of at least one acre.
3. There shall be no more than one pet farm animal per acre.
4. No such pet shall exceed 150 pounds in weight.
5. The animal shall not be used for breeding purposes.

Applicants for the administrative permit shall submit a letter to the zoning official setting forth the specific request and the need therefor. The letter shall have the following documents attached thereto:

1. A signed affidavit from all property owners within 200 feet indicating no objection to the requested permit.
2. Verification by certified survey, recorded deed or other means satisfactory to the zoning official to determine the size of the lot.
3. Verification by a licensed veterinarian of the species and weight of the animal.

Failure of the applicant to obtain signatures of all property owners within 200 feet will result in denial of the administrative permit. Denial of the request for an administrative permit under the provisions of this section may be appealed to the board of county commissioners in public meeting. The county shall notify all property owners within 200 feet of the date, place and time of the meeting.
(d) The permit is valid only for a specific animal on a specific lot. The permit shall not be transferable to any other animal or to some other residential lot. Should the animal exceed the weight limit described above, or be used for breeding purposes, the permit shall become invalid. Should it be determined by the county animal control director that the animal is being treated in an inhumane manner, or has become a nuisance to the neighborhood, the permit shall become invalid and may be revoked.

(e) Administrative permits are valid for one year and are renewable for successive one-year periods. However, if the activity ceases to be compatible with the character of the neighborhood, as evidenced by code enforcement investigation, the permit shall not be renewed and may be revoked. The owner will be notified in writing if the permit is revoked or will not be renewed administratively. Renewals of permits that are revoked administratively or which are not renewed administratively may be reconsidered only by board of county commissioners action pursuant to subsection (c) above.

Sec. 62-2134. Flexible design of subdivision lots.

Any new subdivision plat which is recorded pursuant to section 62-2804 of this Code and which has at least ten lots may contain lots that are below the minimum lot size, lot width, and lot depth established under the applicable zoning classification under the following conditions:

1. The minimum lot size or dimensions established under the applicable zoning classification shall be considered to be averages for the purpose of this section.

2. No lot size or dimension shall be more than ten percent below the minimum lot size or dimension established under the applicable zoning classification.

3. For each lot having a lot size or dimension smaller than the minimum established under the applicable zoning classification, there shall be a separate and distinct lot which has a lot size or dimension that is larger by an equal or greater amount.

4. Lots that are at least twice the size of the minimum lot size established under the applicable zoning classification shall not be used to offset lots which are undersized pursuant to this provision.

5. Under no circumstances shall this provision be used to increase the number of lots recorded beyond the density established by the county comprehensive plan.


Subdivision II.

Airport and Airspace Restrictions*
Sec. 62-2201. Definitions.

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

Airport means any area of land or water designed and set aside for the landing and taking off of aircraft and utilized or to be utilized in the interest of the public for such purpose.

Airport elevation means the highest point of an airport usable landing area, measured in feet from mean sea level, as set forth on an airport hazard zoning map which, by reference, is made a part of this regulation.

Airport hazard means any structure or tree or use of land which would exceed the federal obstruction standards as contained in 14 CFR 77.21, 77.23, 77.25, 77.28 and 77.29 and which obstructs the airspace required for the flight of aircraft in taking off, maneuvering or landing or is otherwise hazardous to such taking off, maneuvering or landing of aircraft and for which no person has previously obtained a permit or variance pursuant to this article.

Approach, transitional, horizontal and conical zones. These zones apply to the area and airspace under the approach, transitional, horizontal and conical surfaces as defined in this subdivision.

Height. For the purpose of determining the height limits in all zones set forth in this subdivision and shown on the zoning maps, the datum shall be mean sea level elevation unless otherwise specified.

Heliport primary surface. The area of the heliport primary surface coincides in size and shape with the designated landing and takeoff area of a heliport (runway). This surface is a horizontal plane at the elevation of the established heliport elevation.

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

Minimum en-route altitude means the altitude in effect between radio fixes which ensures acceptable navigational signal coverage and meets obstruction clearance requirements between those fixes.

Nonconforming use means any preexisting structure, object of natural growth or use of land which is inconsistent with the provisions of this subdivision or an amendment thereto.

Non-precision-instrument runway means a runway having an existing instrument approach procedure which has been approved or planned, and for which no precision approach facilities are planned or indicated on a Federal Aviation Administration planning document or military service's military airport planning document.

Obstruction means any existing or proposed manmade object or object of natural growth or terrain that violates the standards contained in 14 CFR 77.21, 77.23, 77.25, 77.28 and 77.29.
**Precision instrument runway** means a runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on a Federal Aviation Administration approved airport layout plan, a military service’s approved military airport layout plan, any other Federal Aviation Administration planning document, or a military service’s military airport planning document.

**Primary surface** means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway, but when the runway has no specially prepared hard surface or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface ends at each end of that runway. The width of the primary surface of a runway shall be 500 feet, except that it shall be 250 feet for utility runways having only visual approaches and 1,000 feet for a precision instrument runway and for a non-precision-instrument runway having a non-precision-instrument approach with visibility minimums as low as three-fourths of a statute mile.

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

**Stol primary surface** means an imaginary plane, 300 feet wide, centered on the runway. Its length extends 100 feet beyond each runway end. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

**Structure** means an object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, earth formations and overhead transmission lines.

**Tree** includes any plant of the vegetable kingdom.

**Utility runway** means a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

**Visual runway** means a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a Federal Aviation Administration approved airport layout plan, or by any planning document submitted to the Federal Aviation Administration by competent authority.

(Code 1979, § 14-20.18(A))

Cross References: Definitions generally, § 1-2.

State Law References: General airport zoning definitions, F.S. § 333.01.

Sec. 62-2202. Airport zones.

In order to carry out the provisions of this subdivision, there are hereby created and established certain zones, which include all of the land and airspace lying within the approach zone, transitional zones, horizontal zones and conical zones as they apply to a particular airport. Such zones are shown on the airport hazard zoning maps, which are made a part of this subdivision by reference. The airport hazard zoning maps are on file with the county. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. **Utility runway visual approach zone.** This zone underlies an approach surface, the inner edge of
which is 250 feet wide and coincides with the end of the primary surface. It expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet measured along the extended centerline of the runway. The approach surface slopes upward from the inner edge at the rate of 20 feet horizontally for each foot vertically.

(2) **Utility runway non-precision-instrument approach zone.** This zone underlies an approach surface, the inner edge of which is 500 feet wide and coincides with the end of the primary surface. It expands outward uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet measured along the extended centerline of the runway. The approach surface slopes upward from the inner edge at the rate of 20 feet horizontally for each foot vertically.

(3) **Runway larger than utility visual approach zone.** This zone underlies an approach surface, the inner edge of which is 500 feet wide and coincides with the end of the primary surface. It expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet measured along the extended centerline of the runway. The approach surface slopes upward from the inner edge at the rate of 20 feet horizontally for each foot vertically.

(4) **Runway larger than utility with visibility minimum greater than three-fourths mile non-precision-instrument approach zone.** This zone underlies an approach surface, the inner edge of which is 500 feet wide and coincides with the end of the primary surface. It expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet measured along the extended centerline of the runway. The approach surface slopes upward from the inner edge at the rate of 34 feet horizontally for each foot vertically.

(5) **Runway larger than utility with visibility minimum as low as three-fourths mile non-precision-instrument approach zone.** This zone underlies an approach surface, the inner edge of which is 1,000 feet wide and coincides with the end of the primary surface. It expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet measured along the extended centerline of the runway. The approach surface slopes upward from the inner edge at the rate of 34 feet horizontally for each foot vertically.

(6) **Precision instrument runway approach zone.** This zone underlies an approach surface, the inner edge of which is 1,000 feet wide and coincides with the end of the primary surface. It expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet measured along the extended centerline of the runway. The approach surface slopes upward from the inner edge at the rate of 50 feet horizontally for each foot vertically for a horizontal distance of 10,000 feet and thence 40 feet horizontally to each foot vertically for the remaining length of the control zone.

(7) **Heliport visual flight rules (VFR) approach zone.** This zone underlies an approach surface, the inner edge of which coincides with the width of the primary surface. It expands outward to a width of 500 feet at a horizontal distance of 4,000 feet measured along the extended centerline of the primary surface. The approach surface slopes upward from the inner edge at the rate of eight feet horizontally for each foot vertically.

(8) **Heliport instrument flight rules (IFR) approach zone.** This zone underlies an approach surface,
the inner edge of which is 300 feet wide and coincides with the width of the primary surface. It expands outward to a width of 3,400 feet at a horizontal distance of 10,000 feet measured along the extended centerline of the primary surface. The approach surface slopes upward from the inner edge at the rate of 15 feet horizontally for each foot vertically.

(9) **Stol precision instrument approach zone.** This zone underlies an approach surface, the inner edge of which is 300 feet wide and coincides with the width of the primary surface. It expands outward to a width of 3,400 feet at a horizontal distance of 10,000 feet measured along the extended centerline of the primary surface. The approach surface slopes upward from the inner edge at the rate of 15 feet horizontally for each foot vertically.

(10) **Transitional zones.** These zones underlie the transitional surfaces which extend outward and upward at 90-degree angles to the runway centerline and centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Where the precision runway approach surface projects beyond the limits of the conical surface, the transitional surface shall continue upward and outward from the approach surface at the rate of seven feet horizontally to one foot vertically for a horizontal distance of 5,000 feet measured at 90-degree angles to the extended runway centerline.

(11) **Heliport VFR transitional zones.** These zones underlie transitional surfaces which slope upward and outward two feet vertically for each foot horizontally beginning at the sides of the primary surface and the approach surfaces and extending a distance of 250 feet measured horizontally from and at 90 degrees to the primary surface centerline and extended centerline.

(12) **Heliport IFR transitional zones.** These zones underlie transitional surfaces which slope upward and outward four feet vertically for each foot horizontally beginning at the sides of the primary surface and the approach surfaces and extending a distance of 350 feet measured horizontally from and at 90 degrees to the primary surface centerline and extended centerline.

(13) **Stol precision instrument transitional zones.** These zones underlie the transitional surfaces which begin at the sides of the primary surface and slope upward and outward four feet horizontally and one foot vertically for a horizontal distance of 400 feet and slope upward and outward four feet horizontally for each foot vertically from the sides of the approach zones a variable horizontal distance of 400 feet at the primary surface end to zero feet at a horizontal distance of 1,500 feet measured outward along the extended primary surface centerline.

(14) **Horizontal zone.** This zone underlies a horizontal surface having an elevation of 150 feet above the airport elevation. The horizontal dimensions of the surface are established by swinging arcs having a radius of 5,000 feet for all runways designated as utility or visual, or 10,000 feet for all others, from the center of each end of the primary surface of each runway, and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

(15) **Conical zone.** This zone underlies a conical surface which commences at the periphery of the horizontal zone and extends upward and outward 20 feet horizontally for each foot vertically for
a distance of 4,000 feet.
(Code 1979, § 14-20.18(B); Ord. No. 97-49, § 22, 12-9-97)

Sec. 62-2203. Airport zone and airspace height limitations.

(a) Except as otherwise provided in this subdivision, no structure or tree shall be erected, altered, allowed to grow or be maintained in any zone created by this subdivision to a height in excess of the applicable height established for such zone.

(b) In addition to the height limitations within such zones, no structure shall be erected to a height of 200 feet above the airport elevation within three nautical miles of such airport, a height of 300 feet within four nautical miles of such airport, or a height of 4,000 feet within five nautical miles of such airport, or elsewhere at a height of 4,000 feet above the ground at the site of the proposed structure, unless it can be shown that:

(1) Notice of proposed construction or alteration has been given as required by part 77 of the Federal Aviation Regulations.

(2) The proposed structure will not raise the Federal Aviation Administration established minimum descent altitude or decision height for an instrument approach to any runway, or cause the minimum obstruction clearance altitude or minimum en-route altitude to be increased on any federal airway.

(3) The structure does not otherwise constitute an obstruction to air navigation.
(Code 1979, § 14-20.18(C))

Sec. 62-2204. Use restrictions.

In addition to any other land use restrictions contained in this chapter, it shall be unlawful to make any use of land or water within any airport zone established by this subdivision in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, or impair visibility in the vicinity of the airport. This does not affect the use of grove heaters for agriculture purposes.
(Code 1979, § 14-20.18(D))

Sec. 62-2205. Lighting on structures over 200 feet in height.

The owner of any structure over 200 feet above ground level must install on that structure lighting in accordance with Federal Aviation Administration Advisory Circular 70-7460-1C and amendments.
(Code 1979, § 14-20.18(E))

Sec. 62-2206. Airport and airspace restrictions not retroactive.

The restrictions prescribed in this subdivision shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to this subdivision as of June 17, 1976. Nothing contained in this subdivision shall require any change in the construction, alteration or intended use of
any structure, the construction or alteration of which was begun prior to June 17, 1976, and is diligently prosecuted and completed within two years thereof.
(Code 1979, § 14-20.18(F))

Sec. 62-2207. Marking and lighting of nonconforming structures or trees.

Notwithstanding the provisions of section 62-2206, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon during hours of darkness of such markers and lights as shall be deemed necessary to indicate to the operators of aircraft in the vicinity of the airports the presence of such hazards. Such markers shall be installed, operated and maintained at the expense of the operators of the airports.
(Code 1979, § 14-20.18(G))

State Law References: Marking and lighting, F.S. § 333.07(3).

Sec. 62-2208. Conflicting regulations.

When this subdivision imposes a greater or more stringent restriction upon the use of land than is imposed or required by any other section of this chapter, the provisions of this subdivision shall govern. Nothing contained in this subdivision shall, however, be interpreted to conflict with or supersede any federal regulation pertaining to the control of airport hazards.
(Code 1979, § 14-20.18(H))

State Law References: Similar provisions, F.S. § 333.04(2).

Sec. 62-2209. Acquisition of air rights.

In any case in which:

(1) It is desired to remove, lower or otherwise terminate a nonconforming use;

(2) The approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations; or

(3) It appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations,

the political subdivision within which the property or nonconforming use is located, or the political subdivision owning the airport or served by it, may acquire, by purchase, grant or condemnation, in the manner provided by law under which political subdivisions are authorized to acquire real property for public purposes, such an air right, easement or other estate or interest in the property or nonconforming use in question as may be necessary to effectuate the purposes of this chapter.
(Code 1979, § 14-20.18(I))


Subdivision III.

Performance Standards*
Sec. 62-2251. Generally.

The following performance standards apply to all residential, commercial, and industrial uses. These standards address a series of potential nuisances or possible sources of pollution or other public health and safety concerns. All measurements shall be enforced at the property lines, unless otherwise specified. No part of any zone and no improvement thereon shall be used or allowed to be used at any time for the manufacture, storage, distribution or sale of any product or the furnishing of any service, in a manner which is unreasonably noxious or offensive or an unreasonable annoyance or a nuisance to other tenants because of odors, heat, fumes, smoke, noise, glare, vibration, soot or dust. No activity shall be carried on which may be or may become dangerous to public health and safety, which increases the fire insurance rate for adjoining or adjacent property, or which is illegal.

(Code 1979, § 14-20.42(A); Ord. No. 2000-07, § 7, 1-25-00; Ord. No. 00-37, § 1, 8-1-00)

Sec. 62-2252. Applicability.

Any use established or changed to, and any building, structure or tract of land developed, constructed or used for, any permitted or permissible principal or accessory use in any zone shall comply with all of the performance standards set forth in this subdivision for the district involved, excluding modes of transportation (e.g. airports, railroads, etc.). If any existing use of a building or other structure is extended, enlarged or reconstructed, the performance standards for the district involved shall apply with respect to such extended, enlarged or reconstructed portions of such use of the building or other structure. Existing premises accommodating changes in use, as defined in section 62-2801, shall be subject to compliance with all requirements of article VI, division 6, subdivision III setting forth performance standards.

(Code 1979, § 14-20.42(B); Ord. No. 2000-07, § 7, 1-25-00; Ord. No. 02-33, § 6, 7-23-02)

Sec. 62-2253. Determination of violations.

Determinations necessary for administration and enforcement of performance standards set forth in this subdivision range from those which can be made with satisfactory accuracy by a reasonable person using normal senses and no mechanical equipment to those requiring great technical competence and complex equipment for precise measurement. It is the intent of this subdivision that, where determination can be made by the code enforcement officer using equipment normally available to the county or obtainable without extraordinary expense, such determination shall be made before notice of violation is issued. Where technical complexity or extraordinary expense makes it unreasonable for the county to maintain the personnel or equipment necessary for making difficult or unusual determinations, the cost of proving to the county manager or designee that violations have not occurred shall rest with those accused of such violations, with such determinations to be made as required at the discretion of the county manager or designee.


Sec. 62-2254. Smoke.

(a) Method of measurement. The Ringelmann smoke chart published by the United States Bureau of
Mines Information Circular 333, or any subsequent revision or amendment thereto, shall be used for the measurement of smoke. The following are the steps that shall be used in the measurement of smoke:

(1) Observations shall be made from a position which is at a right angle to the line of travel of emitted material.

(2) The plume shall be observed against a suitable background.

(3) Observations during daylight hours shall be made with the observer generally facing away from the sun.

(4) Observations during hours of darkness shall be made with the aid of a light source.

(5) Readings shall be noted at approximately 15-second intervals during observation, except that intervals of up to one minute shall be permitted where the appearance of the emission does not vary during such intervals.

(6) The general color of the emission during the period of observation shall be noted as part of the record of observation.

(b) Performance requirements. No person shall discharge into the atmosphere, from any single source of emission whatsoever, any air contamination, for a period or periods aggregating more than three minutes in any one hour, which is as dark or darker in shade than that designated as no. 2 on the Ringelmann chart, or of such opacity, excluding water vapor, as to obscure an observer's view to a degree equal to or greater than does smoke as described in this subsection.

(c) Control plan. Detailed plans for the elimination of smoke may be required before the issuance of a building permit.

Sec. 62-2255. Dust and particulate matter.

Dust and particulate matter shall meet the standard of no significant deposition off-site to adjoining lots or roads. Significant deposition is where deposition from the site can be seen as a regular pattern of deposition leading from the site by wind or vehicular deposition as a result of the manufacturing or operation of a particular site. The deposition shall be sufficient to be collected from vegetation or hard surfaces. The county shall determine whether the pattern of deposition is a result of the regular operation of the industrial use or vehicular traffic on the site, not a short term landscaping or construction activity that was impacted by severe winds. All long term construction is expected to use best management practices to reduce dust.

Sec. 62-2256. Odor.

(a) Performance requirements. All uses shall be controlled to prevent the emission of odorous gases or other matter in such quantities as to be readily detectable or to produce a public nuisance or hazard at any point as measured along the lot lines. Detailed plans for the elimination of odorous matter may be required
before the issuance of a building permit.

All uses shall meet the odor standards in this section during site plan approval. Site plans must include documentation assuring that odor standards will not be exceeded by the intended use. The odor shall be measured by determining in parts per million (ppm) the chemicals present. This shall then be compared to data in Tables 5.1 or 5.3, Odor Thresholds: for Chemicals with Established Occupational Health Standards, published by the American Industrial Hygiene Association (1989) or the latest reprint or revision. All measurements shall follow American Society of Testing Materials (ASTM) procedures.

1. Where Table 5.1, Odor Thresholds: for Chemicals with Established Occupational Health Standards; Range of Acceptable Values, referenced above contains several levels cited, the lowest value shall be used as the standard.

2. Where the chemical is not listed in Table 5.1, Odor Thresholds: for Chemicals with Established Occupational Health Standards, then Table 5.3, Odor Thresholds: for Chemicals with Established Occupational Health Standards shall be reviewed. Where data is found in Table 5.3, Odor Thresholds: for Chemicals with Established Occupational Health the lowest accepted value of all reported odor threshold measurements shall be used.

(Code 1979, § 14-20.42(D)(4); Ord No. 2000-07, § 7, 1-25-00)

Sec. 62-2257. Lighting standards.

(a) Exterior lighting elements or structural materials installed on site shall not cast light or reflect glare beyond the boundaries of the site to the extent that the amount of glare or light is objectionable to a person of ordinary and reasonable sensibilities. This section does not apply to street lighting in public or private rights of way or adjacent utility easements.

(b) Two types of light sources or luminaires are permitted. The first type allows for low lighting threshold needs (light intensities equal to or less than 2,780 initial lumens, per source or luminaire) and is termed a non cut-off fixture. A non cut-off fixture does not direct or limit the view of the light source or luminaire. The second type allows for higher light intensities greater than 2,780 initial lumens, per source or luminaire and is termed a cut-off fixture. A cut-off fixture is a lighting fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal plane as determined by photometric test or certified by the manufacturer. Any structural part of the light fixture providing this shielding must be permanently affixed. House-side shields are cut-off fixture attachments which further restrict light leaving the luminaire. The maximum downward vertical angle of light leaving a cut-off fixture utilizing house-side shields shall be 45 degrees. All properties required to submit a site plan pursuant to section 62-3203 shall meet the following lighting standards:

1. All lighting fixtures or luminaires providing light intensities greater than 2,780 initial lumens (the equivalent of a 150 watt frosted incandescent bulb) shall utilize cut-off fixtures with a flat lens. All cut-off fixtures, except for "accent" lighting fixtures, shall be installed parallel to the ground or at a zero degree horizontal angle. All cut-off fixtures installed within five feet of the property line shall utilize a horizontal lamp with house-side shields. Sag lenses are prohibited. Non cut-off and accent lighting fixtures are prohibited to be installed within five feet of the
property line. Interior to the site, non cut-off fixtures or luminaires may use any lighting source but are limited to light intensities equal to or less than 2,780 initial lumens.

(2) The maximum illumination measured at the property line of abutting residential zoning shall not exceed two-tenths footcandles. On abutting non-residential properties or public streets, the maximum illumination at the property line shall be five footcandles or the ambient lighting from street lights, whichever is less.

(3) No light source shall exceed an illumination of 50 footcandles without a conditional use being granted upon demonstration of the need for highly exacting measurements or other activities that necessitate such illumination-levels. Normal commercial activities including gas stations, fast food or automobile dealerships do not require illumination in excess of the standards.

(4) Accent lighting is hereby defined as the lighting of area(s) within a site which emphasizes key architectural elements of the site's building(s), particular objects such as a piece of art or retail displays, or landscaped areas without creating shadows or hot spots resulting in uneven site lighting conditions. All lighting fixtures (cut-off or non cut-off) utilized to provide accent lighting shall be so designated on the site's engineered site plan. Accent lighting fixtures providing illumination for specific portions of a building's wall area are known as wall-washers. Wall-washer light fixtures are cut-off or non cut-off lighting fixtures normally mounted at ground level and aimed at an upward angle to cast illumination upon an adjacent building's wall. Up-lighting is the term used to describe the lighting of objects located above the horizontal plane of the lighting fixture. Down-lighting is the term used to describe the lighting of objects located below the horizontal plane of the lighting fixture. Accent lighting fixtures which utilize up-lighting or are used to illuminate landscape vegetation shall be limited to a maximum 5.0 foot-candles lighting threshold in order to limit the adverse impacts of light pollution (illumination of the night sky). Accent lighting fixtures which utilize down-lighting shall be limited to a reduced 35.0 foot-candle maximum lighting threshold in order to limit the adverse impacts of glare and reflection.

(c) Notwithstanding anything in this section to the contrary, the following regulations shall apply to all publicly owned athletic facilities or properties zoned GML for Athletic Facility Area Lighting.

(1) For athletic facility area lighting installations, the number and placement of poles, and the mounting heights and number and wattage of fixtures on each pole, shall be as necessary to meet the standards and criteria for player safety and spectator viewing as established by athletic sanctioning organizations or illumination engineering organizations as approved by the board of county commissioners; provided that:

a. Mounting height of the fixtures shall not be greater than 100 feet above the grade at the base of the pole, unless a variance is approved by the board of adjustments after following the procedures implemented for issuance of said variance;

b. All fixtures shall be equipped with glare and light spill control accessories;

c. The maximum illumination at the property line with abutting residential zoning shall not
exceed two-tenths footcandles, and on abutting nonresidential properties or public streets, the maximum illumination at the property line shall be five footcandles;

d. On athletic facility areas constructed or purchased and designed prior to November 7, 2000, installation of new or replacement of existing athletic area lighting will require the following:

Maximum illumination at the property line with abutting residential zoning shall not exceed three and one-half footcandles, and on abutting nonresidential properties or public streets, the maximum illumination at the property line shall be five footcandles.

(Code 1979, § 14-20.42(D)(5); Ord. No. 2000-07, § 7, 1-25-00; Ord. No. 2003-29, § 1, 7-22-03; Ord. No. 2005-05, § 1, 2-3-05)

Sec. 62-2258. Reserved.


Sec. 62-2259. Vibration.

(a) Vibration shall mean a periodic motion of the particles of an elastic body or medium in alternatively opposite directions from the position of equilibrium when that equilibrium has been disturbed; the action of vibrating; the state of being vibrated.

(b) Vibrations of an elastic medium which are audible, visible or sensible to a normal person of normal sensibilities shall not be permitted or discernible at or beyond the property line of the parcel or lot from which the vibration is emanating. Examples of vibration sources would include: drop forges, vibrating heavy machinery and high power/low frequency sound sources which result in ground vibration.

(Code 1979, § 14-20.42(D)(7); Ord. No. 97-49, § 24, 12-9-97; Ord. No. 2000-07, § 7, 1-25-00; Ord. No. 01-45, § 2, 9-4-01)

Sec. 62-2260. Electrical radiation.

Any electrical radiation shall not adversely affect, at any point on or beyond the lot line, any operation or equipment other than that of the creation of the radiation. Avoidance of adverse effects from electrical radiation by appropriate single or mutual scheduling of operations is permitted.

(Code 1979, § 14-20.42(D)(8); Ord. No. 2000-07, § 7, 1-25-00)

Sec. 62-2261. Heat and humidity.

All uses shall ensure that no impacts of heat, humidity, or steam are measurable at the property line to a height of 30 feet.

(Code 1979, § 14-20.42(D)(9); Ord. No. 2000-07, § 7, 1-25-00)

Sec. 62-2262. Fire and explosion hazards.

In the IU-1 district only, storage, utilization or manufacture of solid materials or products including free-burning and intense-burning materials is permitted providing that such materials or products shall be stored,
utilized or manufactured within completely enclosed buildings having incombustible walls and protected throughout by an automatic fire extinguishing system. In the IU-1 district only, the storage, utilization or manufacture of flammable liquids or materials which produce flammable or explosive vapors is permitted if in accordance with all applicable laws and ordinances.
(Code 1979, § 14-20.42(D)(10); Ord. No. 2000-07, § 7, 1-25-00)

Sec. 62-2263. Radiation.

All uses involving radioactive materials shall meet state and federal standards.
(Code 1979, § 14-20.42(D)(11); Ord. No. 2000-07, § 7, 1-25-00)

Sec. 62-2264. Waste disposal.

No waste material or refuse shall be dumped upon or permitted to remain upon any part of any property outside of the buildings constructed thereon. All sewage and industrial waste shall be treated and disposed of in such manner so as to comply with the standards of the county health department and state and federal regulations. All plans for waste disposal facilities shall be required before the issuance of any building permit.
(Code 1979, § 14-20.42(D)(12); Ord. No. 2000-07, § 7, 1-25-00)

Sec. 62-2265. Airborne emissions.

All emissions shall be as permitted by the State of Florida. Under no circumstance shall the emission levels involve the importation of air pollution credits into the county, even if the state would issue a permit on that basis. No use requiring a Title V permit, as defined and regulated by the state department of environmental regulation, or a construction permit that would lead to a Title V permit (excluding a Title V General Permit), shall be permitted in the county except through the issuance of a conditional use permit.
(Ord. No. 99-45, § 4, 8-12-99; Ord. No. 2000-07, § 7, 1-25-00)

Sec. 62-2266. Water quality.

All sewer discharges shall be approved by the county manager or his/her designee. All point source discharges shall have a national pollution discharge permit. Storm water facilities shall meet the requirements of article X of this chapter. All industrial uses will meet all state and federal point and non-point water quality standards, discharge standards, or any pretreatment requirements. Reclaimed water should be used in all processes and/or operations to the greatest extent practicable.
(Ord. No. 2000-07, § 8, 1-25-00)

Sec. 62-2267. Water consumption.

All uses consuming more than 100,000 gallons per day of potable water shall be conditional uses.
(Ord. No. 2000-07, § 8, 1-25-00)

Sec. 62-2268. Signs.

All signs shall meet the provisions of article IX of this chapter.
(Ord. No. 2000-07, § 8, 1-25-00)

All uses shall comply with state and federal standards. Any use that is required to submit a federal risk management plan (RMP) shall submit the same to the county at the time of site plan approval. The county shall review the site plan in light of minimizing risk to neighbors, the county, or the environment. The county may impose design conditions to maximize protection of the health and safety. Any use which requires a RMP shall not be permitted in the BU-1 or BU-2 Districts.

(Ord. No. 2000-07, § 8, 1-25-00)

Sec. 62-2270. Access.

Defines the type of road that an industrial development or lot that is not in a subdivision shall access. Access for industrial uses shall not traverse a residential neighborhood's collector roadway unless access is not otherwise feasible and is approved by the board of county commissioners. All uses that involve heavy truck traffic or loads on a county road shall receive certification from the county department of transportation that the road base is sufficient to carry the load weight and frequency of the proposed traffic. Where road base is insufficient the permit shall be denied, unless there are suitable funds provided by the developer to upgrade the road to handle the proposed load, or an agreement is adopted by the board of county commissioners and the developer to address the issue in some other acceptable manner.

(Ord. No. 2000-07, § 8, 1-25-00)

Sec. 62-2271. Noise.

(a) Terminology, standards and definitions.

(1) Terminology and standards. All technical acoustical terminology and standards used in this article which are not defined in subsection (2) shall be read or construed in conformance with the American National Standards Institute, Inc., (ANSI) publication entitled "Acoustical Terminology, designated as ANSI S1.1-1960, or its successor publication.

(2) Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, unless the context clearly indicates a different meaning:

a. A-weighted sound pressure level shall mean the sound pressure level, in decibels, as measured on a sound level meter using the A-weighting network. The level so read shall be designated as dB (A-wt)

b. Ambient noise level shall mean the sound pressure level of the all-encompassing noise emanating from a given environment, usually being a composite of sounds from many sources.

c. ANSI shall mean the American National Standards Institute.

d. Construction activities shall mean any and all activity incidental to the erection,
demolition, assembling, altering, installation or equipping of buildings, structures, roads or appurtenances thereof, including land clearing, grading, excavating and filling.

e. **Decibel** or **dB** shall mean a unit for describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micro-newtons per square meter.

f. **Emergency** shall mean any occurrence or circumstance involving actual or imminent physical death or trauma, or property damage, demanding immediate emergency work or service.

g. **Emergency work or emergency service** shall mean any labor performed for the purpose of preventing or alleviating, or attempting to prevent or alleviate, an emergency.

h. **Equivalent sound pressure level (Leq)** shall mean a sound level descriptor based on the average acoustic intensity over time. Leq is intended as a single number indicator to describe the mean energy or intensity level over a specified period of time during which the sound level fluctuated, Leq is measured in dB and must be A-weighted.

i. **Impulsive sound** shall mean a sound of short duration, usually less than one second and of high intensity, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include pile drivers, drop forge impacts, the discharge of firearms, the barking of dogs, and the beating of drums.

j. **Motorboat** shall mean any boat or vessel propelled or powered by machinery, regardless of whether such machinery is the principal source of propulsion, including boats, barges, amphibious craft, water ski towing devices and hovercraft.

k. **Motor vehicle** shall mean any vehicle defined as motor vehicle by F.S. § 320.01(1)

l. **Multifamily residential dwelling** shall mean a building designated or used exclusively for residential occupancy by two (2) or more families.

m. **Multifamily residential dwelling unit** shall mean the portion of a multifamily residential dwelling designed or used exclusively for residential occupancy by only one family.

n. **Noise** shall mean any sound produced in such quantity and for such duration that it annoys, disturbs or may injure a reasonable man or woman of normal sensitivities.

o. **Person** shall mean an individual, association, partnership, or corporation, including any officer, employee, department, agency or instrumentality of the United States, the state or any political subdivision thereof.

p. **Plainly audible sound** shall mean any sound for which the information content of that sound is communicated to the listener, including understandable spoken speech or comprehensible musical rhythms.
q.  *Powered model vehicle* shall mean any self-propelled airborne, waterborne, or landborne plane, vessel, or vehicle, which is not designed to carry persons, including any model airplane, boat, car, or rocket.

r.  *Property line* shall mean an imaginary line along the surface of land or water, and its vertical plane extension, which separates the real property owned, rented or leased by a person from the real property owned, rented or leased by another person. Where the real property owned, rented or leased by a person abuts a waterbed, the term "property line" shall mean the established normal high water elevation of the waterbed.

s.  *Public right-of-way* shall mean any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by the county.

t.  *Pure tone* shall mean any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of measurement, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by five dB for center frequencies of five hundred (500) Hz and above and by eight dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

u.  *RMS sound pressure* shall mean the square root of the time averaged square of the sound pressure.

v.  *Sound* shall mean an oscillation in pressure, stress, particle displacement, particle velocity or other physical parameter, in a medium with internal forces. The description of sound may include any characteristic of such sound, including duration, intensity, and frequency.

w.  *Sound level* shall mean the weighted sound pressure level obtained by the use of a metering characteristic and weighting A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971), or successor publications. If the weighting employed is not indicated, the A-weighting shall apply.

x.  *Sound level meter* shall mean in instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting network used to measure sound pressure levels. The output meter reads sound pressure level when properly calibrated. The sound level meter shall be of type 2 or better as specified in the American National Standards Institute publication entitled "Specifications for Sound-Level Meters," designated as ANSI S1.4-1971.

y.  *Sound pressure* shall mean the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by the presence of sound energy.
z.  *Sound pressure level* shall mean a 20 times the logarithm to the base ten of the ratio of the RMS sound pressure to the reference pressure of 20 micro-newtons per meter squared. The sound pressure level is denoted Lp (or SPL) and is expressed in decibels.

aa.  *Use* shall mean any activity, event, operation or facility which creates noise.

bb.  *Water craft* shall mean any machine in, upon or by which any person or property is or may be transported or drawn upon or over any watercourse or body of water, including swamp lands; this term shall include hovercraft and air boats.

(b)  **Measurement of sound.** Sound shall be measured with a sound level meter. Sound meters utilized for enforcement action shall have data logging capability and output to preserve a graphical record of measurements. Sound measurements shall be taken so as to secure and ensure an accurate representation of the sound. Sound level meters shall utilize an A-weighted filter, set to slow response, with a 3dBA doubling rate and no cut-offs. Measurements of sound in support or defense of an enforcement action shall be performed by individuals with documented training and/or experience in the collection and interpretation of sound level data.

1.  The sound level shall be measured at a distance no closer to the point from which the sound in question is emanating than the property line of the parcel or lot from which the sound is emanating.

2.  A measurement period shall be not less than 15 minutes in duration.

3.  The sound being measured shall be representative of the sound which instigated the complaint.

4.  A measurement should be taken at approximately five feet above the ground or water surface, away from any obstruction or reflecting surface.

5.  A microphone windscreen shall be required to avoid wind noise biasing of a measurement.

6.  All manufacturer's directions on the operation of the sound level meter shall be followed (e.g., proper microphone angle).

7.  All sound level meters used for measurement shall be in conformance with ANSI section 1.4-1983.

8.  All octave and third octave band filter sets of the sound level meter shall be in conformance with ANSI section 1.11-1976.

9.  Calibration of all instruments, components, and attachments shall conform to the latest ANSI standards and manufacturer's directions and specifications.

10. Instrumentation for sound level measurements may be class 1 or class 2 (ANSI section 1.4-1971).
(c) Maximum permissible sound levels; land use categories, times; and adjustment for character of sound.

(1) Subject to subsections (2) and (3) below, at no time shall the predicted or actual sound pressure levels emitted by the proposed use exceed the sound pressure levels specified in the table below at the closest property line of the below specified uses. If a use is located within a strip center, the noise level will be monitored from the outside wall of the use.

Table 1

Maximum Permissible Time Averaged (Leq) A-Weighted Sound Pressure Levels for Receiving Uses

<table>
<thead>
<tr>
<th>Type of Use</th>
<th>Time Period</th>
<th>Maximum Allowable Sound Pressure Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>7:00 a.m. to 10:00 p.m.</td>
<td>60 dB(A)</td>
</tr>
<tr>
<td></td>
<td>10:00 p.m. to 7:00 a.m.</td>
<td>55 dB(A)</td>
</tr>
<tr>
<td>Commercial</td>
<td>7:00 a.m. to 10:00 p.m.</td>
<td>65 dB(A)</td>
</tr>
<tr>
<td></td>
<td>10:00 p.m. to 7:00 a.m.</td>
<td>55 dB(A)</td>
</tr>
<tr>
<td>Industrial</td>
<td>7:00 a.m. to 10:00 p.m.</td>
<td>75 dB(A)</td>
</tr>
<tr>
<td></td>
<td>10:00 p.m. to 7:00 a.m.</td>
<td>65 dB(A)</td>
</tr>
</tbody>
</table>

(2) For any source of sound that emits a continuous pure tone, the sound level limits set forth in Table 1 shall be reduced by five (5) dB (A-weighted).

(3) Impulsive sound shall not exceed the maximum sound levels contained in Table 1 during the hours of 7:00 AM to 10:00 PM. Impulsive sound is not permitted during the hours of 10:00 PM to 7:00 AM.

(d) Prohibited acts.

(1) Subject to the provisions of this section, no person shall produce, cause to be produced, or allow to be produced, by any means, any sound within any private or public property, including a right-of-way, which sound, when measured pursuant to this section, exceed the applicable sound level limits set forth in this section.

(2) Noises determined and enumerated as public nuisances under Part II Code of Ordinances Chapter 46, Article IV, Section 131.

(e) Exemptions. The provisions of section 62-2271 shall not apply to the following sounds or vibrations.

(1) Cries for emergency assistance and warning calls. Emergency signals during emergencies. Emergency testing between 7:00 AM and 7:00 PM.
(2) Radios, sirens, horns and bells on police, fire and other emergency response vehicles. Law enforcement activities including training.

(3) Parades, fireworks displays and other special events for which a permit has been obtained from the county, within such hours as may be imposed as a condition for the issuance of the permit.

(4) Activities on or in county and school athletic facilities and on or in publicly owner property and facilities, provided that such activities have been authorized by the owner of such property or facilities or its agent.

(5) Fire alarms and burglar alarms, prior to the giving of notice and a reasonable opportunity for the owner or tenant in possession of the premises served by any such alarm to turn off the alarm.

(6) Religious worship activities, including but not limited to bells and organs, as long as such noise, because of its volume level, duration and character does not annoy, disturb, injure or endanger the comfort, health, peace or safety of a reasonable person of ordinary sensibilities.

(7) Railway locomotives and other railroad equipment, aircraft and airport activity in accordance with federal laws and regulations.

(8) Motor vehicles operating on a public right-of-way subject to F.S. § 316.293 and applicable Federal criteria.

(9) The operation of lawn mowers, edgers, trimmers and power driven hedge shears, meeting applicable manufacturers' specifications as to sound, is allowed in a residential zone between the hours of 7:00 am and 8:00 p.m.

(10) Operation of water craft upon any watercourse, lake, river, or swamp in the unincorporated county. Such exception shall not apply to noise or sound prohibited under section 46-131(14), or to noise or sound generated by water craft impacting abutting land areas (unless located at or on a properly zoned marina, water craft repair shop or manufacturing facility).


(12) Construction activities for which the county has issued a development permit, as defined in F.S. § 163.3164, provided such activity occurs between 7:00 am and 10:00 pm.

(13) Air blasts as a result of mining activity as regulated by the State of Florida Fire Marshall.

Sec. 62-2272. Performance standards for industrial uses in commercial classifications.

All uses shall meet the general standards in sections 62-2251--62-2271. Industrial uses indicated as "Conditional Use Permit" in the commercial districts (BU-1 and BU-2) in Table 2 of section 62-1540 shall be permitted subject to meeting the following additional standards:
(1) **Operating hours:** Shall adhere to whichever neighboring use is opened the latest. Hours of operation of a new user of a structure may match those of the previous user.

(2) **Maximum building height:** As regulated in the maximum building height allowances of the respective zoning districts in the Code.

(3) **Exterior storage:** None. All processes within the building; no open sides or bay doors may be kept open.

(4) **Truck limits:** No shipments shall occur between 8:00 p.m. and 6:00 a.m.

(5) **Building materials:** No completely metal sided buildings shall be permitted. Buildings using metal siding shall have a minimum of 45 percent masonry and/or glass and use metal siding that presents a flat smooth appearance. Tilt slab buildings shall be permitted provided that they have window, roof, and/or decorative panel and color changes to provide interest in the facade.

(6) **Emissions:** No combustion, dust, or evaporation processes resulting in emissions outside of the structure shall be permitted in these districts. Heating and cooling of the building is exempted from this limitation.

(2000-50, § 7, 10-31-00)


**Subdivision IV.**

**St. Johns Heritage Parkway Corridor Management Area**

Sec. 62-2301. St. Johns Heritage Parkway Corridor management area.

(a) Purpose. The purpose of the St. Johns Heritage Parkway Corridor management area is to:

(1) Using incentives that may include impact fee credits; grants for economic development; access; the waiver or relaxation of regulations governing the review or approval of subdivisions and site plans; or, where necessary, acquisition, ensure that the right-of-way and interests in real property necessary to construct the transportation facilities planned for the proposed St. Johns Heritage Parkway and related stormwater or other related improvements, is obtained and protected from incompatible encroachments.

(2) Ensure that property owners and the citizens of the county benefit fairly and equitably from the proposed St. Johns Heritage Parkway.

(3) Ensure that due process is provided to all affected property owners through the establishment of an appeal process.

(b) Applicability. This subdivision shall apply within all areas wholly or partially within the corridor...
in unincorporated territory identified on map #3 of the transportation element of the county comprehensive plan, a copy of which is attached to Ord. No. 07-32 as figure 1. In addition, the county commission may allow the transfer of specific incentives into areas within or adjacent the corridor area, for the benefit of affected persons or their successors in interest.

(c) Incentives. Where a developer has proposed or the county has approved plans or other documents establishing the specific location of property where right-of-way for the road and other stormwater or related improvements will be required for the construction of the St. Johns Heritage Parkway, affected persons donating such property to the county shall, subject to the provisions of subsection (d) and applicable notice and hearing requirements established by law, be eligible to apply for the following development incentives in conjunction with a plan of development proposed within the designated corridor area or within property adjacent to the corridor area when combined with an area designated for acquisition or improvement within the designated corridor area:

(1) Impact fee credits;
(2) Additional parkway access;
(3) Waivers or relaxation in the regulatory requirements normally established for subdivisions, multifamily, commercial or industrial developments;
(4) Grants for economic development;
(5) Transportation concurrency waivers on roadways other than the St. Johns Heritage Parkway, provided the level of service on such roadways is consistent with that established in the applicable comprehensive plan for such a roadway; or
(6) Such other innovative incentives that may be proposed by the applicant and agreed to by the county commission.

(d) Standards for approval of incentives. Subject to compliance with any applicable notice and hearing requirement established by law, the incentives identified in subsection (c), may, at the commission's discretion, be granted for a plan of development if the following standards are met:

(1) The monetary value of the incentives approved may not exceed 200 percent of the combined value of the interests in land donated and severance damages to the remainder, if any, as such values are determined in the manner specified in subsection (e);
(2) The incentives approved shall not operate to cause a substantial and detrimental effect or impact upon the public safety or welfare;
(3) All required notices and public hearings must be complied with;
(4) An incentive proposal may be conditioned upon the clustering of specific types of land uses at intersections of arterial or collector roads serving the area proposed for development and property approved for such uses may be required to use service roads, or other transportation
management mechanisms approved by county staff, to access the parkway at intervals established by the board.

(5) Transportation concurrency waivers on specific roadway segments shall, cumulatively, not exceed 125 percent of the average daily trips used to establish a designated level of service for that roadway segment.

(e) Valuation of incentives. The value of the donated right-of-way, easement or other interest in land and incentives sought by the applicant, for the purposes of determining whether those values meet the 200 percent restriction established in subsection (d), shall be determined in the following manner:

(1) The applicant for the incentives shall, at applicant's expense, provide a letter opinion estimating the value of the incentives from a licensed appraiser. The opinion shall establish the value of the donated right-of-way, easement or other interest in land and of each component of the incentive package being sought by the applicant.

(2) The county commission, in its discretion, may, at its expense, seek a second opinion from a licensed appraiser concerning the value of the incentive package. If the values established in the two opinions are more than 20 percent apart on either the value of the donated right-of-way, easement or other interest in land or the value of the incentive package, the two appraisers shall meet and attempt to reconcile the difference.

a. If a reconciliation occurs, the county commission shall accept the result for the purpose of establishing the value of the incentive package.

b. If the appraisers cannot reconcile the two opinions, the two appraisers shall select a third appraiser, at the county's expense, to review the two opinions and determine which of the two opinions more accurately reflects the values of the donated land and of each of the components of the incentive package, which opinion shall be dispositive of the valuation issue.

c. In the event the final disposition results in a determination that the value of the incentive package exceeds 200 percent of the value of the donated right-of-way, easement or other interest in land the county commission may either:

1. Deny the application, or

2. Allow the developer to remove one or more components of the incentive package to bring the incentive package within the 200 percent restriction.

(f) Upon acceptance of an applicant's incentive package and after any required public notice and hearing, the applicant and county shall execute a recordable developer's agreement setting forth the specific incentives approved. The agreement shall include provisions specifying:

(1) That the required right-of-way, easement or other interest in land shall be transferred to the county before the incentives are implemented;
(2) A description of the property benefited by the approved incentives;

(3) That the specified incentives shall inure to the benefit of the applicant/donor's successors in interest; and

(4) Such other provisions deemed appropriate or required by law.

Within 30 days after the date of execution by the applicant and the county, the developer's agreement shall be recorded in the public records of the county.

(g) In the event right-of-way, easement or other interest in land necessary for the construction of the St. Johns Heritage Parkway is required in circumstances where an owner or developer applying for development approval chooses not to utilize incentives provided for in this subdivision, at its discretion, the county commission may initiate negotiations for the purchase of the required right-of-way.

(1) Such negotiations shall be concluded within a period not to exceed six months following the date the applicant has submitted a formal application for development approval.

(2) During the negotiation period, the county's review of development plans shall be held in abeyance until the six-month period expires, unless extended at the request of the applicant.

(3) If no agreement has been reached at the conclusion of the six-month period or any extension period authorized by the applicant, the county shall begin the process of reviewing the application for development approval, provided, however, the county may simultaneously begin the process of adopting a resolution of necessity declaring the intent of the county to institute eminent domain proceedings for the acquisition of the property, which resolution must be adopted within 45 days after the six-month negotiation period expires, provided that the county must continue to review the application for development approval in the manner specified in applicable county ordinances during this 45-day period. If the resolution of necessity is adopted, review of the application of development approval shall cease. If the resolution is not adopted by the end of the 45-day period, the application shall be reviewed and approved, approved with conditions or denied in accordance with all applicable laws and county ordinances.

(h) In the event any portion of the property subject to the incentive provisions of this subdivision is annexed by a city, the incentives provided for in this subdivision may be extended by agreement of the annexing city, county and owner/developer if:

(1) The city passes an ordinance adopting the incentives provided for in this subdivision, and

(2) The county and annexing municipality enter into an interlocal agreement, consented to by the owner/developer, which provides for the grant or continuation of such incentives. In the event of any such proposed annexation and interlocal agreement, neither this subdivision nor any of its provisions shall be implemented or construed in a manner that has the effect of impairing any previously executed developer's agreement granting incentives.

(Ord. No. 07-32, § 1, 5-24-07)

Editors Note: The figure 1 referenced in this section is not set out at length herein, but can be found in the office of the
county clerk.