

TOWN OF MALABAR
PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 1
Meeting Date: MAY 14, 2014

Prepared By: Denine M. Sherear, Planning and Zoning Board Secretary

SUBJECT: Approval of Minutes

BACKGROUND/HISTORY:

The minutes must reflect the actions taken by the Board:

- Who made the Motion
- What is the motion
- Who seconded the motion
- What was the vote

Malabar has historically included discussion to provide the reader the understanding of how the Board came to their vote. It is not verbatim and some editing is done to convey the thought. People do not speak the way they write.

ATTACHMENTS:

Draft minutes of P&Z Board Meeting of April 23, 2014 (not ready)
Draft minutes of P&Z Board Meeting of March 12, 2014
Draft minutes of P&Z Board Meeting of December 11, 2013

ACTION OPTIONS:

Secretary requests approval of the minutes.

"The following draft minutes are subject to changes and/or revisions by the Planning and Zoning Board and shall not be considered the official minutes until approved by the P&Z Board."

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
MARCH 12, 2014 7:30 PM**

This meeting of the Malabar Planning and Zoning was held at Town Hall at 2725 Malabar Road.

A. CALL TO ORDER, PRAYER AND PLEDGE:

Meeting called to order at 7:30 P.M. Prayer and Pledge led by Chair Pat Reilly.

B. ROLL CALL:

CHAIR: PAT REILLY
VICE-CHAIR: LIZ RITTER
BOARD MEMBERS: BUD RYAN
DON KRIEGER
GRANT BALL
ALTERNATE: GEORGE FOSTER
ALTERNATE: VACANT
BOARD SECRETARY: DENINE SHEREAR

C. ADDITIONS/DELETIONS/CHANGES: Bud said he regrets missing earlier meeting; he had flu and then viral conjunctivitis then convulsive dogs. Members welcome him back.

D. CONSENT AGENDA:

- 1. Approval of Minutes** Planning and Zoning Meeting – 02/26/2014
Exhibit: Agenda Report No. 1
Recommendation: Motion to Approve

Chair asked for a motion to approve P&Z minutes of 2/26/2014.

MOTION: Grant / Don to approve with corrections.

Liz: pg 2 – 2/3rd down large para, does the 90% refer to wetlands – that seems high? Denine will check tape. Grant said further down on same page - the properties that are wetlands are valued at considerably less "than" not then. Further down it says St John's and should be St Johns River Water Management District for the first time. Last para, "have" instead of "are" they already "been" sold"?"

Pg 3, Callagy is misspelled multiple times. Para before that, why has there not been permits pulled for ponds: At end of sentence should say "in the town of Malabar". Above that Reilly said Foundation Pk is there two double lanes – sb "are" there two double lanes. I have supported Don Baker re: Ind because if have CG that is not being used we are losing those taxes. Town was "blindsided" sb blindsided"; then sb I-95. Then several references to tax "basin" sb tax base. Then Don and David sb Don Barker and David Miller. Businesses – plural - is correct. Then another basin. Then receive sb received. Done then said the line that said the study was "successful" – that is what was said but what does that mean? It implies something was accomplished. Next page Reilly "explained" to Board. The Board "discussed". Krieger asked why it came back to Board for action. Chair – anything else? Pg 5, Ritter never liked Rural LC; sb Residential LC. Grant said that in line that starts Krieger explained there is an "a" that needs to be deleted. Then that is your land use today – delete "for" before today. Chair said it is understandable; don't nitpick. Chair asked anything else. Ritter said next page, pg 6, line 6 – we have not changed what but where RLC is. Because now we get to look "at" it again. Reilly said we have a Future Land Use Map (FLUM) that we use – take out presently. Pg 7, Don said it is DCA not CDA. (Note: it is no longer DCA it is DEO – Dept of Economic Opportunity). Don said same page at bottom, has vs. have. Liz, pg 8, Line started "Foster – last full line – has capital "W". Also business people "were" not "where". Grant said he found another correction on pg 7, 4th para from bottom, last line sb mixed use. No other corrections.

VOTE: All Ayes.

E. **PRESENTATION:** none

F. **ACTION:**

2. **Requests by Applicant: Mr. John Waclawski to revise Proposed FLUM Map, vacant property is located on Babcock Street & Osage Street at Parcel I D# 29-37-10-00-00568**

Exhibit: Agenda Report No. 2

Recommendation: Discussion/Action to Council

Chair asked applicant to give his name and explain his request. He said back in 1984, he was a realtor and bought three parcels on Babcock Street that were commercial and three parcels behind that and he considered those properties to be their retirement. Torpy was his attorney. It is now OI and he wants it reverted back to B-2 Commercial. He has the plans for a strip mall that was planned for that parcel. He thought he could sell it for 365K and had an offer but there were complications. He has been trying to sell it for 75K with no takers. It is valued now at 65K. He is trying to liquidate his properties and has no interested buyers with the OI. He would like to go back to the B2 zoning so he can possibly sell it for more. He is not concerned about the other parcels in the back but wants the corner piece to be changed to B2. Back in 1984, he was in the tree business and gave a bunch of trees to town hall and they stayed out front and months later they were still out front because they did not have the resources to plant them. He recently met with town staff and they were all excellent, very helpful and he again offered trees and was told they had recently laid off some staff and did not have the capability to plant them at this time. He suggested making it a Scout project but has not heard back yet. He has all the paperwork from 1984 showing it was B-2 zoning and he has the offer he was given back then for \$365K. He is just trying to liquidate for as much as he can. Any Questions?

Chair asked if he could prove the B2. What Chair has shows it as B1. Chair said he is engineer and needs to have facts. Applicant handed him paperwork. Chair sees that there was a B2 zoning but since applicant owned multiple lots he was to verify that the paperwork refers to the parcel in question. On here it says Lot 23 and now it refers to parcel 5 something. It is 568. He wants to make sure they are talking about the same property.

(Note: Lot numbers reference the 20-acre parcels when it was originally platted. Subsequent land divisions created parcels within the Lot. Staff will provide land division definitions of Township, Range, Section, Lot and Parcel)

Applicant said the property to the north has the church (Brevard Worship Center) and that was zoned B1. His parcel was B2. Chair just wanted to make absolute certain that the parcel under discussion was B2 because there is a big difference between B1 and B2.

Applicant referenced Ord 91-3. Chair said look at page 3 of 24 of the package; its says the property was changed from RR to B1. Applicant said that was the house to the north that later became the church and the vacant land behind it.

Chair said the agenda report states that the property was rezoned at request of applicant from RR to B1. That is his concern. Applicant asked what the difference was with B2. Chair said it is huge; it is a deal breaker. Applicant said it was then changed by the Town to OI.

Chair suggests that they table this until they get definitive evidence that the parcel in question was changed to B2. Motion was made to table. Don said before it is seconded he wanted to ask questions of the applicant. Once a motion is tabled and seconded, there can be no more discussion. Chair explained that B1 was low density general commercial; B2 was high density general commercial. Applicant said he had all the plans for a gas station and strip center. Chair said he believes it was B1 and he could still do that as a conditional use. Chair referred Board to page 1283 of old 1988 code book placed in front of each member. You can put a service station in B1 as a conditional use. Chair pointed out that the area abuts a residential area. They like to have

a buffer between commercial and residential. Applicant said he just wants the highest density so he can get rid of the property. There has been virtually no development in the past 36 years.

Chair said at previous meeting a property owner in this same area requested a zoning change and half of the residents living off of Booth Lane and Lett Lane were here – they packed the house to fight the request. Chair said back in 1991 all the B1 was changed to OI. There was an ad placed in the newspaper 1" x ¼" ad with 000 font. Chair states that the advertising is legal but not necessarily ethical.

Bud told applicant that in his opinion the Board may not be able to grant the requested change. Chair asked Denine to put map on overhead; the whole area was RR and then the lots that were changed were changed via individual requests.

Chair asked how church got rezoned to CG. Chair said Board actually was going to propose to Council that all the properties along Babcock Street be changed to OI. Chair said in his opinion applicant could come back and ask for a change from OI to CL since CL is higher use than OI but not as high as CG. Applicant said he would like that change. Don asked applicant if he had read the permitted and conditional uses for OI? Don told applicant to get copy of the permitted and conditional uses for OI. Chair said service stations are possible in CL as a conditional use. Don told applicant to not do anything regarding rezoning and just let potential buyer know if they have a legitimate project that would fit the requested zoning changes, the Board would seriously consider it. Don said to ask for a rezoning for land speculation purposes is not within this Board's job.

MOTION: Don / Bud to table this item until they get the information they have requested. Denine asked for the information to be repeated. Don said the original zoning of that particular parcel, original zoning of adjacent parcels, and records of all changes; that would be 1984, 1988 and 1991. Liz said Denine needed to get the current parcels and how they changed from the lot numbers. Chair said Denine should get the zoning on the west side in Palm Bay and the zoning to the south in Grant Valkaria.

VOTE: All Ayes

G. DISCUSSION:

3. Future Land Use Maps and Defining R/LC

Exhibit: Agenda Report No. 3
Recommendation: Discussion

Speaker cards: Juliana Hirsch, she declines.

Chair called up other Speaker card for under Public so they don't have to sit through the discussion.

Speaker Card: Mary Ellen, lives in Palm bay but is looking at property in Malabar and would like to open the business and move to Malabar. The property she is looking at is 2605 Malabar Road. She would like to use it for a dog daycare and boarding facility. It is 11.25 acres and the building is 2400sf. She explained how she would like to fence the property in separate areas to separate the dogs by size and temperament. She understands the zoning would have to change and is asking about the likelihood of getting it changed from OI to R/LC. Chair said it would need to be a higher density than that. Her request does not fit in that zoning. She asked what zoning would she be looking for. Chair said Industrial. Don said it is a rental and it would have to be a conditional use tied to the rental so it could not be a similar use after the rental is up. Board thanked her for coming in. She thanked Board.

Board discussed broad principles and how major corridors may develop as residential but if owners are willing to do the financial investment they should be able to.

H. ADDITIONAL ITEMS FOR FUTURE MEETINGS:

I. PUBLIC:

Juliana Hirsh 1035 Malabar Road, Malabar FL She voiced her opinion on the R/LC and her property and concurred with what Foster was saying.

J. OLD BUSINESS/NEW BUSINESS:

K. ADJOURN

There being no further business to discuss, **MOTION: Bud / Liz to adjourn this meeting. Vote: All Ayes.** The meeting adjourned 9:50 P.M.

BY:

Pat Reilly, Chair

Denine Sherear, P&Z Board Secretary

Date Approved: as corrected

"The following draft minutes are subject to changes and/or revisions by the Planning and Zoning Board and shall not be considered the official minutes until approved by the P&Z Board."

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
DECEMBER 11, 2013 7:30 PM**

This meeting of the Malabar Planning and Zoning was held at Town Hall at 2725 Malabar Road.

A. CALL TO ORDER, PRAYER AND PLEDGE:

Meeting called to order at 7:30 P.M. Prayer and Pledge led by Chair Pat Reilly.

B. ROLL CALL:

CHAIR:	PAT REILLY
VICE-CHAIR:	LIZ RITTER
BOARD MEMBERS:	BUD RYAN
	DON KRIEGER
	GRANT BALL, EXCUSED
ALTERNATE:	GEORGE FOSTER, VOTING FOR BALL
ALTERNATE:	VACANT
BOARD SECRETARY:	DENINE SHEREAR

ADDITIONAL ATTENDEES: COUNCIL MEMBER ACQUAVIVA

C. ADDITIONS/DELETIONS/CHANGES: Chair said he would like to move public before the Discussion so they didn't have to sit through whole meeting. No objections.

D. CONSENT AGENDA:

1. **Approval of Minutes** Planning and Zoning Meeting – (not ready)

MOTION: BUD/ DON TO TABLE TO NEXT MEETING.

PUBLIC AGENDA ITEM "I" MOVED HERE:

Tim ?, pastor of Brevard Worship Center, 6825 Babcock Street introduced himself and their plan to build a new church and parking lot on the property in front of the existing metal buildings. They will keep the existing buildings and use them for offices or other church purposes. The request is scheduled for the P&Z agenda of January 8, 2014. Don asked about the driveway. Pastor explained that the driveway will stay the same and is located just north of Booth Road and south of Ace Hardware. He just wanted to introduce himself. Board thanked him.

Kim Frodge of Nanna's House: She explained their mission is to help children of abusive homes and give them a safe place to stay. They have been doing this for the last five years. They are completely community funded. They take in newborn babies to age 11. She is hoping to build a gated community of eight block homes with metal roofs with five children max in each home for a total of 40 children. Pat explained that the development she is describing would need property in R-M4 or R-M6 zoning, both along Highway 1. Don said she would have to have a minimum of 1 for each house in order to get septic. Don thinks it falls under the subdivision code. You would have to have eight wells not one and same with septic. He is thinking of a development like she described would fall under subdivision. Bud asked why she is limited to five kids per home. It is the most family like. These kids have never experienced a good home life. She also said that with five kids and two house parents, you could use a mini-van; if more you would have more liability, with multiple vehicles, etc.

She asked where in Malabar she could do this. Chair said on Hwy 1 in R-M4 & R-M6 and Don was correct in saying she would need water and sewer. She asked if there was any land like that on Highway 1. Chair said no, but there is a proposed project that will have to bring the city water and

sewer down to its location. They are on the R-M6 zoned area. Chair thought there were one or two other R-M4 parcels. Bud said she could stop by Town Hall staff and get a zoning map to see where the area is. Don said the majority of land in Malabar is RR-65, rural residential zoning. Liz asked about Babcock Street – Denine said it is CG, OI and RR-65. Don said you can't put that in institutional. Ms. Frodge said in Palm Bay she would have to be in Institutional Zoning. She said it sounds like she would have to get the one or two parcels on Hwy 1 or it is pretty bleak to try and have it in Malabar. Bud told her there would be more options for her in Palm Bay. Chair said he didn't think she could do her project without city water and sewer. Ms. Frodge thanked them. Bud asked what she had taken away from this. Ms. Frodge said that she can't build in Malabar and to go to Palm Bay. Chair said that is not what they said. She would need to find property in the right zoning for multiple residences and either have enough acreage for septic or have water and sewer. She thanked Board. Board thanked her.

E. PRESENTATION: none

F. ACTION: none

G. DISCUSSION:

2. Discussion of Sober Homes

Exhibit:	Agenda Report No. 2
Recommendation:	Discussion

Chair asked for this to be on agenda.

First though the Chair wanted to thank Board for all their hard work and dedication on getting the ALF regulations to Council. Chair explained the Attorney is drafting it into the proper language for Council's consideration.

The TA had mentioned that she had addressed the issue of the proliferation of sober Homes in South Florida to Council and Dick Korn and Leeanne Saylor told Council that the P&Z Board had already looked at this. The Chair said the Sober Homes issue may be something that they have already covered in the regulations they just created, but he wanted the Board to read up on it and discuss if anything needs to be done. They won't have another meeting until January so they will have plenty of time to read the material. Liz thought the definition could just be added to the ALF regulations. The Chair explained he didn't want to hold up getting the ALF regulations to Council.

Chair said under F.S. 400 (pg 13 of 64, Part 3.a) and Liz said on pg 14, (#11); both places appear to cover this use. Liz said just add a definition for Sober Homes and state it is governed under F.S. 419. Board discussed just adding verbiage to Article III under community residential homes. Don cautioned stating that these types of uses are not allowed in code could have legal problems regarding discrimination. He thinks Attorney should add in the proper language and then ordinance should come back to P&Z Board.

Denine directed them to the 12-pg packet she had placed at their seats re: survey FLC had done on this issue. It seems most of these places pop up and there is no oversight. Don said if it is a rental home, then it is a business and they should have a BTR.

Don said a few years ago they had considered a huge development on Highway 1 and part of it was rehab. Liz said it was for flair elders and that is allowed. She doesn't know how it got described as also having rehab.

Denine said when she talked to Melbourne, they indicated that their legal department was also reviewing how to regulate sober homes. Don said he likes broader categories; sometimes less is more on laws. For every law that is written there could be a challenge. Don said it is difficult to control if someone owns a house and invites four others to live there. Liz said if they pay rent. Don said that if someone goes to Europe and rents out their home; said that they all know that it is

a State controlled thing. Don said they even have a Council Member that rents out a house. He doesn't want to know what his neighbors are doing but if they are going to operate a sober home then perhaps the Board should look at putting them in an institutional zoning. Liz said she also thought that it should be in Institutional. Don said in reading the handout, it seems hard to regulate where and how many you can have in a community without the discrimination issue coming up.

Don suggested adding code language "any forms of rehabilitation services shall be defined by State legislation." Still would need to run it by Attorney.

George suggested we just don't allow them based on the problems other cities have encountered.

Chair recognized Juliana Hirsch, 1035 Malabar Road. She said they should just state that they do not allow them in residential areas. Seems pretty simple to her. Juliana said that you can have up to five persons in your home as long as you don't charge. That's the crux, how do find out. George said eventually the neighbors will come forward and then the Town can take action.

Council Member Marisa Acquaviva recognized: She was interested in hearing their discussion about sober homes because it is becoming a real issue down south. She stated they did a moratorium on pill mills to go on record that those types of facilities aren't welcome here. Perhaps they could do something similar. Liz said the problem is they are not required to be regulated. Chair added that it would just be a short term fix. He thanked Board again for their participation in this discussion.

Two questions for Attorney in form of motion:

MOTION: Don / Liz P&Z Board is recommending that they get a legal opinion on the following issues related to sober homes/half-way homes/rehabilitative homes:

- 1) Is there any advantage to doing a moratorium on these?
- 2) If they put sober homes/half-way homes/rehabilitative homes in Sections 1, 13, A, Community Residential Homes of draft ALF ordinance, what are the ramifications and should they also be listed in Definitions, Section 6, 1-20.2 of Article XX?

H. ADDITIONAL ITEMS FOR FUTURE MEETINGS:

Future Land Use Maps as a discussion and defining R/LC (Land Use Change) for FLUM

I. PUBLIC:

J. OLD BUSINESS/NEW BUSINESS:

Don asked if everyone was aware of the accident on Highway 1 last Friday night. He saw two reports on the news that stated that Malabar was doing something wrong and that is a State road. The other report from Orlando said they were crossing at Riverview Drive which is way south of the restaurant. Liz said everyone with property on both sides of the highway has the same problem. She said their park visitors that use the dock have to cross the Highway. Chair said it is 4-lanes of highway. Don said the report said the speed limit in that area is 45mph and that the driver wasn't speeding. It is a State road, the speed limit is 55mph and the driver probably was speeding.

Bud said he knows people go faster than that. Liz said they slow at Robert Conlon because the police are there. Liz said there are four different speed limits between here and Melbourne and there is residential, commercial and vacant land along there.

Bud said perhaps they should rethink allowing a business in this area to have contiguous parking. Liz said she didn't know about parking but thought the lighting should be. If you have a business

you should have adequate lighting for safety, but it is a State highway so you can't just put up lighting without approval.

Chair said what it sounded like Bud was trying to say was that for new construction they should consider contiguous parking if the property is intersected by a road with a speed over some limit.

George said as a business person he understands the significance of a riverfront property and the great food, but there is not enough parking on the river side so there must be an alternative. They could require that the business provide for safe crossing either with a mode of transportation like a shuttle/trolley or with a pedestrian crossing with a light and button. Chair gave example of Officer's Club at Patrick. They have a light and crosswalk for pedestrians between the club on the beachside and the parking on the west side. Liz, Don and Bud agree it should be the business owner's responsibility. Bud said his personal opinion is that if that happened the business owner should seriously consider relocating.

Chair said homework assignment is to read up on off-street parking.

Don also wanted on an upcoming meeting to discuss the issue of Palm Bay having the utilities now and they could put in sewer and require hook-up within 365 days. The other issue is the sphere of notification of property owners notified when there is a project that proposes water and sewer lines. If a project is approved then 100 current residents could be required to hook up without any say because the city of Palm Bay has the control, not the Town of Malabar. George didn't think that the City of Palm Bay could do that; Chair concurred that they couldn't do it. Bud said yes they could. Liz said it is the option of the provider and Mr. Paladin said he would work on this. Liz said we missed the opportunity to put that into the contract the first time. Now maybe the Council can get it into the contract. Chair said that is not their job. Don said it is part of planning and is part of their job and right now there is another city in control of every road and area in Malabar and we are at their whim. Bud said he brought this up before. It is a real concern. Liz said it wasn't presented properly before. And now there are new council members. Liz said Mr. Paladin has said he has leverage and will get it in his contract. Don said the real issue is the sewer and if the law says the provider can say you must hook-up and you know you are going to make a bundle of money by all these people that now have to hook up it won't matter about any agreements. Also it won't matter if you have a perfectly performing septic; you will be forced to hook up to sewer with 365 days. Liz said no, it could be worded in the agreement with the provider. Don said it is in the code now with the approved agreement with Palm Bay and that is what needs to be changed.

Don asked that whenever a waterline is proposed that all possibility affected property owners be notified by mail; not just the 500' around the project site. Chair said that was done. Don asked Denine. Denine said it was changed from 200' to 500'. Liz and Don suggest that notice be sent to any potentially affected persons be notified.

K. ADJOURN

There being no further business to discuss, **MOTION: Ryan / Don to adjourn this meeting. Vote: All Ayes.** The meeting adjourned 10:30P.M.

BY:

Pat Reilly, Chair

Denine Sherear, P&Z Board Secretary

Date Approved

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: May 14, 2014

Prepared By: Denine M. Sherear, Planning and Zoning Board Secretary

SUBJECT: Future Land Use Map and Defining R/LC

BACKGROUND/HISTORY:

This Board is reviewing the R/LC Land Use/Zoning verbiage that is in our code and what was sent to Council for approval previously. Mr. Krieger was going to revise (with suggestions from this Board) the verbiage that was given out at the 4/43/14 and bring back to this meeting for review.

ATTACHMENTS:

- None

ACTION OPTIONS:

Discussion/ Recommendation to Council

**BRING 3 RING BINDER FROM
THE FEBRUARY 12, 2014
MEETING
&
AGENDA (3) FROM FEBRUARY
26, 2014**

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 3
Meeting Date: May 14, 2014

Prepared By: Denine M. Sherear, Planning and Zoning Board Secretary

SUBJECT: Off-Street Parking and Contiguous Parking

BACKGROUND/HISTORY:

P & Z Board would like to review the verbiage that is in our Town Codes concerning Off-Street Parking and Contiguous Parking.

Staff provided requested information by email on (4/24/14) to compare other surrounding municipalities. (See attachments)

ATTACHMENTS:

- Brevard County Code For Parking & Loading Requirements (Updated version of Sec 62-3206)
- Brevard County Article VI Zoning Regulations

ACTION OPTIONS:

Discussion

BREVARD COUNTY

CODE FOR PARKING AND

LOADING REQUIREMENTS

(UPDATED VERSION OF SEC.62-3206
4/24/2014)

Sec. 62-3206. Parking and loading requirements.

- (a) *Purpose.* In the interest of the health, safety and welfare of the general public in the promotion and preservation of traffic safety, all buildings, structures or activities shall be provided with adequate off-street parking and off-street loading facilities for the use of occupants, employees, visitors and patrons associated with the site in accordance with the parking and loading requirements of this section.
- (b) *General.*
- (1) Parking and loading areas shall be provided, maintained and continued as part of the primary use of new and existing developments. Existing buildings or changes of the occupational uses shall provide the necessary parking required by this section subject to the following:
 - a. A building or existing use may be modernized, altered, or repaired without providing additional parking and loading facilities provided there is no increase in floor area or capacity and no change of occupational use.
 - b. Where such building or use is enlarged in floor area, volume, capacity, or space occupied, then the necessary parking and loading area shall be provided for the additional floor area, volume, capacity, or space created.
 - c. Where the occupational use of a building or structure is changed to a new use that requires more parking spaces or loading zones than exist on the site, then the necessary parking and loading area shall be provided for the new use.
 - (2) The required parking and loading areas shall be provided prior to the building or structure receiving a certificate of occupancy (CO). In cases where the county does not issue a certificate of occupancy, then the necessary parking and loading areas shall be provided prior to the building or structure being occupied.
 - (3) Parking and loading areas shall be located on the site of the principal use which it is intended to serve, unless otherwise provided in this section.
 - (4) The parking area shall be designed and constructed so that the ingress to and egress from the site, both vehicular and pedestrian, provide safe traffic control and flow on the site, as well as between the site and adjoining land, including public road right-of-way.
 - (5) Except for single-family residences and duplexes, all off-street parking, loading areas and maneuvering space and associated driveway aisles, shall be paved (i.e., asphalt, concrete, or paver blocks).
- (c) *Parking and loading area design criteria.* The following design criteria shall be utilized for the design of parking lots and loading facilities and their associated driveways, drive aisles and maneuvering areas. Additional information relating to the minimum parking and loading design standards is in the exhibits.
- (1) Parking space dimensions.
 - a. Standard parking 0-90 degrees nine feet by 20 feet minimum.
 - b. Parallel parking nine feet by 24 feet minimum.
 - c. Parking spaces may incorporate a permeable area within the front two feet of each space, provided secured wheel barriers are placed at the termination of the parking space pavement.
 - (2) Drive aisle dimensions.

- a. Two-way drive aisles 24 feet minimum width, may be reduced to 22 feet if parking is only on one-side of the drive aisle.
 - b. One-way drive aisle 14 feet minimum width.
- (3) Parking lots or loading areas shall have no driveway aisle(s) which dead-end(s) without a turnaround area (refer to exhibits).
 - (4) No parking lot or loading area driveway aisle shall have an inner radius or any curved portion which is less than 15 feet. For operations, including special vehicles (trucks of various sizes) the criteria in the exhibits and/or AASHTO design vehicle turning templates, shall be utilized to determine proper turning radii.
 - (5) Pavement and parking spaces shall not be permitted within a required a vegetative buffer area.
 - (6) All points of ingress and egress for accessing parking lots from either a public street or an adjacent parking lot, internal collector driveway, shall not exceed 24 feet in width unless otherwise approved by the county.
 - (7) Accessible parking shall be designed, constructed, and designated pursuant to the current Americans with Disabilities Act (ADA) Design Standards and the Florida Accessibility Code (FAC). These parking spaces shall be conveniently located with respect to main and secondary entrances, and ramps to sidewalks shall be provided and conveniently located in relationship to the disabled parking spaces.
 - (8) Multifamily parking shall comply with all Fair Housing Act requirements.
 - (9) All parking and loading areas shall be designed and constructed to prevent backing vehicles directly onto a public road or right-of-way, except for single-family residential dwellings and duplexes that are located on local and/or subdivision streets.
 - (10) Access points to public or private streets shall be in compliance with the federal, state, and local access management regulations.
 - (11) All required parking spaces, dumpster spaces, loading areas, delineation and other striping requirements shall be identified using the striping and visual contrast criteria of the current manual of uniform traffic control devices (Federal Highway Administration—FHWA).
 - (12) Commercial and industrial land uses that require significant outside sales display or storage parking shall not cause the developed site to exceed 60 percent impervious area. Additional unpaved display and storage parking areas exceeding 60 percent may be approved subject to:
 - a. The area shall not front on a public right-of-way, and
 - b. The method of stabilization is county approved, and
 - c. The area contains sod.
 - (13) All properties located within a residential zoning classification where building height exceeds 45 feet, one level of parking shall be required to be located within the area defined by the exterior walls of the principal habitable structure.
 - (14) Within the Merritt Island Redevelopment Area, new developments located within the Merritt Park Place subdivision will be required to locate on-site parking to the side or rear of the principal structure.
- (d) *Minimum parking spaces.* The minimum number of off-street parking spaces shall be determined from the following criteria. No use shall have less than three parking spaces. The parking criteria for any use not specifically mentioned shall be the same as for the use most similar to the one sought. Fractional spaces shall be rounded to the closest number.
- (1)

- Amusement game parlors, pool halls and other similar recreational buildings: One space per 200 square feet of floor area.
- (2) Assisted living facilities: One space per two occupants or two beds whichever is greater.
 - (3) Automotive, boat and trailer sales: One space per 500 square feet of floor area, plus one space per 2,500 square feet of outside display area.
 - (4) Barbershops and beauty shops: Two spaces per barber or beauty chair.
 - (5) Business complex: Consisting of a mix of office, retail, wholesale stores, recreational areas, warehousing, manufacturing, light industrial, or scientific research functions shall provide one space per 325 square foot total.
 - (6) Churches and places of worship: One space per three seats or seating places in sanctuary.
 - (7) Condominiums, townhome and apartment complexes: Two spaces per residential unit plus one space per five units for guest parking.
 - (8) Convenience store: One space per 125 square feet of floor area. Gas pump aisles may be counted as parking spaces—One pump with two sides, two spaces; one pump with one side, one space.
 - (9) Day care centers: One and one-half spaces for each employee.
 - (10) Duplexes: Two parking spaces are required per residential unit; a garage space may count as one parking space.
 - (11) Flea markets and farmers' markets: One space per 50 square feet of sales area, including outdoor areas.
 - (12) Furniture and major appliance stores: One space per 500 square feet of floor area.
 - (13) General retail: One space per 250 square feet of floor area.
 - (14) Hospitals and other similar health care facilities: One space shall be reserved for doctors for each ten patient beds, plus one space per four patient beds, plus one space per one and one-half employees, exclusive of doctor parking spaces.
 - (15) Independent living facilities: 1.1 space per dwelling unit.
 - (16) Libraries, museums, art galleries: One space per 300 square feet of floor area.
 - (17) Lumber yards, manufacturing and warehouses: One space per each 500 square feet of floor space. Building units having a minimum of 50 square feet and not exceeding 200 square feet, whose primary purpose is to provide an address for an business tax receipt, parking shall be one space per unit.
 - (18) Marinas: Marinas and boat ramps:
 - a. Wet slips: One parking space per three wet slips
 - b. Dry slips and moorings: One parking space per four dry slips or moorings for facilities up to 50 dry slips or moorings, or one parking space per five dry slips or moorings for facilities with over 50 dry slips or moorings.
 - c. Live-aboard: One parking space per boat slip.
 - d. Boat ramps: 25 parking spaces per boat ramp or hoist available to the general public.

In addition to the aforementioned requirements, one parking space per each 300 square feet devoted to sales and service shall be provided. The county manager or designee may require that the applicant submit a parking study, signed and sealed by a professional engineer, to determine the number of additional parking spaces

necessary to support ancillary uses, including but not limited to, charter boats, ecotourism vessels, boat-yards and party-boats.

- (19) Medical urgent care clinics: One space per 200 square feet of floor area.
 - (20) Mini warehouses: A mini warehouse as defined in the county zoning code shall have a minimum and a maximum of five parking spaces, including one accessible parking space, regardless of size. A minimum 24-foot driveway aisle shall be provided contiguously along any side of the mini-warehouse containing the access points or doors to the individual storage areas.
 - (21) Mortuaries, funeral homes and crematoriums: One space per three seats, or seating spaces within chapel, plus one and one-half spaces per employee.
 - (22) Motels and hotels: One and third spaces per unit or room, plus 30 percent of the parking space requirements associated with other uses permitted in addition to overnight lodging accommodations.
 - (23) Outdoor attractions, with grandstands or without: One space per three fixed seats and one space per 20 square feet of seating or spectator area where no fixed seats are provided.
 - (24) Parks and recreation areas: Parking spaces should be considered on the specific parks development plan and should be determined by its active or passive facilities. A parking study must be reviewed and approved by the county traffic section.
 - (25) Private clubs and clubhouses: One space per 200 square feet of floor area.
 - (26) Professional offices buildings (including medical, dental, and veterinarian): One space per 250 square feet of floor area.
 - (27) Recreational vehicle site: One space per lot plus one space per 20 lots for guest parking.
 - (28) Restaurants, cocktail lounges and other eating and drinking establishments: One space per three seats of the maximum seating capacity including indoor and outdoor seating of such establishment plus one space for every four employees.
Fast food and sit down restaurants that are part of a strip center or an outparcel with shared parking: one space per three seats of the maximum seating capacity including indoor and outdoor seating of such establishment, plus one space for every four employees on the largest shift.
 - (29) Schools (public and private schools) calculations based on maximum student capacity:
 - a. College universities, technical or vocational schools: One space per three students and faculty.
 - b. Schools:
 - 1. High Schools: One space per four students.
 - 2. Middle schools: One space per ten students.
 - 3. Elementary schools: One space per five students.
 - (30) Service stations, automobile repair and garages: One space per 200 square feet.
 - (31) Single-family residence: Two spaces per unit.
 - (32) Theaters, auditoriums, convention halls and other similar public assemblage places: One space per three seats.
- (e) *Loading area design criteria and requirements.*
- (1) The loading area shall avoid undue interferences with public use of the streets, alleys, or required access aisles, driveways and spaces for parking areas.

- (2) Loading spaces or berths shall have minimum dimensions of 14 by 30 feet and a height of not less than 14 feet. Service alleys or driveways shall have a minimum width of 20 feet. In addition, the loading zone shall be designed and constructed in accordance with the Exhibits.
- (3) Loading facilities and truck parking are prohibited on street frontages in the commercial zoning categories and in a planned business park (PBP) or planned industrial park (PIP) classification.
- (4) Loading facilities and truck parking shall be located to the side or at the rear of the most forward structures and shall be paved and have adequate drainage and shall be maintained in good condition.
- (5) Loading facilities shall be designed and constructed to allow all maneuvering of trucks and other vehicles on site and preclude backing directly into a public street or utilizing public right-of-way.
- (6) The following requirements for loading spaces or berths and truck parking areas shall apply to all commercial and industrial zones:
 - a. A minimum number of loading spaces or berths shall be provided and maintained as follows:

Size of Building or Structure (square feet)	Number of Spaces or Berths
Over 5,000 but not over 25,000	1
Over 25,000 but not over 60,000	2
Over 60,000 but not over 120,000	3
Over 120,000 but not over 200,000	4
Over 200,000 but not over 290,000	5

- b. Businesses that provide fueling or similar uses shall designate fuel truck delivery area design pursuant to the requirements of this section.
- (f) *Alternate requirements.* The county manager or designee may approve alternate requirements including offsite parking, shared parking, alternate construction standards, and parking reductions subject to the following criteria.
 - (1) *Offsite and shared parking.* A site may utilize parking spaces of any adjoining property or a site separated by a public or private right-of-way subject to all of the following criteria:
 - a. The primary property containing the use requiring the parking provides a minimum of 60 percent of its required parking spaces onsite.
 - b. The secondary offsite location has excess parking spaces as established under this section.
 - c. A common access and parking easement agreement that provides for perpetual access and use of the adjoining property's parking spaces and access drive aisles is executed by all applicable parties and is provided at the time of site plan application.
 - d. Parking facilities separated from the use by public road right-of-way shall satisfy the following criteria:
 - 1. The right-of way is not classified as a minor arterial or higher, or
 - 2. The roadway currently has less than 5,000 average daily traffic (ADT),
or

3. Any road projected to have such classification or average daily traffic under the county comprehensive plan, except as may be provided otherwise by article VI.
- (2) *Alternate construction standards.* A development may request to utilize an alternative standard to pave off-street parking, loading areas, maneuvering space and associated driveway aisles based on the following criteria:
 - a. Whether total paving would have a detrimental effect upon existing unpaved roads or water quality.
 - b. Whether operations or activities (churches, equipment storage yards, etc.) are such that the use of certain portions of the parking areas would only be used on an intermittent basis. Driveway aisles and loading areas shall be paved.
 - c. A stabilized surface acceptable to the county shall be provided for the entire unpaved parking area, and such area shall be organized for traffic control and parking by permanent fixation of a delineation method per the approval of a site development plan.
 - d. Commercial and industrial developments required by this section to provide 400 or more parking spaces may set aside up to no less than 25 percent or no more than 35 percent of that requirement as stabilized overflow parking. This parking shall not be paved.
 - (3) *Parking reduction.* The applicant may request a reduction in parking requirements subject to the following criteria:
 - a. The applicant provides a study, prepared by a professional engineer, with justification and supporting calculations that demonstrates alternative modes of transportation including, but not limited to, transit, bicycle and pedestrian facilities allows for the reduction in parking requirements.
 - b. With the exception of multifamily developments, all other commercial buildings 25,000 square feet and over shall be allowed to reduce the total parking requirement by 15 percent.

(Ord. No. 13-10, § 8. 12-3-13)

BREVARD COUNTY

ARTICLE VI

ZONING REGULATIONS

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DIVISION 1. GENERALLY

Sec. 62-1101. Short title.

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

Sec. 62-1103. Interpretation; conflicting provisions.

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

Sec. 62-1105. Penalty.

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Sec. 62-1108. Purpose and intent.

Secs. 62-1109—62-1150. Reserved.

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 (deuration) 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.

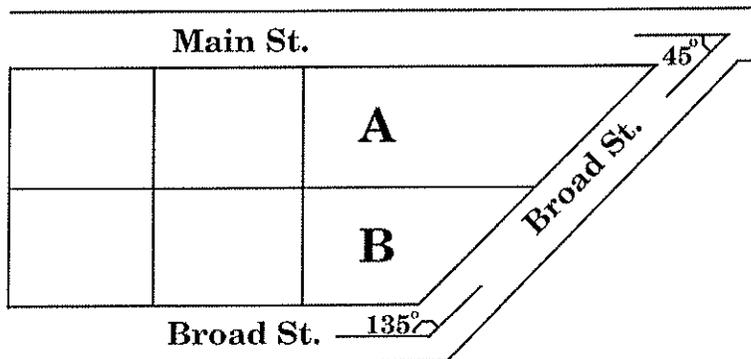


Figure 1. Both lots A and B are corner lots

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.
 - c. Rights-of-way.
 - 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 7½ 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.

Density (units per acre)	Active Recreation (acres per 100 units)
Less than or equal to 10	1.5
More than 10 and less than or equal to 15	1.0
More than 15	0.5

- (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 property owner 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.

Shipyards 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, § 1-4-20.04; 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 reference— 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 contained in this article.
- (c) 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)

Secs. 62-1109—62-1150. Reserved.