



**TOWN OF MALABAR**  
**PLANNING AND ZONING**

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 1**  
**Meeting Date: March 23, 2016**

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

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**SUBJECT: Approval of Minutes**

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**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 January 27, 2016  
Draft minutes of P&Z Board Meeting of February 10, 2016  
Draft minutes of P&Z Board Meeting of February 24, 2016

**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  
January 27, 2016 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 7:45 P.M. Prayer and Pledge led Chair Pat Reilly.

**B. ROLL CALL:**

CHAIR: PAT REILLY  
VICE-CHAIR: LIZ RITTER  
BOARD MEMBERS: BUD RYAN  
WAYNE ABARE  
GEORGE FOSTER  
ALTERNATE: DOUG DIAL, EXCUSED  
ALTERNATE: VACANT  
BOARD SECRETARY: DENINE SHEREAR  
RECORDING SECRETARY:

ADDITIONAL ATTENDEES:

**C. ADDITIONS/DELETIONS/CHANGES:**

**D. CONSENT AGENDA:**

1. **Approval of Minutes** Planning and Zoning Meeting -01/13/2016  
**Exhibit:** Agenda Report No. 1  
**Recommendation:** Request Approval

**Motion: Ryan/ Ritter: To Recommend Approval Minutes of 01/13/16 as corrected All Vote: Aye**

Foster/Reilly:

Page 4/59 bottom of page under "Additional Items for Future Meetings" add before Foster At a previous PZ Meeting Foster discussed packet from..... Take out things

**E. PUBLIC HEARING: none**

**F. ACTION:**

2. **Recommendation to Council: Amend the Code Book to insert the 500 ft. Radius notifications for Public Hearings**  
**Exhibit:** Agenda Report No. 2  
**Recommendation:** Recommendation to Council

Reilly and Board discussed information suggested by Reilly & Ritter.

Ritter discussed about when letter is sent to property owners for public hearings. It was suggested to a time certain when it is sent out. Reilly said he found it is 15 days.

Reilly asked the Board if everyone is in agreeance with the suggestions presented and the consent of the Board is in agreeance. Foster asked about the "Abandonment of Improved & Unimproved of existing ROW" having radius 1,000 foot radius.

Ritter suggested page 23/59 Article XII Section 1-12.8 (D) 1. change the 500 feet to 1,000 and add a sentence:

"The Building Department will send a letter to all listed properties notifying of the applicants intentions.

The consensus of the Board is in agreeance with the above sentence.

Also Article 1-12.9 (C)

Change may to shall send a courtesy, change 500 feet to 1,000 feet and add a sentence:

"The Building Department will send a letter to all listed properties notifying of the Towns intentions.

The consensus of the Board is in agreeance with the above sentence.

Abare & Foster confirmed from previous meetings that the property owners to be within 1,000 feet for 1-12.8 & 1-12.9

**Next PZ Meeting set for Action on Feb 10<sup>th</sup> 2016**

**G. DISCUSSION:**

**3. Continue Discussion: Amending Assisted Living Facilities (ALF) Ordinance 2014-01 ref: to Office/Institutional (OI) Zoning.**

**Exhibit:** Agenda Report No. 3

**Recommendation:** Discussion

Reilly said we have a special guest to discuss Assisted Living Facilities (ALF). Foster introduces Christe Foster to come up to podium.

Christe Foster 1205 Malabar Road, Malabar FL 32950. Christe explained that she is an RN and arranged for people to go to ALF's, Rehab Centers, and nursing homes she explained how they work.

Abare asked about community residential homes, Christe said that there is not much traffic going and coming, they are over scene by the state. Abare asked how often the state goes to these homes and Christe responded the state goes about twice a year to inspect and review, but can go anytime unannounced, and the larger ones every couple months. Christe recommended that the family overs sees their loved one and visits on a regular basis.

Ritter asked if there is any negative impact for the home ALF's. Christe said there is not a lot of traffic.

Ryan asked if there is a crisis do the first responders come, Christe responded yes. Ryan said that it is a load on the Town to provide the service. Ritter said that the patient is billed for this.

Ritter asked about the difference between assisted living and a community home? Christe responded the assisted living is a larger home with more people and the community home is smaller. Christe said that a lot of people that start the smaller homes are nurses.

Christe said there is a lot of regulations and a big investment to make a residential home an ALF facility.

Ritter asked if there is a doctor or pharmacy on staff. Foster responded not usually.

Christe explained the different levels of care for community homes. If someone is digressed there is a call to the family and the doctor usually there is a medical trigger that happens then a case member would talk to family and community home. Then there are more options to the family,

Reilly & Board discussed the Town Attorneys response for the "not-for-profit" vs "non-profit." He said he did not think that this can be added to the verbiage.

Ritter correction:

Page 55/59 Section 2. Section 1-3.1. I is amended to read as follows: the 4<sup>th</sup> bullet under "OI" take out verbiage in parentheses

Reilly discussed:

Page 29/59

The Board discussed how to present to Council for review, marking additions and deletions.

**Next PZ Meeting set for Action on Feb 10<sup>th</sup> 2016 (Council & Town Attorney)**

**Reilly Update PZ Board on Council Workshop on 1/25/2016:**

Reilly spoke to PZ Board about Council WS on 1/25/16 referencing R/LC. It seemed to be pretty receptive for Future Land Use.

**H. ADDITIONAL ITEMS FOR FUTURE MEETING**

**I. PUBLIC:**

Krieger talked about when Reilly attended Council Workshop for R/LC. Krieger said that you did a lot of work and you succeeded in what Council asked so many years ago and things are always changing. That was a wonderful table and maps. The difference between zoning and land use is difficult for everyone, one is comprehensive planning and one is what you're doing on an exact property.

**J. OLD BUSINESS/NEW BUSINESS:**

**Old Business:** Sherear explained that Willy Carmine has turned in a Site Plan for Route One Motor Sports and it is in review with staff, looking to come before this Board second meeting in February.

Foster asked about the present Building Official (BO), and if the Town has hired a permanent BO, Foster asked if the Town hires a new BO could Sherear update the Board.

**New Business:**

Reilly asked to get the Route One Motor site plan before the 20<sup>th</sup> of February. Reilly would like if the Board agrees to get this around February 16<sup>th</sup>, 2016.

**K. ADJOURN**

There being no further business to discuss, MOTION: Ryan /Abare to adjourn this meeting. Vote: All Ayes. The meeting adjourned 9:00 P.M.

BY:

Patrick Reilly, Chair

Denine Sherear, Board Secretary

Date Approved: as presented/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  
February 10, 2016 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 Chair Pat Reilly.

**B. ROLL CALL:**

CHAIR:	PAT REILLY
VICE-CHAIR:	LIZ RITTER
BOARD MEMBERS:	BUD RYAN
	WAYNE ABARE
	GEORGE FOSTER
ALTERNATE:	DOUG DIAL
ALTERNATE:	VACANT
BOARD SECRETARY:	DENINE SHEREAR
RECORDING SECRETARY:	

ADDITIONAL ATTENDEES:

**C. ADDITIONS/DELETIONS/CHANGES: none**

**D. CONSENT AGENDA:**

- 1. Approval of Minutes** Planning and Zoning Meeting -01/27/2016 not ready  
**Exhibit:** Agenda Report No. 1  
**Recommendation:** Request Approval

**E. PUBLIC HEARING: none**

**F. ACTION:**

- 2. Recommendation to Council: Amend the Code Book to insert the 500 ft. Radius notifications for Public Hearings**  
**Exhibit:** Agenda Report No. 2  
**Recommendation:** Recommendation to Council

Reilly asked Board for recommendation to send to Council for approval.

Foster responded he agreed with all changes.

Ritter suggested inserting a time frame of mailing letters to the radius packet. Reilly went over process of site plan notifications with Sherear.

Reilly said he does not think that this process is needed; the letter sent out for radius packet notification goes according to process when application is received and is sent out in a timely manner.

Ryan said the newspaper notification is required by law and the letter sent out is the most effective notification for surrounding residents.

Foster said that the whole area is getting notification and you would expect people would talk. We should aim for responsible what works for everyone.

Reilly said there are three avenues of notification: newspaper, a sign on the property, and letter to the surrounding residents.

Sherear explained that the notification letter is sent out the week it goes in the newspaper. Reilly said the residents get the letter at least in 3 days.

Reilly asked consensus of the Board if there should be a time sensitive on notification letters sent to residence within the radius area.

Reilly said ok, the Town process works

Foster said ok

Abare said ok

Ryan is in between

Dial is trying to understand process

Ritter said she would like this to be processed in a timely manner

**Motion: Ryan/Ritter To Recommend to Council to Amend the Code Book to insert 500 ft. Radius notifications for Public Hearings in the following locations All Vote: Aye**  
**Motion passed 5 to 0**

Reilly asked Ritter if she could be present at Council Meeting on March 7, 2016 for "action items" he will not be able to attend to represent PZ Board or answer questions. Ritter will attend.

- 3. **Recommendation to Council: Amend the Assisted Living Facilities (ALF) Ordinance 2014-01 ref: Office/Institutional (OI) Zoning.**  
**Exhibit:** Agenda Report No. 3  
**Recommendation:** Recommendation to Council

Reilly said that the Board has just amended some items on this Ord 2014-01 and will send back to Council for approval. Reilly went over corrections with Board and briefly discussed.

**Motion: Ritter/ Ryan To Recommend to Council to Amend the Assisted Living Facilities (ALF) Ordinance 2014-01 ref: Office/Institution (OI) Zoning All Vote: Aye**  
**Motion passed 5 to 0**

**G. DISCUSSION:**

- 4. **Discuss Malabar Land Development Code; Table 1-3.2 Land Use by District R/LC column to consider more freedom for Land Owners on major road arteries (George Foster)**  
**Exhibit:** Agenda Report No. 4  
**Recommendation:** Discussion

Foster said he has lived on Malabar Road for 10 years; the Board has done a lot of work on R/LC. Foster passed a map around for the Board to see it is a detailed map that the FDOT is going to do when they 4 lane Malabar Road. The FDOT realizes we have an area of high growth and they are building this road in acknowledgment. Foster said that the property owners have been restricted from any development along Malabar Road; Foster appreciates what this Board has done to move R/LC around where the RR-65 residential zoning is to give more options and in the right direction.

Foster would like to see our arterial road look like other communities with arterial areas. Foster said you cannot make major changes quickly, he is thankful for hard work that the PZ Board has done and the proposed changes to go before Council.

Ritter said that she has attended the meetings that FDOT has had and seen the proposed map changes for the Malabar Road corridor.

Foster said the map that he passed around for PZ Board to see, he received a few weeks ago it shows the area on Malabar Road where his residence is located.

Foster said that he has been talking to Lance De Cuir, head engineer for Atkins Engineering.

Reilly responded to Foster wanting Malabar to look like other towns, and other towns would be zoned CG or some commercial zoning. Reilly said presently the zoning is residential first, then Limited Commercial second. The vision of our town is to not look like Palm Bay Road or west of I-95 on Malabar Road. If we want to keep our rural nature we should not promote the high commercial usage on Malabar Road. Foster said there has been very little residential building on the arterial roads and there is going to be even less. Ryan said to Foster that he bought an existing house. The purpose for R/LC is so if people want to rebuild a residence they can in this zoning.

Foster said that the arterial roads and property owners are not interested in building a residential house. No one is going to put a SFR on a high traffic area. The property owners are locked up and the commercial is very limited. Ritter said that when someone buys a property they know the zoning.

The Board is going over Table 1-3.2 Land Use By District the R/LC column.

Foster said it is a step forward to what the PZ Board has done and the Council is involved. Reilly said the R/LC has opened a big door for those along arterial roads page 38/53 in PZ packet shows businesses that are allowed.

Abare said that water is available at Weber Road and Malabar Road, most small businesses would work with well.

- H. **ADDITIONAL ITEMS FOR FUTURE MEETING**
- I. **PUBLIC: none**
- J. **OLD BUSINESS/NEW BUSINESS:**

Old Business:

Ryan would like an update on AAA Storage using the side gate as an entrance. Reilly suggested to Ryan to set up a meeting with new Town Admin. Doug Hoyt to bring him up to date of situation. Ryan asked Sherear to get a short history on the AAA Storage situation on using side gate as entrance. (Original site plan).

New Business:

**K. ADJOURN**

There being no further business to discuss, MOTION: Abare /Ryan to adjourn this meeting. Vote: All Ayes. The meeting adjourned 8:35 P.M.

BY:

\_\_\_\_\_  
Patrick Reilly, Chair

\_\_\_\_\_  
Denine Sherear, Board Secretary

\_\_\_\_\_  
Date Approved: as presented/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  
February 24, 2016 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
	WAYNE ABARE
	GEORGE FOSTER
ALTERNATE:	DOUG DIAL
ALTERNATE:	VACANT
BOARD SECRETARY:	DENINE SHEREAR
RECORDING SECRETARY:	DEBBY FRANKLIN, TOWN CLERK
TOWN ATTORNEY:	TREASURER KARL BOHNE

**C. ADDITIONS/DELETIONS/CHANGES:**

**D. CONSENT AGENDA:**

- 1. Approval of Minutes** Planning and Zoning Meeting – 01/27/2016 not ready  
Planning and Zoning Meeting – 02/10/2016 not ready

**E. PUBLIC HEARING:**

- 2. Review Site Plan for Commercial Development & make Recommendation to Council:** Parcel 28-38-31-00-00750- aka 1300 Highway 1, Malabar, FL 32950;  
Route One Motor Sports  
Applicant: KellWill, LLC, represented by Mr. William Carmine & Mr. Vaheed Teimouri, Engineer  
**Exhibit:** Agenda Report No. 2  
**Recommendation:** Action to Council

Chair said it was a Quasi-judicial hearing and explained the procedures. He asked if any Board Members had visited the site or spoken with applicant and if so to state disclosures. None.

Chair called Engineer Vaheed Teimouri to the podium. Chair asked him to give an overview of the site plan. Teimori explained he had a cold. The location and the topography were very challenging. Difference of elevation from 35' to 16' was one item. The building is constructed of non-combustible concrete with a Malabar vernacular that is appealing and meets code. The building in back is for receiving and delivery. Some minor repair work in the west portion of building. The access is from close to the turn lane. They contacted FDOT and asked about their parcel on the NW corner of Malabar and Highway 1; FDOT has no plans for that property in the foreseeable future. Shifted the DW all the way to the south to allow vehicles to pull in and out. Provides for stacking. They plan a large cul-d-sac in back that will allow a 75' tractor trailer to turn. Drainage is dry retention. Because of the sand ridge; they have excellent drainage. The plan has met all the requirements of all the outside agencies as well as Malabar code. They have not filed with FDOT yet because they require Town approval of the site plan first. The onsite sewage is on the west side; they placed further to the west to stay away from neighbors wells. They have three

8" fire hydrants throughout the parking lot. Building does not have to be sprinkled. Building is non-combustible. They met with town staff. They have all the agency permits except FDOT. They will make application for driveway access and drainage exemption after Council approval.

Public Hearing opened:

Rolando Rodrigues is an attorney here in town. He thinks this projects fits nicely with Malabar's rural character and urges Board to act favorably. He has reviewed the plans and the package and commends applicant and his engineer for their good planning and design. He supports the project and hopes they approve site plan.

William Carmine, he also spoke with Mr. Milucky today and he had reviewed the plans and is very supportive. Milucky said that the drawings indicated they kept their word and did everything the Milucky's asked – not blocking view of river. Milucky asked him to convey his support with Board and let them know he will be at Council meeting. Carmine has also spoken with other neighbors and everyone is very supportive of the project.

No others to speakers. Public Hearing closed.

**Motion: Abare / Foster: Recommend Council Approve Site Plan for Commercial Development for Route 1 Motor Sports as recommended by Attorney, Planner, Engineer and Building Official and acceptance of the "no parking" signage recommended by Brian Foster, 3<sup>rd</sup> party fire reviewer.**

Discussion: Foster commended Carmine and Teimouri for the project development. Their willingness to accommodate the town on so many issues is commendable. It is well suited for the location he picked and will be attractive.

Ritter said the project went from a 10,000sf building to double that. She asked if they were bringing fill from top to down in front? No. She asked about the difference in elevations. What is the wall for – retention. It is a stem wall; typical building construction on a hill. Door on north side is for emergency exit. Portion in front of building is flat. Teimouri explained the retention plan and said the retention wall will not be visible from the north side. Ritter questioned the location of the dosing area. It is underground and per FDOT standards. She questioned if the 48' cul-d-sac was big enough with the concrete bump out intruding in the back. Teimouri said if it is big enough to have a tractor trailer turn around. Teimouri also said that access can be worked out before delivery. You have plans; if they are followed then you have done. Even if you have 3 or 4 access points there can still be problems if the plans are not followed. Carmine stated the drivers call ahead of time now at current location. They have had no accidents in ten years. Have a plan and keep it clear. Combination of planning, instructing employees, being proactive and compliance.

Reilly asked about page L1, landscaping plan; he said the two trees on Hwy 1 – he would like them removed. The line of sight will determine if they should be moved/removed. If it not a requirement he would leave them out so the view of the river is not blocked. Reilly also asked about the distance between hydrants; did they need three. Teimouri said that the fire flow requirement is for 3000 gal per min for 3 hours. You are supposed to have redundancy. It has to do with pressure, not distance. It is very expensive to put three 8" wells with all the fittings. Ryan said in addition you can pull from the retention pond. No, it is dry retention. Water table is 20' down. Abare asked about how the size of retention is determined. Teimouri said there were two parts; first the size of the property and the amount of impervious is determined and a formula is used. The second part is detention – is development creating more runoff. Post construction cannot exceed pre-construction runoff.

Ryan stated the applicant went to the full 20% for the building size. And he is concerned with the 3<sup>rd</sup> party fire reviewer's comments. Teimori their site plan complies with all current codes of all

agencies; there may be some things the reviewer would like to see done but they are not requirements. He has had problems with this reviewer in the past. If you take these recommendations and make them requirements, the project isn't feasible.

The Statute says "the agency having jurisdiction" which is Malabar and the site plan meets or exceeds Malabar code requirements. These are just the reviewer's comments.

Foster said they are exceeding the fire code requirement of 20' for driveway width and they have a 24' roadway proposed. Reviewer would like to see a 30' wide driveway. The wider you make the drive, the more drivers will be inclined to park there. Carmine added that water does not put out gas fires; it does not put out fiberglass fires. They designed the building to be non-combustible. The vehicles stored inside do not have gas or batteries in them. Teimori gave example of when car lots have big "sales" – you can't drive in there; those areas are full of parked cars parking in fire lanes and driveways, etc. They have taken all the necessary measures and more-so; they have met all the requirements.

Abare asked Denine if she and Building Inspector looked over all the plans – has applicant met all our requirements, county requirements. She said yes, county for septic and well, ours per code, storm water per SJRWMD. All outside agencies. Attorney Bohne said to make sure the minutes reflect whatever the recommendation and any conditions. He also said you can't impose a wish list on anybody.

Re: Engineer comment: the SW outlets were reversed on plan and that has been corrected. Teimori said they don't have problem with the "no-parking" signage, but they can't do the striping. Abare and Foster agreed to amend motion to reflect staff's recommendation and the one item from outside fire reviewer to put up "no parking" signage.

ROLLCALL: Foster, Aye; Abare, Aye; Ryan, Nay; Ritter, Aye; Reilly, Aye.  
Motion Carried: 4 to 1 (Ryan).

- F. ACTION:
- G. DISCUSSION:
- H. ADDITIONAL ITEMS FOR FUTURE MEETING
- I. PUBLIC: none
- J. OLD BUSINESS/NEW BUSINESS:

Old Business: Denine said the ALF proposed on Highway 1 has contacted Palm Bay and there is some paperwork being recorded. It is still all very preliminary. Board asked if applicant the ALF was proceeding with waterline. Denine said this information just came in this week. ALF has not submitted a site plan.

New Business:

- K. ADJOURN

There being no further business to discuss, MOTION: Ryan / Ritter to adjourn this meeting. Vote: All Ayes. The meeting adjourned 8:37P.M.

BY:

\_\_\_\_\_  
Patrick Reilly, Chair

\_\_\_\_\_  
Denine Sherear, Board Secretary

\_\_\_\_\_  
Date Approved: as presented/corrected

# TOWN OF MALABAR

## PLANNING AND ZONING

### AGENDA ITEM REPORT

AGENDA ITEM NO: 2

Meeting Date: March 23, 2016

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

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**SUBJECT: Amend Article III District Provisions to allow in RR-65 a second residence as a Conditional Use**

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#### **BACKGROUND/HISTORY:**

This item was put on the agenda for discussion after talking to Chair Pat Reilly. The suggestion for allowing a second residence on the RR-65 zoning was brought up at a previous PZ Meeting a while ago by a resident of Malabar. The reason for this is for life changing situations, ie; such as aging parents to live closer to family, but be in their own residence.

The code we presently have in the RR-65 zoning is one (1) single family residence per 1.5 acres. The RR-65 does have larger parcels and possibly could allow for this accommodation as a conditional use so that all issues such as driveway accessibility, fire safety, minimum square footage, and location would be addressed along with other concerns.

I have researched some surrounding municipalities, such as City of Melbourne, West Melbourne, and Sebastian. The information is included in this packet along with Town of Malabar's present information.

#### **ATTACHMENTS:**

- Town of Malabar- information
- City of Melbourne- information
- West Melbourne –information
- Sebastian- information

#### **ACTION OPTIONS:**

Discussion

**PORTION OF  
TOWN OF MALABAR  
CODES**

**PORTION OF  
ARTICLE V  
GENERAL  
PROVISIONS**

**MALABAR CODE BOOK**

which shall be a public record. The Town Clerk shall attest to contracts, bonds and other instruments as may be prescribed by law. The Town Clerk shall be the chief elections officer of the Town. The Town Clerk shall have such other duties as prescribed by Town Council by ordinance, and all other duties at the request and under the direction of the Town Council or any member of the Town Council or the Mayor at the direction of the Town Council. The Town Clerk shall be the Town Treasurer and as such shall be custodian of all monies of the Town. At the discretion of the Town Council the duties of treasurer signed herein to the Clerk may be delegated to an appointed treasurer.

(Ord. No. 95-3, § 1, 7-17-95; Amd. of 3-25-03; Ord. No. 03-07, § 2(Exh. A), 9-8-03/11-4-03)

**Sec. 3.05. Office of the Town Attorney.**

The Town Attorney shall be appointed by the council. The Town Attorney shall be a member in good standing of the Florida Bar. The compensation of the Town Attorney shall be set by the Council. The Town Attorney shall be the legal advisor to the officers of the Town in all matters affecting the Town or relating to their official duties. The Town Attorney shall prosecute and defend on behalf of the Town all civil actions in which the town is concerned and perform such other duties as the Town Council may require. The Town Attorney and his assistants shall be admitted to and have authority to practice in all the courts of the state and the Federal District Court. The town attorney may recommend assistant Town Attorneys when necessary as determined by the Council.

(Ord. No. 95-3, § 1, 7-17-95; Amd. of 3-25-03; Ord. No. 03-07, § 2(Exh. A), 9-8-03/11-4-03)

**Sec. 3.06. Advisory Boards.**

The council may establish advisory boards to make recommendations including but not limited to, economic development, recreation, parks, playgrounds and their facilities and activities as well as planning and zoning and such other municipal functions as the council deems advisable. The voting members of the boards shall be registered electors of the Town appointed based on their qualification to be a member of that board.

(Amd. of 3-25-03; Ord. No. 03-07, § 2(Exh. A), 9-8-03/11-4-03)

**Sec. 3.07. Residential Zoning.**

In order to preserve the rural character of the Town Malabar, no area which is or will be zoned for single family residences shall contain a density greater than one (1) unit for every one and one-half (1 1/2) acres or as set forth in the Comprehensive Land Use Plan of the Town. All lots of record will be grandfathered in.

(Ord. No. 95-3, § 1, 7-17-95; Amd. of 3-25-03; Ord. No. 03-07, § 2(Exh. A), 9-8-03/11-4-03)

**ARTICLE IV. FINANCIAL MATTERS**

**Sec. 4.01. Public Monies.**

All public monies shall be deposited in the name of the Town of Malabar in banks designated by the Council. All public monies shall be disbursed either by check to be signed by two (2) of

**PORTION OF  
ARTICLE III  
DISTRICT PROVISIONS**

**MALABAR CODE BOOK**

## Article III

### DISTRICT PROVISIONS

This article describes the purposes and intent of each zoning district, identifies permitted and conditional uses by zoning district, and provides size and dimensional regulations for respective zoning districts.

#### Section 1-3.1. Purpose and intent of districts.

This section presents the basic purpose and intent of each zoning district.

- 
- A. *CP "Coastal Preserve."* The CP district was originally established by the Town Council through Ordinance Number 7-1-76, § 5.12 and Ordinance Number 7-12-79 § 1. This district is intended to preserve a narrow strip of land east of highway US 1 directly abutting the Indian River Lagoon, a State designated Aquatic Preserve. The district provisions are intended to assist in implementing land use, coastal management, and conservation goals, objectives, and policies within the comprehensive plan. For instance, the district provisions reduce exposure to natural hazards to persons or property as a result of windstorms and high tides; preserve the marine resources of the Aquatic Preserve; and restrict usage to noncommercial piers, boat slips, and docks.
  - B. *RR-65 "Rural Residential."* The rural residential district is established to implement comprehensive plan policies for managing rural residential development at a density not to exceed one and one-half (1.5) acres per dwelling unit. The district is intended to protect and preserve existing agricultural and rural residential lands. These lands are generally developed for agricultural uses or for large lot rural residential home sites. The areas designated for rural residential development generally contain few urban services and the street system is generally incapable of carrying traffic generated by more intense urban development. The district is intended to accommodate and preserve a unique lifestyle which cannot be accommodated in more dense residential areas.
  - C. *RS-21 "Single-Family Low-Density Residential."* This district is established to implement comprehensive plan policies for managing low-density, single-family residential development at a density not to exceed two (2) single-family dwelling units per acre. The RS-21 district is established in order to protect the quality and character of existing and future conventional single-family low-density neighborhoods, preserve open space, and manage future densities in order to assure compatibility with existing developments, natural features of the land, as well as existing and projected public services and facilities within the area.
  - D. *RS-15 "Single-Family Medium-Density Residential."* The RS-15 district is designed to accommodate traditional single-family development on lots not less than 15,000 square feet. The district is established to preserve the stability of existing and future conventional single-family residential neighborhoods, preserve open space, and man-

limited commercial area, include the following: large-scale discount stores; health spas; supermarket; department stores; large scale wholesaling and warehousing activities; general sales, services or repair of motor vehicles, heavy equipment, machinery or accessory parts, including tire and battery shops and automotive service centers; commercial amusements; and fast food establishments primarily serving in disposal containers and/or providing drive-in facilities.

Single family or multiple family residential uses with a density no greater than six (6) units per acre may also be located in the R/LC district. Such residential uses may be located either within a freestanding structure or within a structure housing both Residential and Limited Commercial activities. The R/LC district is intended and shall be interpreted to be a "commercial" district with respect to required setbacks and other size and dimension provisions referenced by zoning district in this Code.

(Ord. No. 94-4, § 2, 4-3-95; Ord. No. 07-02, §§ 1—4, 4-2-07; Ord. No. 14-01, § 2, 2-3-14)



### Section 1-3.2. Land use by districts.

Table 1-3.2 "Land Use by Districts" stipulates the permitted and conditional uses by district.

Permitted uses are uses allowed by right provided all applicable regulations within the land development code are satisfied as well as other applicable laws and administration regulations. Conditional uses are allowable only if approved by the Town pursuant to administrative procedures found in Article VI. The applicant requesting a conditional use must demonstrate compliance with conditional use criteria set forth in Article VI.

No permitted use or conditional use shall be approved unless a site plan for such use is first submitted by the applicant. The applicant shall bear the burden of proof in demonstrating compliance with all applicable laws and ordinances during the site plan review process. Site plan review process is set forth in Article X.

**Cross reference**—Alcoholic beverages, ch. 4.

TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
<b>RESIDENTIAL USES</b>														
Duplex														
Mobile Homes					P	P					P			
Multiple Family Dwelling					P	P								
Single Family Dwellings	P	P	P	P	P	P	P				P			
<b>COMMUNITY FACILITIES</b>														
Administrative Services (Public and Not-for-Profit)									P	P	P		P	
Child Care Facilities									C		C		C	
Churches, Synagogues and Other Places of Worship														
Clubs and Lodges (Not-for-Profit)	C	C	C	C	C	C		R,A <sup>1</sup>	P	P	P		P	
Cultural or Civic Activities									P	P				
Educational Institutions									P	P	P		P	
Golf Course Facilities									C,A <sup>1</sup>					C
Hospital and other Licensed Fa- cilities	C													
Nursing Homes and Related Health Care Facilities									C					C
Protective Services						C	C	C						C
Public Parks and Recreation	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Public and Private Utilities	C	C	C	C	C	C	C	C	C	C	C	C	C	C
<b>COMMUNITY RESIDENTIAL HOME</b>														
Level 1 (1 to 6 residents/beds)	C <sup>3</sup>					C	C							
Level 2 (7 to 14 residents/beds)						C	C							C
<b>ASSISTED CARE COMMUNITIES</b>														
<b>I Assisted Living Facility</b>														
Level 1 (1 to 5 residents/beds)		C	C	C	C <sup>4</sup>	C <sup>4</sup>								
Level 2 (6 to 15 residents/beds)					C <sup>4</sup>	C <sup>4</sup>					C			
Level 3 (16 or more residents/ beds)						C <sup>4</sup>	C <sup>4</sup>							
<b>II Adult Family-Care Homes (1 to 5 residents/beds)</b>														
Level 1 (1 to 5 residents/beds)	C <sup>3</sup>	C	C	C	C	C								C
<b>III Adult Day Care Centers</b>														
Level 1 (1 to 5 residents/beds)								C						C
<b>AGRICULTURAL ACTIVITIES</b>														

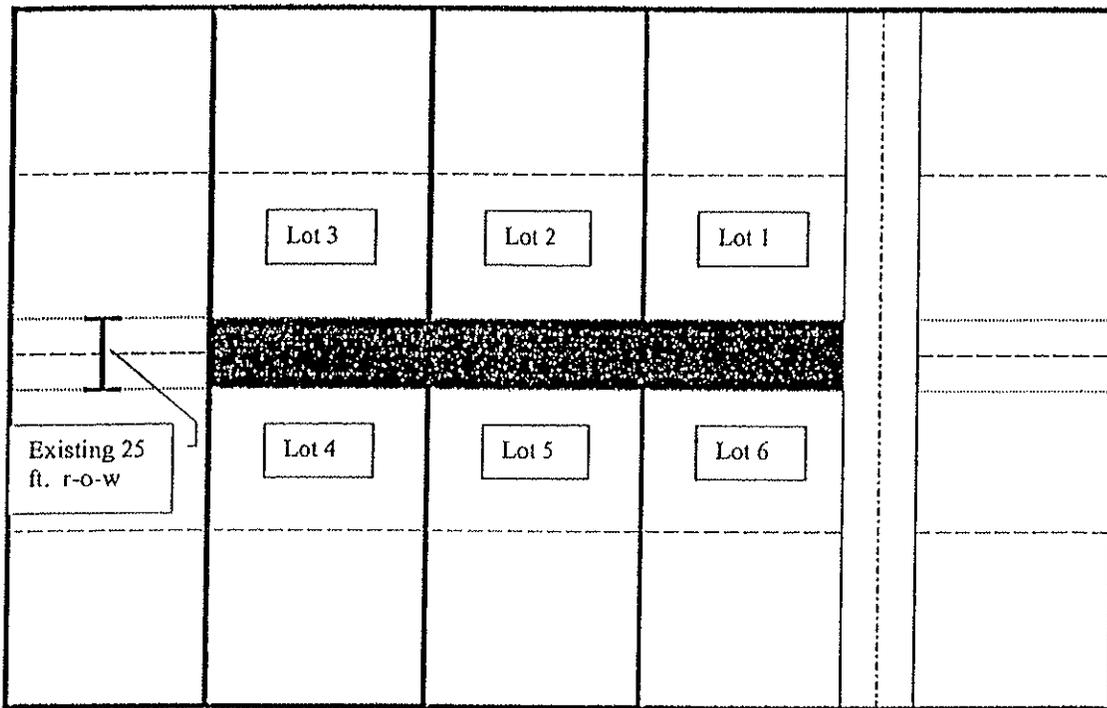
TABLE 1-3.3(A). SIZE AND DIMENSION REGULATIONS

Zoning District	Minimum Lot (1)			Maximum Height (ft./stories)	Depth (ft.)	Minimum Living Area (sq. ft.)	Setback (ft.)(2)			Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density (units per acre) with Central Water and Wastewater
	Size (sq. ft.)	Width (ft.)	Length (ft.)				Front	Rear	Side (1)				
<b>Rural Residential Development</b>													
RR-65	65,340	150	250	35/3	1,500	40	30	30	30	20	N/A	80	0.68
<b>Traditional Single Family Residential Development</b>													
RS-21	21,780	120	150	35/3	1,800	35	20	15	15	35	N/A	65	2.00
RS-16	15,000	100	120	35/3	1,500	30	20	15	15	45	N/A	55	2.904
RS-10	10,000	75	100	35/3	1,200	25	20	10	10	50	N/A	50	4.00
<b>Multiple Family Residential Development</b>													
RM-4	5 Acres Minimum Site	200	200	35/3	1 Bedroom: 900 2 Bedroom: 1100 3 Bedroom: 1300 Each Additional Bedroom: 120	60	40	40	40	50	N/A	50	4.00
RM-6	5 acres Minimum Site	200	200	35/3	Single Family: Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	25	20	10	10	50	n/a	50	6
<b>Mixed Use Development</b>													
RLC	20,000	100	150	35/3	Single Family: Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	25	20	10	10	60	n/a	50	4
<b>Mobile Home Residential Development</b>													
R-MH	Site: 5 Acres Lot: 7000				Commercial: Min. Area: 900 Max. Area 4,000	10	8	8	8	50	N/A	50	6.00
<b>Office Development</b>													

Sec. 13-38. - Precondition to issuance of building permit—Completion of road.

- (a) As a precondition for the issuance for any permit for a new residence or new commercial structure on property that abuts an unimproved right-of-way or unaccepted local street/road within the Town of Malabar, Brevard County, Florida, the owner of the property for which such permit is requested must provide for the improvement of the local street/road from which a person will obtain primary ingress and egress to and from such property from the nearest improved and accepted road continuously in the most direct route (or route otherwise approved by the town) on public rights-of-way through and including the furthest boundary of the lot of record on which the principal structure is to be constructed. Furthermore, as a precondition for the issuance for any permit for an existing or new residence or commercial structure or an existing residence or commercial structure which has been destroyed by fire or natural disaster on property within the Town of Malabar, the owner of the property for which such permit is requested must dedicate right-of-way to the Town of Malabar in accordance with section 13-39

Illustration #1



*Illustration No. 1*

(Illustration No. 1 only depicts the length or distance for which the right-of-way must be improved if the owner of Lot No. 4 requests a boundary permit or other development order).

In determining whether any parcel "abuts" such unaccepted local street/road for purposes of this chapter, any property that lies contiguous to an existing unimproved local street/road or right-of-way and which is intended to be used as ingress and egress to said property, shall be deemed to abut the unimproved local street/road or right-of-way.

- (b) Ownership of contiguous lots.

- (1) In the event that such owner owns more than one (1) lot of record on the same local street/road and if such lots are contiguous, such local street/road shall be completed only through the furthest boundary of the lot on which the principal structure is to be wholly constructed.
  - (2) However, should such principal structure not be located wholly on one (1) lot, or should the owner desire to construct accessory uses, ponds or outbuildings (accessory to the principal structure) on the contiguous lot, then the local street/road shall be improved through the furthest boundary on which such accessory building to be constructed.
- (c) The board of adjustment may only grant a variance to the requirements of subsection (b)(1) and (2). Notwithstanding the authority granted to the board of adjustment in section 1-12 of the Town of Malabar Land Development code the below stated procedures shall in all respects be utilized for a variance to subsection (b)(1) and (2). In order to authorize a variance under this section the board of adjustment must find the following:
- (1) That special conditions and circumstances exist and that the presence of which would make complying with subsection 13-38(b)(1) or (2) unreasonable. Financial or economic reasons, conditions or circumstances shall not be grounds for a variance under this section;
  - (2) The special conditions and circumstances are not caused in any way by the owner or applicant;
  - (3) That such variances will not be injurious or detrimental to the public welfare;
  - (4) That the variance granted is the minimum variance that will make possible the reasonable use of the land;
  - (5) As a condition to the issuance of a variance the owner of the property shall dedicate the right of way required by section 13-39 of the code through the furthest boundary of the lot of record on which a principal structure or accessory structure is to be constructed. The owner shall also execute an agreement in recordable form with the town that binds the owner and his/her successors in interest to pay for the proportionate share of completion of the road through the furthest boundary of the lot of record on which a principal structure or accessory structure is constructed in the event the road is completed by another. The board of adjustment may impose additional reasonable conditions and safeguards that it deems appropriate;
  - (6) The board of adjustment may prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed or both.

(Ord. No. 01-01, § 1-3, 2-5-01; Ord. No. 03-01, § 2, 2-24-03; Ord. No. 03-05, § 1, 6-16-03; Ord. No. 07-11, § 1, 7-16-07; Ord. No. 08-07, § 1, 6-16-08)

**PORTION OF  
CITY OF MELBOURNE  
CODES**

Sec. 2. - Zoning districts and intent.

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

- 
- (A) AEU — Agricultural Estate Use District. The AEU agricultural estate district encompasses lands devoted to agricultural pursuits and single-family residential development of spacious character. The AEU zoning district is intended to be similar to the Brevard County AU zoning district in rural areas.
  - (B) REU — Rural Estate Use District. The REU rural estate district encompasses lands devoted to single-family residential development of spacious character. The REU zoning district is intended to be similar to the Brevard County RR-1 zoning district in rural areas that are transitioning from rural to suburban use.
  - (C) R-1AAA, R-1AA, R-1A — Single-Family Low Density Residential Districts. The provisions of these districts are intended to apply to an area of single-family residential development. Lot sizes and other restrictions are intended to protect and promote high quality residential development.
  - (D) R-1B — Single-Family Low Density Residential District. The provisions of this district are intended to apply to an area of single-family residential development with incentives on lot size for affordable housing projects. (See appendix B, article V, section 2, Table 2A, Footnote 6 and appendix B, article VI, section 1(A)). Lot sizes and other restrictions are intended to permit a flexibility of design and a variety of housing styles, promote affordable single-family housing, and encourage the preservation of natural features such as scrub habitat, unique hardwood canopies and wetlands.
  - (E) R-2 — One-, Two- and Multiple-Family Dwelling Medium Density District. The provisions of this district are intended to apply to an area of low or medium density residential development with a variety of housing types. Lot sizes and other restrictions are intended to promote and protect low or medium density residential development, maintaining an adequate amount of open space for such development. Some nonresidential uses compatible with the character of the district are also permitted as conditional uses.
  - (F) R-3 — Multiple-Family Dwelling High Density District. The provisions of this district are intended to apply to an area of low, medium, or high density residential development. Lot, height, and other building restrictions are intended to accommodate a variety of residential development, maintaining an adequate amount of open space for residential uses. Some nonresidential uses compatible with the character of the district or as accessory uses to serve high density residential are also allowed.
  - (G) R-4 — Two-Family Dwelling District. The provisions of this district are intended to apply to an area to be developed solely for duplexes at a low or medium density. It is intended that this district accommodate a compatible development of residential use at a higher density than single-family use, but at no lower standard of quality. Internal design, attractiveness, order and efficiency are encouraged by providing for adequate usable open space for dwellings and related facilities and through consideration of good functional relationship both between dwellings and surrounding uses.
  - (H) R-A — Residential Holding District. The provisions of this district are intended to apply to a sparsely developed area capable of supporting single-family residences at very low densities. This classification is also intended to place land in a holding pattern until such time that a specific development request is presented which is consistent with the comprehensive plan.
  - (I) R-2T — Planned Residential Development for Mobile Home Parks. Mobile home parks developed in such a manner as to make efficient, economical and aesthetically pleasing use of the land, so

Sec. 3. - Consistency with the comprehensive plan.

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

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

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

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

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

- 
- (a) Urban edge—One unit per 100 acres.
  - (b) Estate residential—Up to three dwelling units/acre.
  - (c) Low density residential—Up to six dwelling units/acre.
  - (d) Medium density residential—Six to 15 dwelling units/acre.
  - (e) High density residential—Up to 30 dwelling units/acre.
  - (f) Mixed use:
    - Up to 100 units/acre in the Downtown Activity Center.
    - Up to 50 units per acre in the Eau Gallie Activity Center.
    - Up to 30 units per acre in the Midtown Activity Center.
    - Up to 30 units per acre in a community activity center.
    - Up to 15 units per acre outside of an activity center.
  - (g) Commercial—Up to 15 units per acre.
  - (h) Office/Professional:
    - Up to 15 units per acre in an activity center.
    - Up to ten units per acre outside of an activity center.

(Ord. No. 2005-120, § 2, 11-8-2005; Ord. No. 2010-37, § 3, 6-22-2010)

Sec. 4. - Cap zoning and conditional zoning.

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

(Ord. No. 2005-120, § 2, 11-8-2005)

# Sec 2. District use & dimensional STANDARDS (Portion)

P - Permitted uses;

C - Uses that require conditional use approval;

N- Prohibited;

P/A - Permitted as accessory use;

P/C - Permitted or conditional use

- <sup>1</sup> Outside storage areas shall be effectively walled on all sides where adjacent to rights-of-way or non-industrial uses, per appendix D, chapter 9, article III, section 9.45, to avoid any deleterious effect on adjacent property.
- <sup>2</sup> Provided that the minimum floor area for hotel and motel units shall be 300 square feet.
- <sup>3</sup> Financial institutions in R-P require conditional use approval.
- <sup>4</sup> Allowed only as accessory use if directly associated with a principal use that is allowed.
- <sup>5</sup> Except vehicular sales and rental. See article VII, section (2)(F) for outdoor display standards.
- <sup>6</sup> In enclosed structures, including refrigerated storage and bulk storage, excluding hazardous substances, hazardous wastes and petroleum products.

Table 2A. Table of Dimensional Standards, Residential Districts

Residential	AEU	REU	R-A	R-1AAA	R-1AA	R-1A	R-1B	R-2	R-3	R-4	R-P	R-2T <sup>1</sup>
Density (units per gross acre)							4 <sup>2</sup>	15 <sup>3</sup>	25 <sup>4</sup>	8	10	
Minimum lot area (sq. ft.)										10,000	7,000	10 acres
One family	2.5 acres	1 acre	1 acre	12,000	10,000	7,500	5,000	7,500	7,500			
Two-family								10,000	10,000			
Three-family								12,000	12,000			
Townhouses								1,800	1,800			

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Multiple-family								8,500	12,000			
Minimum lot width (ft.) <sup>5</sup>	150	125	150	100	85	75	50/65 <sub>6</sub>			100	70	
One family								50	50			
Two-family								100	100			
Three-family								120	120			
Townhouses								18	18			
Multiple-family								85	120			
Minimum lot depth (ft.)	150	125	200	120	110	100	80			100	100	
One family								100	100			
Two and three-family								100	100			
Townhouses								80	80			
Multiple-family								100	100			
Maximum lot coverage (%)	Non e	Non e	40	40	40	40	50			40	40	
One family								50	50			
Two and three-family								40	40			
Townhouses								60	60			

REU REU

Multiple-family								40	40				
Minimum living area (sq. ft.)													
Residential	750	1,200	1,500	1,700	1,350	1,000	1,000			900			
One family								1,000	1,000		1,000		
Two and three-family								900	900		900		
Townhouses								1,000	1,000		1,000		
Multiple-family													
Efficiency								450	450		450		
One-bedroom								550	550		550		
Two-bedrooms								650	650		650		
Three-bedrooms								800 <sup>7</sup>	800 <sup>8</sup>		800		
Nonresidential											300		
Maximum height (ft.) <sup>8</sup>	3 floors with a maximum height of 36 feet <sup>9</sup>							See footnote <sup>10</sup>		3 floors with a maximum height of 36 feet	See footnote <sup>10</sup>		

REV REV

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

Rear—permitted	20	20	40	25	25	25	25	25	25	25	20	8
Rear—abutting alley			35	20	20	20	15	20	20	20	15	
Minimum setback from water	35	35	35	35	35	35	35	35	35	35	35	35
Maximum building length (ft.) for townhome buildings								200	200			
Enclosed garage per single- or two-family unit	Yes											

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

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

- <sup>7</sup> Plus 100 square feet for each additional bedroom.
- <sup>8</sup> See article IV, section 1, exceptions and variations to height regulations.
- <sup>9</sup> Structures accessory to agriculture (AEU) may be 45 feet in height.
- <sup>10</sup> Additional height may be allowed subject to conditional use approval and the standards set forth in article IV, section 1 (height regulations) and appendix D, chapter 9, article 15, section 9.273.
- <sup>11</sup> Townhome setbacks are determined between buildings; interior townhome units do not have side setback requirements.
- <sup>12</sup> If the building envelopes are depicted on the approved final plat recorded in the Public Records of Brevard County, the sum of the side interior yards on both sides of the residential unit shall equal at least ten feet.

Table 2B. Table of Dimensional Standards, Nonresidential Districts

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

Sec. 3. - Buildings and structures.

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

(Ord. No. 2005-120, § 2, 11-8-2005)

Sec. 4. - Density.

- (A) Designation of lesser maximum density. Any person, firm or corporation owning an interest in real property that files an application for a change in land use classification to R-2, R-3 or other land use classification permitting multifamily dwellings may, at its option, request such change with a maximum density limitation of less than that permitted in that particular land use classification. Said request shall designate an exact lesser maximum density limitation in terms of a specified number of dwelling units per gross acre. Said request may be specified in the application for the change in land use classification or at any time prior to final action by the City Council of Melbourne on said application site plan approval. Upon final approval by the city council of a change in land use classification with a requested designation of a lesser maximum density limitation, such designation shall become a binding condition on the use of said land and the designation shall be noted on the Official Zoning Map of Melbourne. In such an event the maximum density specified in the specific district involved shall be rendered inapplicable to said land and the lesser maximum density limitation designation shall control.
- (B) Density calculation.
  - (1) Adjacent to waterways, oceans, or lakes. In calculating gross acreage for parcels of land abutting waterways, oceans, or lakes, only that portion of the parcel lying upland of the mean or ordinary high water line of said parcel shall be included.
  - (2) Clustering. Density may be clustered on an overall development project as outlined in the comprehensive plan.
  - (3) Within established subdivisions. In calculating gross acreage for parcels of land within a subdivision, the following acreage may be utilized to determine the total density:
    - (a) Subject property. Acreage of the subject property.
    - (b) Adjacent right-of-way. Half of the width of any immediately adjacent right-of-way, multiplied by the length of the right-of-way running parallel with the subject property.
    - (c) Portion of common infrastructure and property. A proportional share of any common infrastructure and property areas shown on the recorded subdivision plat, such as retention, open space, recreational facilities, common parking areas, conservation areas, and any other area used to calculate initial density during the subdivision process.
  - (4) Future Land Use categories. Dwelling unit density shall be additionally classified according to the following categories:



- (a) Urban edge (one unit per 100 acres). This density allowance is intended to provide a clear separation between urban uses within a master planned community and nearby rural and conservation uses.
- (b) Estate residential (zero to three units/acre). This density is intended as a transition between the remaining rural areas and the more intensely developed sites in the city. This density range accommodates detached single-family houses on larger lot sizes, and accessory agricultural uses.
- (c) Low density residential (zero to six dwelling units/acre). This density is appropriate where urban services are provided in a neighborhood setting. This density range accommodates detached single-family homes, patio homes, zero lot line houses and other forms of detached or semi-detached homes.
- (d) Medium density residential (over six to 15 dwelling units/acre). This density is intended to provide a buffer between low-density residential uses and more intense uses such as high density residential or commercial. It is also suitable at major intersections when adequate buffering from the highways can be provided. Low-density residential uses may be permitted in these use areas.
- (e) High density residential (over 15 to 30 dwelling units/acre). This density is intended for areas close to major intersections and commercial areas where a slightly higher amount of residential trips can be allowed due to proximity to shopping and major roads. Apartments, high-rise residential structures and other intense housing product types are typical uses, although low and medium density residential uses may also be permitted.
- (f) General commercial (up to 15 units per acre). This density is intended to permit the consideration of limited medium density residential uses along major transportation corridors as part of mixed use developments.
- (g) Mixed use (varies per location).

Downtown Melbourne Activity Center (DMAC)—Up to 100 units per acre.

Eau Gallie Activity Center (EGAC)—Up to 50 units per acre.

Midtown Activity Center (MAC)—Up to 30 units per acre.

Community Activity Center (CAC)—Up to 30 units per acre.

Outside an activity center—Up to 15 units per acre.

This density is intended to encourage mixed use urban development within designated activity center overlays and along major transportation corridors. Higher residential densities are permitted in the urban core areas of the city while lower residential densities are allowed outside of the urban centers.

- (h) Office/Professional (varies per location).

Inside an activity center—Up to 15 units per space.

Outside an activity center—Up to ten units per space.

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

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

**PORTION OF  
WEST MELBOURNE  
CODES**



DIVISION 2. - R-1AAA SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 98-111. - Intent.



The R-1AAA single-family residential district is intended to apply to an area of estate density single-family residential development. Large lot sizes and other restrictions are intended to promote and protect high quality residential development.

(Ord. No. 45, art. VI, § 1, 8-4-1970; Ord. No. 94-9, § 1, 3-1-1994; Ord. No. 96-16, § 1, 6-4-1996)

Sec. 98-112. - Principal uses and structures.

The principal uses and structures in the R-1AAA single-family residential district are single-family dwellings.

(Ord. No. 45, art. VI, § 1(a), 8-4-1970; Ord. No. 94-9, § 1, 3-1-1994; Ord. No. 96-16, § 1, 6-4-1996)

Sec. 98-113. - Accessory uses and structures.

The accessory uses and structures in the R-1AAA single-family residential district are as follows:

- (1) Noncommercial nurseries and greenhouses.
- (2) Customary accessory uses of a residential nature, clearly incidental and subordinate to the principal use, including garages, carports and the like, in keeping with the residential character of the district.
- (3) Home occupations subject to division 4 of article V of this chapter.

(Ord. No. 45, art. VI, § 1(b), 8-4-1970; Ord. No. 94-9, § 1, 3-1-1994; Ord. No. 96-16, § 1, 6-4-1996)

Sec. 98-114. - Conditional uses.

The conditional uses in the R-1AAA single-family residential district are as follows:

- (1) Public parks and recreational buildings.
- (2) Golf courses.
- (3) Sewer lift stations.

(Ord. No. 45, art. VI, § 1(c), 8-4-1970; Ord. No. 94-9, § 1, 3-1-1994; Ord. No. 96-16, § 1, 6-4-1996; Ord. No. 2009-15, § 27, 1-20-2009)

**Note**—Ord. No. 2009-15, § 27, adopted Jan. 20, 2009, renamed former section 98-114, special exceptions, as set out herein.

Sec. 98-115. - Prohibited uses and structures.

The prohibited uses and structures in the R-1AAA single-family residential district are all uses not specifically or provisionally permitted in this division.

Sec. 98-116. - Density.



For any permitted use within the R-1AAA single-family residential district, the density shall not exceed five dwelling units per acre.

(Ord. No. 45, art. VI, § 1(d), 8-4-1970; Ord. No. 94-9, § 1, 3-1-1994; Ord. No. 96-16, § 1, 6-4-1996)

Sec. 98-117. - Lot and structure requirements.

The lot and structure requirements in the R-1AAA single-family residential district are as follows:

- (1) Minimum lot area: 12,000 square feet.
- (2) Minimum lot width: 100 feet.
- (3) Minimum lot depth: 100 feet.
- (4) Maximum building coverage: 40 percent.
- (5) Minimum living area: 1,500 square feet.
- (6) Maximum height: 35 feet.
- (7) Minimum yard requirements:
  - a. Front: 25 feet.
  - b. Side, interior: Ten feet.
  - c. Side, corner: 25 feet.
  - d. Rear: 25 feet; 20 feet when abutting an alley.

(Ord. No. 45, art. VI, § 1(e), 8-4-1970; Ord. No. 94-9, § 1, 3-1-1994; Ord. No. 96-16, § 1, 6-4-1996; Ord. No. 2008-33, § 1, 7-1-2008)

Secs. 98-118—98-150. - Reserved.

DIVISION 3. - R-1AA SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 98-151. - Intent.

 The R-1AA single-family residential district is intended to apply to an area of low density, single-family residential development. Lot sizes and other restrictions are intended to protect and promote high quality residential development.

(Ord. No. 45, art. VI, § 2, 8-4-1970; Ord. No. 94-9, § 2, 3-1-1994; Ord. No. 96-16, § 2, 6-4-1996)

Sec. 98-152. - Principal uses and structures.

The principal uses and structures in the R-1AA single-family residential district are single-family dwellings.

(Ord. No. 45, art. VI, § 2(a), 8-4-1970; Ord. No. 94-9, § 2, 3-1-1994; Ord. No. 96-16, § 2, 6-4-1996)

Sec. 98-153. - Accessory uses and structures.

The accessory uses and structures in the R-1AA single-family residential district are the same as for the R-1AAA district.

(Ord. No. 45, art. VI, § 2(b), 8-4-1970; Ord. No. 94-9, § 2, 3-1-1994; Ord. No. 96-16, § 2, 6-4-1996)

Sec. 98-154. - Conditional uses.

The conditional uses in the R-1AA single-family residential district are the same as for the R-1AAA district.

(Ord. No. 45, art. VI, § 2(c), 8-4-1970; Ord. No. 94-9, § 2, 3-1-1994; Ord. No. 96-16, § 2, 6-4-1996; Ord. No. 2009-15, § 28, 1-20-2009)

**Note**—Ord. No. 2009-15, § 28, adopted Jan. 20, 2009, renamed former section 98-154, special exceptions, as set out herein.

Sec. 98-155. - Prohibited uses and structures.

The prohibited uses and structures in the R-1AA single-family residential district are the same as for the R-1AAA district.

(Ord. No. 45, art. VI, § 2(d), 8-4-1970; Ord. No. 94-9, § 2, 3-1-1994; Ord. No. 96-16, § 2, 6-4-1996)

Sec. 98-156. - Density.

 For any permitted use within the R-1AA single-family residential district, the density shall not exceed five dwelling units per acre.

Sec. 98-157. - Lot and structure requirements.

The lot and structure requirements in the R-1AA single-family residential district are as follows:

- (1) Minimum lot area: 10,000 square feet.
- (2) Minimum lot width: 85 feet.
- (3) Minimum lot depth: 100 feet.
- (4) Maximum building coverage: 40 percent.

(5) Minimum living area: 1,250 square feet.

(6) Maximum height: 35 feet.

(7) Minimum yard requirements:

a. Front: 25 feet.

b. Side, interior: Ten feet.

c. Side, corner: 25 feet.

d. Rear: 25 feet; 20 feet when abutting an alley.

(Ord. No. 45, art. VI, § 2(e), 8-4-1970; Ord. No. 94-9, § 2, 3-1-1994; Ord. No. 96-16, § 2, 6-4-1996;  
Ord. No. 2008-33, § 1, 7-1-2008)

Secs. 98-158—98-190. - Reserved.

DIVISION 4. - R-1A SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 98-191. - Intent.

 The R-1A single-family residential district is intended to apply to an area of low density, single-family residential development. Lot sizes and other restrictions are intended to promote high quality residential development.

(Ord. No. 45, art. VI, § 3, 8-4-1970; Ord. No. 75-4, § 2(a), 1-14-1975; Ord. No. 94-9, § 3, 3-1-1994)

Sec. 98-192. - Principal uses and structures.

The principal uses and structures in the R-1A single-family residential district are single-family dwellings.

(Ord. No. 45, art. VI, § 3(a), 8-4-1970; Ord. No. 75-4, § 2(a), 1-14-1975; Ord. No. 94-9, § 3, 3-1-1994)

Sec. 98-193. - Accessory uses and structures.

The accessory uses and structures in the R-1A single-family residential district are the same as for the R-1AAA district.

(Ord. No. 45, art. VI, § 3(b), 8-4-1970; Ord. No. 75-4, § 2(a), 1-14-1975; Ord. No. 94-9, § 3, 3-1-1994)

Sec. 98-194. - Conditional uses.

The conditional uses in the R-1A single-family residential district are the same as for the R-1AAA district.

(Ord. No. 45, art. VI, § 3(c), 8-4-1970; Ord. No. 75-4, § 2(a), 1-14-1975; Ord. No. 94-9, § 3, 3-1-1994; Ord. No. 2009-15, § 29, 1-20-2009)

**Note**—Ord. No. 2009-15, § 29, adopted Jan. 20, 2009, renamed former section 98-194, special exceptions, as set out herein.

Sec. 98-195. - Prohibited uses and structures.

The prohibited uses and structures in the R-1A single-family residential district are the same as for the R-1AAA district.

(Ord. No. 45, art. VI, § 3(d), 8-4-1970; Ord. No. 75-4, § 2(a), 1-14-1975; Ord. No. 94-9, § 3, 3-1-1994)

Sec. 98-196. - Lot and structure requirements.

The lot and structure requirements in the R-1A single-family residential district are as follows:

- (1) Minimum lot area: 7,500 square feet.
- (2) Minimum lot width: 75 feet.
- (3) Minimum lot depth: 100 feet.
- (4) Maximum building coverage: 40 percent.
- (5) Minimum living area: 900 square feet.

- (6) Maximum height: 35 feet.
- (7) Minimum yard requirements:
  - a. Front: 25 feet.
  - b. Side, interior: 7½ feet.
  - c. Side, corner: 25 feet.
  - d. Rear: 25 feet; 20 feet when abutting an alley.

(Ord. No. 45, art. VI, § 3(e), 8-4-1970; Ord. No. 75-4, § 2(a), 1-14-1975; Ord. No. 94-9, § 3, 3-1-1994; Ord. No. 2008-33, § 1, 7-1-2008)

Sec. 98-197. - Density.



For any permitted use within the R-1A single-family residential district, the density shall not exceed five dwelling units per acre.

Secs. 98-198—98-230. - Reserved.

# **PORTION OF SEBASTIAN CODES**

Sec. 54-2-5.2.1. - Residential Estate District (RE-40).



(a) Intent: The RE-40 district is established to implement comprehensive plan policies for managing the lowest range of densities for land designated low density residential. Supportive public community facilities and accessory land uses also may be located within areas designated for use as residential estates.

(b) Uses permitted:

Single-family dwellings	Home occupations
Foster care/group homes with ;lte; 6 residents	Accessory residential uses

(c) Conditional uses:

Foster care/group homes with ;gt; 6 residents	Guest houses
Model homes	Child care services
Schools, public or private	Churches
Utilities, public and private	Parks and recreation, public
Protective and emergency services, public	Golf courses and support facilities
Equestrian uses	Accessory uses to conditional uses

(d) Dimensional regulations:



- (1) Maximum density: One dwelling unit per 40,000 square feet
- (2) Maximum height: 35 feet.
- (3) Lot coverage and open space:

Maximum building coverage: 25%	Maximum impervious surface: 55%
Minimum open space: 50%	

(4) Lot dimensions:

Minimum lot size: 40,000 square feet

Minimum lot width: 125 feet

Minimum lot depth: 150 feet

- (5) Minimum setbacks: All development must comply with setback requirements from wetlands and open waters established in section 54-3-11.1(c).

Front: 40 feet

Side: 20 feet

Rear: 25 feet

- (6) Minimum living area: The minimum floor area required, exclusive of porches, terraces, attached garages, carport or unroofed areas, shall be 1,600 square feet.

- (7) Required accessory structures: Every single-family dwelling unit shall be required to provide a garage or carport. If a carport or similar unenclosed vehicle storage structure is provided, then each unit within the principal structure shall contain a fully enclosed utility storage area of at least 60 square feet, which shall be designed as an integral part of the principal structure. If a fully enclosed garage is provided, then no utility structure shall be mandated. The garage or carport shall have a minimum interior clear dimension of ten feet by 20 feet.



Sec. 54-2-5.2.2. - Single-Family Residential District (RS-20).

- (a) Intent: The RS-20 district is established to implement comprehensive plan policies for low density residential development on lots of 20,000 square feet.

- (b) Uses permitted:

Single-family dwellings

Foster care/group homes with 6 ;lte; residents

Accessory residential uses

Home occupations

- (c) Conditional uses:

Foster care/group homes with ;gt; 6 residents	Guest houses
Model homes	Child care services
Schools, public or private	Churches
Utilities, public and private	Parks and recreation, public
Protective and emergency services, public	Golf courses and support facilities
Accessory uses to conditional uses	

(d) Dimensional regulations:

- (1) Maximum density: One dwelling unit per 20,000 square feet
- (2) Maximum height: 35 feet.
- (3) Lot coverage and open space:

Maximum building coverage: 30%	Maximum impervious surface 60%
Minimum open space: 50%	

(4) Lot dimensions:

Minimum lot size: 20,000 square feet

Minimum lot width: 100 feet

Minimum lot depth: 150 feet

(5) Minimum setbacks: All development must comply with requirements for setbacks from wetlands and open waters established in section 54-3-11.1(c).

Front: 30 feet

Side: 15 feet

Rear: 25 feet

(6) Minimum living area: The minimum floor area required, exclusive of porches, terraces, attached garages, carport or unroofed areas, shall be 1,400 square feet.

(7) Required accessory structures: Every single-family dwelling unit shall be required to provide a garage or carport. If a carport or similar unenclosed vehicle storage area is provided, then each unit within the principal structure shall contain a fully enclosed utility storage area of at least 60 square feet, which shall be designed as an integral part of the principal structure. If a fully enclosed garage is provided, then no utility structure shall be mandated. The garage or carport shall have a minimum interior clear dimension of ten feet by 20 feet.

Sec. 54-2-5.2.3. - Single-Family Residential District (RS-10).

(a) Intent: The RS-10 District is established to implement comprehensive plan policies for low-density residential development on lots of 10,000 square feet.

(b) Uses permitted:

Single-family dwellings

Foster care/group homes with 6 ;lte; residents

Accessory residential uses

Home occupations

(c) Conditional uses:

Foster care/group homes with ;gt; 6 residents	Model homes
Child care services	Schools, public or private
Churches	Utilities, public and private
Parks and recreation, public	Protective and emergency services, public
Accessory uses to conditional uses	

(d) Dimensional regulations:



- (1) Maximum density: One dwelling unit per 10,000 square feet
- (2) Maximum height: 25 feet
- (3) Lot coverage and open space:

Maximum building coverage: 30%	Maximum impervious surface: 55%
Minimum open space: 50%	

(4) Lot dimensions:

Minimum lot size: 9,500 square feet

Minimum lot width: 80 feet

Minimum lot depth: 100 feet

(5) Minimum setbacks: All development must comply with requirements for setbacks from wetlands and open waters established in section 54-3-11.1(c).

Front setbacks 25 feet

Secondary front yard setbacks: 20 feet

Side setbacks: 10 feet

Rear setbacks: 20 feet

(6) Minimum living area: The minimum floor area required, exclusive of porches, terraces, attached garages, carports or other unenclosed areas, shall be 1,200 square feet.

(7) Required accessory structure: Every single-family dwelling unit shall be required to provide a garage or carport. If a carport or similar unenclosed vehicle storage structure is provided then

each unit within the principal structure shall contain a fully enclosed utility storage area of at least 60 square feet which shall be designed as an integral part of the principal structure. If a fully enclosed garage is provided, then no utility structure shall be mandated. The garage or carport shall have a minimum interior clear dimension of ten feet by 20 feet.

(Ord. No. O-02-9, § 1, 7-24-2002)

Sec. 54-2-5.10. - Size and dimension criteria.

(a) Minimum lot or site requirements for all uses.

- (1) Table of size and dimensional regulations. Table 54-2-5.10 incorporates required size and dimension regulations, which shall be applicable within each respective zoning district, and these standards shall be maintained in perpetuity. All developments shall have a total land area sufficient to satisfy all standards stipulated within the Land Development Code.
- (2) Height regulations and exceptions thereto. The term "building height" as used in the land development regulations shall mean the vertical distance from either the required base flood elevation or the average construction grade, whichever is greater, of all exterior corners of a structure to the highest point of the building, not including those structures specifically permitted to extend beyond the height of the building.

On any site where fill is required to adhere to the base flood elevation, as established by the National Flood Insurance Act of 1968, and as required by other governmental agencies, the building height is the vertical distance from the required base flood elevation to the highest point of the building not including those structures specifically permitted to extend beyond the height of the building.

Chimneys and radio and television antennas may exceed height limitations upon the prior approval of the planning and growth management director and the city engineer based on the compliance with all other applicable technical codes. Steeples, silos, windmills, ventilators, water tanks, cupolas and other appurtenances usually required to be placed above the roof level and not intended for human occupancy or use may exceed height limitations for the respective zoning district by no more than 20% upon the prior approval of the planning and zoning commission. All apparatus exceeding height limitations by more than 20% for the applicable zoning district height restrictions shall require variance approval by the board of adjustment. In no event, however, shall any permitted heights be in conflict with the height regulations established by flight angles of state-approved airports in the city. All permitted heights shall comply with all requirements of the Federal Aviation Authority and the Federal Communications Commission.

- (3) Lots of record less than minimum size (grandfather clause). Any legally platted lot of record (which conformed with the regulations and procedures governing subdivision of lots) at the time of the adoption of this ordinance which contains less lot area, width or depth than required in the district in which it is located may be used for a use permitted in such district. The provision shall not be construed to permit more than one dwelling unit on a lot with less area per family than required for the district in which such lot is located. However, if the substandard lot adjoins other land under the same ownership which if used could correct the nonconforming lot area or width, then:
  - a. The substandard lot shall not be permitted a vested development right unless the nonconformity is remedied; and, furthermore,
  - b. Any subsequent sale or ownership transfer of the substandard lot, adjoining lot, or portion thereof, shall not result in a vested development right in the subject substandard lot(s) unless the transaction corrects deficiencies in the substandard lot(s).

\*This regulation shall not apply to lots of record within the C-512 District, where contiguous lots under the same ownership shall carry grandfather rights so long as the development lot width is a minimum of 80 feet.

(4) Distance between principal buildings. More than one multiple-family dwelling may be located upon a lot, provided that the horizontal open space between such buildings measured at the closest point shall be as specified for the district in which it is located, and the distance shall be not less than twice the side yard required in the respective district. Such distance shall not be less than 20 feet.

(b) Density and intensity of land use. The density and intensity shall be consistent with the comprehensive plan. Reference Table 54-2-5.10 for specific density and intensity maximums by type of land use. The density and intensity expressed in Table 54-2-5.10 is the maximum density/intensity, which can be achieved. However, the maximum density/intensity is not guaranteed by right and shall be subject to the performance criteria set forth herein. Maximum gross residential density shall be determined by dividing the "maximum allowable units" by the "gross acres of land" (i.e., dwelling units/gross land area). Land seaward of mean high water shall not be used in calculating density or intensity.

All residential densities stipulate the maximum gross densities. Gross land area shall be defined as those contiguous land areas under common ownership proposed for residential development. In cases where developable land abuts wetlands, waters of the state or other environmentally sensitive land, including but not limited to those lands within state and/or federal jurisdiction, the boundary shall be delineated as established in section 54-3-11.1(c) or as established by the state or federal government. The applicant shall bear the burden of proof in determining that development shall not adversely impact wetlands, waters of the state, and other environmentally fragile natural systems. Where the state and federal governments have jurisdiction, the applicant for development must obtain all necessary permits, including but not limited to a dredge and fill permit, prior to requesting a determination of development rights from the city. In addition, site alteration on areas zoned "Conservation" shall be limited to one percent of the entire site. Such determinations shall be based on physical and biological data obtained from specific site investigations. These determinations shall be predicated on findings rendered by professionals competent in producing data and analysis necessary to support impact assessments, including findings regarding the impacts of potential development on the physical and biological value and function of environmentally sensitive lands.

In reviewing applications/site plans for development of particular building sites, the specific residential density approved by the city shall meet all applicable performance criteria of chapter III, as well as other applicable land development regulations.

The maximum intensity stipulated for nonresidential activities is stated in terms of floor area ratio. Floor area ratio (FAR) refers to the total floor area of building(s) on any lot, parcel, or site divided by the area of the lot, parcel, or site. For purposes of calculating floor area, parking area located beneath the building shall be counted only if that first story is over seven feet above finished grade. FAR computations shall include all uses on the lot, parcel or site, including both residential and nonresidential floor area.

The city shall reserve the power to mandate changes in the site plan as well as mandate reductions in the density and/or intensity of development proposed by an applicant/developer if the city finds that the proposed site plan does not satisfy provisions of the comprehensive plan and/or the land development regulations. The maximum FARs are further restricted by quantitative and qualitative criteria included in the land development regulations, including but not limited to, such factors as minimum open space; concurrency management and level of service standards for traffic circulation; storm water management and other public facilities and services; off-street parking and internal circulation; height restrictions; landscaping; other required on-site improvements and design amenities required to achieve land use compatibility. Furthermore, the calculations of floor area ratios in mixed use developments shall be determined by applying the following procedures. The maximum number of residential units that may be allocated to the residential component of a mixed-use development shall be determined by following the procedures stated below:

Step 1. State the allowable commercial FAR .....	= Maximum allowable commercial FAR
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Step 2. State the proposed commercial FAR .....	= Proposed commercial FAR
Step 3. Subtract Line 2 from Line 1 .....	= Unused commercial FAR
Step 4. Divide Line 3 by Line 1 .....	= % of unused commercial FAR
Step 5. Multiply Line 4 by the maximum allowable units per acre .....	= Allowable units per acre
Step 6. Multiply Line 5 by the number of acres on the total site .....	= Maximum residential units allowed

The maximum square footage that may be allocated to the commercial component of a mixed use development shall be determined by following the procedures stated below:

Step 1. State the maximum allowable unit per acre .....	= Maximum allowable commercial FAR
Step 2. State total number of units per acre on the total site .....	= Total number of units per acre
Step 3. Subtract Line 2 from Line 1 .....	= Unused residential density
Step 4. Divide Line 3 by Line 1 .....	= % of unused residential density
Step 5. Multiply Line 4 by allowable commercial FAR .....	= Maximum commercial FAR
Step 6. Multiply Line 5 by the square footage of the total site .....	= Maximum commercial square footage

(c) Impervious surface and open space.

(1) Definitions. As applied in the size and dimension requirement of this chapter, the following terms shall have the following meanings:

- a. Impervious surface. That portion of the land which is covered by buildings, pavement, non-porous fill, swimming pools, or other cover through which water cannot penetrate. The impervious surface ratio requirement controls the intensity of development, by restricting the amount of the land covered by any type of impervious surface.

b. Open space. The term "open space" is defined as that portion of land which includes the gross area of the site less building coverage, impervious parking areas, vehicular access or egress ways, and other cover through which water cannot penetrate. City approved recreation and pedestrian site amenities shall be included as open space even if they restrict the penetration of water. Water bodies shall not constitute more than 30% of total open space area. Water bodies shall be measured from the ordinary water line. Dry retention ponds shall be considered open space.

(2) Calculation of ISR. The impervious surface ratio (ISR) is calculated for the gross site by dividing the total impervious surface by the gross site area.

Cluster development or other site design alternatives may result in individual lots exceeding the ISR, while other lots may be devoted entirely to open space. The city may require, as a condition of approval, deed restrictions or covenants, which guarantee the maintenance of such open space in perpetuity. The ISR requirement shall not be bypassed or reduced. However, where cluster developments are planned, the intent is to allow maximum flexibility through calculating ISR on the gross site, and not on a lot-by-lot basis.

(3) Use of porous material. Only commercially marketed paver blocks approved by the planning and growth management director and with the concurrence of the city engineer shall be used in satisfying requirements for open space, pedestrian ways and recreation amenities. The city shall be the sole judge in determining whether a porous material shall qualify as an alternative to conventional pavement and/or meet the city's specification for open space.

(4) Compliance with ISR stipulated in Table 54-2-5.10. All proposed development shall comply with the standards given in the table of impervious surface ratios in Table 54-2-5.10.

(d) Building setbacks. Table 54-2-5.10 provides minimum building setbacks for all zoning districts within the City of Sebastian. The minimum building setback shall be measured from the subject lot lines of the building site.

(e) Regulations for required yards.

(1) Purpose, use and maintenance of yards. The purpose of yards as required in this chapter is to provide open space around and between structures for health, safety and aesthetic purposes. The purpose is also to prevent the location of structures within dedicated easements. All required yards and landscaped areas shall be planted and maintained in lawn, sod, or landscaping including flower beds, shrubs, hedges or other generally accepted landscaping material approved by the city consistent with article XIV. Landscaping material, including trees, shall not obstruct the vision of the motoring public. The landscape requirements of article XIV shall further regulate development within all zoning districts, excepting single-family zoned districts.

(2) Yards requirements. Table 54-2-5.10 provides the required yard setbacks. These setbacks shall be based on the following definitions of regulated yards.

a. Yard defined. An open space at grade between a building setback and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the required building setback shall be used.

1. Yard, front. A yard extending across the front of a lot between the side yard lines, and being the minimum horizontal distance between the street line and the structure or any projections thereof, other than the projections of uncovered steps and those allowed per section 54-2-5.10(e)(2)f. On corner lots and through lots all yards, which abut the street, are considered front yards for setback purposes.

2. Yard, rear. A yard extending across the rear of a lot between the side lot lines and between the rear lot line and the nearest structure. On lots with one front line, the lot line opposite the front lot line shall be the rear lot line. On corner lots which abut two streets with front lot lines of unequal length, the rear yard line shall be opposite and

parallel to the shortest front lot line. On a corner lot which abuts three streets, the remaining lot line shall be a side yard if it abuts a side yard and shall be a rear yard if it abuts a rear yard.

3. Yard, side. A yard between any structure and the side line of the lot, and extending from the front lot line to the rear yard and being the minimum horizontal distance between a side lot line and the side of any structure. A yard which is not a front or rear yard.
- b. Yard and building site requirements. Yards or building sites created after the effective date of the land development regulations shall meet or exceed the minimum requirements established in the Schedule of District Regulations located herein. No yard or building site existing at the time of passage of this article shall be reduced in dimension or area below the minimum requirements set forth herein.
- c. Special front yard regulations.
  1. Lots with double frontage. The front yard regulations shall apply to both streets on through lots or double frontage lots.
  2. Corner lots. There shall be a front yard on each street side of a corner lot, provided, however, that the buildable width of such lot shall not be reduced to less than 30 feet; accessory buildings may be located forward of the front setback line along the boundary of the secondary front yard on an improved corner lot.
  3. Encroachment of porches or terraces. An open unenclosed and uncovered porch or paved terrace may project into the front yard for a distance of not more than ten feet.
  4. Encroachment of gasoline service facilities. Gasoline filling station pump islands may be located within a front yard, provided they are not less than 15 feet from any right-of-way line.
- d. Special regulation governing rear yards. Detached structures, such as utility sheds and other structures accessory to single-family homes within a single-family zoning district may encroach into a required rear yard, provided that any such structure maintain a minimum distance of ten feet from the rear property line and not be located within a dedicated easement. With the exception of structures that consist solely of screening and beams and supports for the screening material, no such structure shall exceed 400 square feet in lot coverage and shall not exceed 12 feet in height. Structures that consist solely of screening and beams and supports for the screening material, such as screen enclosures for swimming pool areas, shall not exceed 25 feet in height.
- e. Independent yard or open space. No part of a yard or other open space or off-street parking or loading space required in connection with any building or site for the purpose of complying with the land development regulations shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building or site.
- f. General encroachments into required yards. Every part of every required yard shall be open and unobstructed from its lowest point to the sky, except for ordinary projection of sill, cornices, buttresses, ornamental features and eaves; provided, however, that none of the before named projections shall project into a minimum front yard more than 18 inches nor into the minimum side yard more than 24 inches. In addition the following provisions shall govern other encroachments:
  1. Residential overhangs may extend 48 inches into required yard space.
  2. Commercial roof overhangs may extend 24 inches into required yard space having a required setback of less than ten feet and may extend 48 inches into a required yard space of more than ten feet.
  3. Horticultural growth poles, play equipment, wires, lights, mailboxes, fences, ornamental entry columns and gates not exceeding six feet in height are not considered as encroachments.

4. Flag poles and outdoor furniture are not considered as encroachments.
5. Chimneys, flues, and bay windows may not project more than two and one-half feet into a required yard.
6. Waterfront structures such as docks and other permitted waterfront accessory structures are not considered yard encroachments.
7. Mechanical equipment, including air conditioning units, swimming pool equipment and similar items of mechanical equipment that are functional and which serve the residence on the lot are permitted within the required side yard setback; provided, that no such equipment shall exceed a height of 36 inches above grade (except water conditioning equipment). No such equipment shall project into a minimum side yard more than 36 inches.
8. Signs shall be regulated pursuant to article XVI.
9. Driveways and pedestrian ways shall not be considered encroachments when the same are duly approved by the city.

TABLE 54-2-5.10. SIZE AND DIMENSIONAL REGULATIONS

	District	Minimum Lot			Impervious Surface Ratio (%)	Maximum Building Coverage (%)	Minimum Setback <sup>1</sup>			Max. Height (Feet)	Max. Floor Area Ratio	Max. Density
		Area (in sq. ft.)	Width (in feet)	Depth (in feet)			Front (Feet)	Side (Feet)	Rear (Feet)			
CONSERVATION												
C	Conservation	N/A	N/A									
RESIDENTIAL												
RE-40	Residential Estate	40,000	125	150	55	25	40	20	25	35	N/A	1/40,000 SF
RS-20	Residential Single-Family	20,000	100	150	60	30	30	15	25	35	N/A	1/20,000 SF



RS-10	Residential Single-Family	9,500	80	100	55	30	25	10	20	25	N/A	1/10,000 SF			
RM-8	Medium Density Multifamily Residential:	10,000	80	100	50	40	(4)	(4)	(4)	35	N/A	8/acre			
	One-story												25	10	25
	Two-story												25	15*	25
R-MH	Mobile Home	7,500	70	100	50	40	20	10	10	25	N/A	5/acre			
COMMERCIAL															
C-512	C-512 Limited Commercial	20,000	125	160	80	35		0 or 10	10	35	50	n/a			
	Front yard abuts [C-512]						74								
	All other front yards						10								
CL	Commercial Limited	10,000	75	125	80	30	10	5	10	35	60	n/a			
	Yard abuts residential							30	30						
CG	Commercial General	10,000	75	125	80	30	6	5	10	35	60	n/a			
	With curb and gutter						0								