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CHAPTER 173. ZONING

PART 1. GENERAL PROVISIONS

§ 173.001. APPLICATION.

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

§ 173.002. ZONING DISTRICTS ESTABLISHED.

The city is divided into zoning districts as described in this chapter and as shown on the official zoning map of the city. The zoning districts implement the future land use categories as follows. However, not all the zoning districts listed under a future land use category are presumed to be appropriate for a site with that particular future land use designation. The factors listed in §172.022 (Zoning Map Amendments) need to be met in order to approve the zoning map amendment request. Planned Unit Developments (PUDs) are allowed within all Future Land Use Map categories, provided the rezoning request meets the requirements of Chapter 172, Part 4 and is consistent with the Comprehensive Plan.

FUTURE LAND USE CATEGORY	ZONING DISTRICTS
RSF - Rural Single Family	GU – General Use Holding District
LDR – Low Density Residential	RR - Rural Residential
	RE - Estate Residential
	SRE - Suburban Residential Estate
	RS-1 - Single-Family Residential
	RS-2 - Single-Family Residential
	RS-3 - Single-Family Residential
	<u>IU - Institutional</u>
MDR - Moderate Density Residential	RT-10 - Residential Transition
	RMH - Residential Mobile Home
HDR - High Density Residential	RM-15 – Multiple-Family Residential
	RM-20 - Multiple-Family Residential
NC - Neighborhood Center	RT-10 – Residential Transition
	RM-15 - Multiple-Family Residential
	RM-20 - Multiple-Family Residential
	NC - Neighborhood Commercial
	RC – Restricted Commercial
	OP - Office Professional
CMU - Community Mixed Use	CMU – Community Mixed Use
UMU - Urban Mixed-Use	CMU – Community Mixed Use
	UMU – Urban Mixed Use

FUTURE LAND USE CATEGORY	ZONING DISTRICTS
PRO - Professional Office	OP - Office Professional
COM - Commercial	NC - Neighborhood Commercial
	CC - Community Commercial
	GC - General Commercial
	HC - Highway Commercial
	<u>RC – Restricted Commercial</u>
IND - Industrial	LI - Light Industrial & Warehousing
	HI - Heavy Industrial
PSP - Public/Semi-Public	IU - Institutional
UTL - Utilities	IU - Institutional
ROS - Recreation & Open Space	IU - Institutional
CON - Conservation	C - Conservation
PFU - Parkway Flex Use	PUD – Planned Unit Development required
SPA - Special Planning Area	PUD – Planned Unit Development required
RAC - Regional Activity Center	PUD – Planned Unit Development required

§ 173.003. ZONING MAP.

- (A) *Identification of official map.* The official zoning map shall be identified by the signature of the Mayor attested by the City Clerk under the following: “This is to certify that this is the official zoning map referred to in the Palm Bay Zoning Ordinance,” together with the date of adoption of this chapter.
- (B) *Changes in district boundaries.* If, in accordance with the provisions of this chapter and other applicable law, changes are made in the district boundaries or other matter portrayed on the official zoning map, such changes shall be made on the official zoning map promptly after the amendment has been approved by City Council. The official zoning map shall contain a listing by date and ordinance or resolution number of all changes.
- (C) *Final authority as to zoning status.* Regardless of the existence of purported copies of the official zoning map which may, from time to time, be made or published, the official zoning map shall be kept under the responsible charge of the City Manager or designee and shall be the final graphic authority as to the current zoning status of all lands, waters and structures in the city. However, the legal description of all zoning or rezoning ordinances or resolutions, if applicable, shall be the final legal authority as to the zoning status of land.
- (D) *Replacement of official zoning map.* If the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may, by resolution, adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original zoning code or any subsequent amendment thereof. Unless the prior official zoning map has been lost, or has been destroyed, the prior map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption or amendment.

- (E) *Retention of earlier zoning map.* All zoning maps or remaining portions thereof which have had official force and effect in the city prior to the effective date of this chapter shall be retained as a public record and as a guide to the zoning status of lands and water under the jurisdiction of the city prior to the adoption of this chapter.
- (F) *Updating zoning base maps.* From time to time the zoning base map(s) may be updated to reflect new annexations, streets, or subdivisions formally approved by the City Council without further official action by the Council. No revision of zoning boundaries is permitted except by ordinance.
- (G) *Changes to map.* No zoning changes shall be made on the official zoning map or matter shown thereon except in conformity with the procedures set forth in this chapter. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this chapter and punishable as provided under this chapter.
- (H) *Interpretation of district boundaries.* Where uncertainty exists as to the boundaries of districts as shown on the official zoning map or the Future Land Use Map, the following rules shall apply.
- (1) Boundaries indicated as approximately following the centerline of streets, highways, alleys, or rights-of-way shall be construed as to follow such centerlines. In the event a right-of-way is vacated, the district boundary shall be construed as remaining in its location except when ownership of the vacated street is divided other than at the center in which case the boundary shall be construed as moving with the ownership.
 - (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
 - (3) Boundaries indicated as approximately following city limits shall be construed as following such city limits.
 - (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
 - (5) Boundaries indicated as following bulkhead or shorelines shall be construed to follow such bulkhead lines or shore lines, and in the event of change the bulkhead or shoreline shall be construed as moving with the newly established bulkhead line or the actual shoreline; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.
 - (6) Boundaries that are indicated as entering any body of water, but not continuing to intersect with other zoning boundaries shall be construed as extending in the direction in which they enter the body of water to intersect with other zoning districts.
 - (7) Boundaries indicated as parallel to, or extensions of features indicated in divisions A through F above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
 - (8) Where discrepancies exist between natural or manmade features existing on the ground and with those shown on the official zoning map or in other circumstances not covered by the above provisions,

the City Manager or designee shall interpret the district boundaries. Appeal shall be pursuant to §172.014.

- (I) *Lots in two (2) districts.* Where a district boundary line as established in this chapter or as shown on the zoning map divides a lot which was of single ownership and of record at the time of this chapter. The zoning district boundary line may be considered as running along the property line, provided the movement of the boundary line shall not be more than fifty (50) feet in either direction.
- (J) *Annexed territory.* The zoning classification of all property which may hereafter be annexed to the city shall be determined by the City Council after review and recommendation of the Planning and Zoning Board at the time of annexation.

§ 173.004 through § 173.019 RESERVED

PART 2. STANDARD ZONING DISTRICT REGULATIONS

§ 173.020. INTENT OF STANDARD ZONING DISTRICTS

- (A) *General Use Holding District (GU).* The provisions of this district are intended to apply to large undeveloped or sparsely developed areas which are capable of supporting single-family dwellings at very low densities without extensive infrastructure improvements. This district is also intended to place land in a hold pattern until such time as a specific request is presented which is consistent with the future land use plan and which provides for infrastructure improvements necessary to support a more intensive land development classification.
- (B) *Rural Residential District (RR).* The purpose of this district is to provide for the development of single-family residential homes combined with limited agricultural activities within a rural setting.
- (C) *Estate Residential District (RE).* The purpose of this district is to accommodate low density single-family residential development of an estate character.
- (D) *Suburban Residential Estate District (SRE).* The intent of this district is to provide for low density single-family residential development of a suburban character.
- (E) *Single-Family Residential Districts (RS-1, RS-2, and RS-3).* The purpose of these districts is to accommodate low density single-family residential development of an increasingly urban character. (Note: Sites previously zoned and developed under the SF-1 district regulations are now subject to the RS-1 district standards).
- (F) *Residential Transition District (RT-10).* The intent of this district is to permit moderate density residential development inclusive of a range of missing middle housing types. Lot sizes and other restrictions are intended to promote high quality moderate density development and act as a transition area between low- and high-density residential activities.
- (G) *Residential Mobile Home District (RMH).* The purpose of this district is to accommodate mobile home parks and subdivisions served by adequate community facilities.

- (H) *Multiple-Family Residential Districts (RM-15 and RM-20)*. The intent of these districts is to accommodate mainly multi-family development and a variety of other housing types at medium and high densities. Lot sizes and other restrictions are intended to promote and protect high quality residential development.
- (I) *Office Professional District (OP)*. This district is intended to permit professional office uses and services that are protected from intense commercial and industrial development. Development standards and provisions are established to reduce conflicts with adjacent residential uses and minimize traffic conflicts along adjacent thoroughfares. This district may be considered within residential future land use categories without requiring a Future Land Use Map amendment on parcels that have become unsuitable for residential development. Sites which may be unsuitable or undevelopable may include, but are not limited to, parcels that have become isolated by previous developments around it, or due to the acquisition of adjacent land for public purposes or natural features (rivers, lakes, or preservation areas). Parcels must be five usable acres or less and shall be located along a designated collector or arterial roadway.
- (J) *Restricted Commercial District (RC)*. The purpose of the restricted commercial district shall be to locate and establish areas within the city which are uniquely suited for commercial development but which are transitioning from residential or other noncommercial development to commercial use. Such areas to be primarily along major transportation corridors connecting other community commercial clusters. The uses and development standards included in the district are intended to provide compatibility between uses, protect nearby residential districts, provide access control along corridors, provide quality development, enhance corridor appearance, and provide additional commercial opportunities within the city.
- (K) *Neighborhood Commercial District (NC)*. The purpose of this district is to allow limited commercial activities offering convenience goods and personal services to residents of the surrounding neighborhood. Development standards and provisions are established to ensure the proper development and location of neighborhood-serving uses, reduce conflicts with adjacent residential uses, and to minimize the interruption of traffic along adjacent thoroughfares.
- (L) *Community Commercial District (CC)*. The intent of this district is to permit the development of commercial activities which offer a wide range of goods and services to the surrounding community primarily located at or near the intersection of arterial roadways.
- (M) *General Commercial District (GC)*. The purpose of this district is to accommodate for a variety of heavy commercial development activities which are developed in an intensive manner.
- (N) *Highway Commercial District (HC)*. The intent of this district is to permit highway-oriented businesses and regional scale facilities located along or near the intersection of major arterials and transportation nodes.
- (O) *Mixed Use Districts (CMU and UMU)*. The purpose of the mixed-use districts is to foster an attractive and functional mix of residential and nonresidential land uses within a walkable setting. See Part 8 of this chapter for standards applicable to these districts.
- (1) The Community Mixed-Use (CMU) district is to be applied to large development sites where the primary use is single family residential supported by a variety of multifamily, commercial, recreational, and institutional uses.

(2) The intent of the Urban Mixed-Use (UMU) district is to cultivate a vibrant mix of very dense and intense residential and nonresidential land uses within a highly walkable setting primarily consisting of vertical mixed-use buildings at the intersection of collector or arterial roadways.

(P) *Light Industrial and Warehousing District (LI)*. The purpose of this district is to accommodate light manufacturing, warehousing, distribution, wholesaling and other light industrial uses.

(Q) *Heavy Industrial District (HI)*. The intent of this district is to permit a range of general manufacturing, storage and distribution activities in close proximity to major transportation corridors.

(R) *Institutional Use District (IU)*. The purpose of this district is to allow for facilities that serve the educational, governmental, recreational, health, and cultural needs of the City.

(S) *Conservation District (C)*. The intent of this district is to preserve and protect large areas of open space, vegetative habitat, natural drainage systems, floodways, aquifer recharge areas, soils, and wildlife habitats located on public property or on privately-held lands as desired by the property owner. Conservation lands are intended primarily for the purpose of preserving natural resources.

§ 173.021. SCHEDULE OF USES

Tables 173-1, 173-2 and 173-3 list the uses that are permitted in the various zoning districts. Uses not expressly listed in the tables as Permitted (P) or Conditional (C) are prohibited and shall not be established in that district. If a question arises as to the interpretation of any permitted uses, such interpretation shall be made by the City Manager or designee.

A mix of uses on a single site is allowed in all districts, except the single-family districts, provided the proposed uses are allowed in the applicable district. If any use in a proposed mixed-use development requires Conditional Use approval, the entire mixed-use site must be reviewed under the Conditional Use process.

Table 173 - 1. Uses in Residential Districts

USE	See Section	GU	RR	RE	SRE	RS-1	RS-2	RS-3	RT-10	RMH	RM-15	RM-20
AGRICULTURE USES												
Agriculture		P	P									
Agricultural products sales	174.032	C	C									
Keeping or raising for sale of horses, ponies, cows and other livestock provided that the total of all such animals shall not exceed 1 for each ½ acre of lot area.		P	P									
Keeping or raising for sale of small domestic animals, birds or fish.		P	P									

USE	See Section	GU	RR	RE	SRE	RS-1	RS-2	RS-3	RT-10	RMH	RM-15	RM-20
Keeping or raising for sale of small farm animals, such as goats, chickens, pigs and other small animals typically found on a farm, provided the total of all such animals shall not exceed 5 for each ½ acre of lot area. ⁽⁴⁾			P									
RESIDENTIAL USES												
Accessory dwelling units	174.003	P	P	P	P	P	P	P	P	P	P	P
Assisted living facilities, Large												P
Assisted living facilities, Small					P	P	P	P	P		P	P
Cluster subdivision	173.030					C	C	C				
Community residential homes					P	P	P	P	P		P	P
Duplexes									P		P	
Group homes					P	P	P	P	P		P	P
Mobile home parks	173.033									P		
Mobile home subdivisions	173.033									P		
Multi-family dwellings	173.031										P	P
Nursing homes												P
Single-family dwellings		P	P	P	P	P	P	P	P		P	
Townhomes	173.032								P		P	P
<u>Tiny Homes</u>											<u>P</u>	
NON-RESIDENTIAL USES												
Antennas and transmitters			C									
Cemeteries without crematoriums			C									
Churches ^{(1) (3)}	<u>174.034</u>	C	C	C	C	C	C	C	C	C	C	C
Clubs, lodges, and fraternal organizations ^{(1) (3)}		C	C									C
Communication towers and facilities	174.035	P										
Crematoriums	174.038	C										
Family day care home, large							C	C	C		P	P
Family day care home, small			P	P	P	P	P	P	P	P	P	P
Kennels ^{(1) (3)}		C	C									
Marinas												C
Mining	174.043	C										
Public and private golf courses		P	C									

USE	See Section	GU	RR	RE	SRE	RS-1	RS-2	RS-3	RT-10	RMH	RM-15	RM-20
Public parks and recreational facilities		P	P	P	P	P	P	P	P	P	P	P
Public uses		P	C								P	P
Public utility equipment and facilities		P	C ⁽¹⁾	P	P	P	P	P	P	P	P	P
Public utility equipment and facilities, major				C	C	C	C	C	C		C	C
Wedding venues	174.051		C									

P = Permitted Use; C = Conditional Use; Blank cell = Prohibited

⁽¹⁾ Required Conditional Use if the site is larger than one acre.

⁽²⁾ The site shall have direct access to a collector or arterial roadway.

⁽³⁾ All buildings on the site shall be set back a minimum of 20 feet (50 ft. for commercial dog kennels) from all property lines or meet the district setbacks, whichever are greater.

⁽⁴⁾ The acreage used in determining the number of animals that may be kept upon the premises may only be used for one type of animal. For example, an acre of land would allow for 2 horses, but it would not allow for an additional 5 goats. The land needed to support one type of animal cannot in turn be counted to permit further animals. This provision is to protect the health of the animals and to ensure the residential character of the neighborhood is maintained.

Table 173 - 2. Uses in Office, Commercial and Mixed-Use Districts

USE	See Section	OP	RC	NC	CC	GC	HC	CMU	UMU
COMMERCIAL - RETAIL USES									
Brewpub					<u>P</u>	<u>P</u>	P	<u>P</u>	P
Drinking establishments	174.039				P	P	P	P	P
Drive-through establishments			P	C ⁽³⁾	P		P		
Equipment sales, rental, leasing						P			
Fuel stations	174.041			C	C		C		
Plant nurseries and green houses	174.010		C ⁽⁵⁾	C	P	P			
Restaurants/eating establishments	174.009 & 174.039		P ⁽⁵⁾	P ⁽²⁾	P	P	P	P	P
Retail establishment	174.010		P ⁽⁵⁾	P ⁽²⁾	P	P	P	P	P
Vehicle, major recreational equipment, and mobile home sales, rental, leasing, and storage	174.049				P	P	P		
COMMERCIAL - SERVICE USES									
Banks and financial institutions		P	P ⁽⁵⁾	P ⁽¹⁾	P	P	P	P	P
Car wash (principal use)					C		C		
Contractors' offices	174.036		P ⁽⁵⁾			P	P		
Funeral homes			P ⁽⁵⁾	P ⁽¹⁾	P	P	P	P	
General offices		P	P	P ⁽²⁾	P	P	P	P	P

USE	See Section	OP	RC	NC	CC	GC	HC	CMU	UMU
Medical and dental labs					P	P		P	P
Pet day care	174.044			P ⁽¹⁾	P	P	P	P	P
Service establishments, business			P ⁽⁵⁾	P ⁽¹⁾	P	P	P	P	P
Service establishments, intensive			C ⁽⁵⁾		C	P	P		
Service establishments, personal			P ⁽⁵⁾	P ⁽¹⁾	P	P	P	P	P
Tattoo parlors				P ⁽¹⁾	P	P			
Vehicle and major recreational equipment repair, heavy	174.049 & 174.050				C	P	P ⁽³⁾		
Vehicle and major recreational equipment repair, light	174.049 & 174.050				P	P		P	P
Veterinarians and veterinary clinics (no boarding of animals)		C	P ⁽⁵⁾	P ⁽¹⁾	P	P		P	P
INDUSTRIAL WAREHOUSING USES									
Assembly of components manufactured off-site						P	P		
Self-storage facilities	174.047				C	C	C		
INSTITUTIONAL USES									
Childcare facilities			P ^(3,5)	P ⁽²⁾	P	P	P	P	P
Churches	174.034	C ⁽⁴⁾		P ⁽²⁾	P	C ⁽⁴⁾	P	P	P
Convention centers						P	P		P
Corrections facilities	174.037								
Crematoriums	174.038				C				
Educational institutions ^(3, 4, 6)			C		C	C	C	C	C
Government establishments		C	P	P	P	P	P	P	P
Hospitals			C ⁽⁵⁾	C	P		P	P	C
Urgent care center				P ⁽¹⁾		P	P	P	
LODGING USES									
Bed and breakfast inns								P	P
Guest cottages					P				
Hotels, motels, tourist courts					P		P	P	P
RECREATION USES									
Arcades/amusement centers	174.033				P		P		
Clubs, lodges, and fraternal organizations			C ⁽⁵⁾	C ⁽¹⁾	P	P		P	P
Dance clubs	174.039						C	P	P
Event halls	174.040					C		P	P
Golf courses and clubhouses							P	P	
Public recreational facilities		P		P	P	P	P	P	P
Recreation, indoor				C ⁽¹⁾	P	P	P	P	P

USE	See Section	OP	RC	NC	CC	GC	HC	CMU	UMU
Recreation, nature								P	P
Recreation, outdoor							C		C
Recreational vehicle (RV) park	174.045					C	C		
Small event space				C ⁽⁴⁾	P	P	P	P	P
RESIDENTIAL USES									
Group homes								P	P
Multi-family dwellings	173.031							P	P
Nursing homes			C ⁽⁵⁾	C	P		P		
Single family dwellings								P	
Townhomes	173.032							P	
Zero-Lot-Line	173.034							P	
<u>Tiny Homes</u>								<u>P</u>	<u>P</u>
TRANSPORTATION USES									
Boat storage (wet and dry)					C				
Marinas					C		C	C	C
Parking garages (principal use)					P	P	P		P
Surface parking lots (principal use)							P		
UTILITY USES									
Communication towers and facilities	174.035				C	C	C		
Communication towers and facilities, camouflaged	174.035	C							
Public utility facilities		C	C ⁽⁵⁾	C	P	P	P	P	P

P = Permitted Use; C = Conditional Use; Blank cell = Prohibited

(1) Not to exceed 5,000 gross square feet

(2) Establishments exceeding 5,000 sq. ft. of floor area require Conditional Use review.

(3) The lot shall have frontage on an Arterial or Collector Roadway

(4) The site must be at least 1 acre in size and shall have direct access to a collector or arterial roadway; All buildings shall be set back a minimum of 20 feet (50 ft. for commercial dog kennels) from all property lines or meet the district setbacks, whichever are greater.

(5) Minimum fifteen thousand (15,000) square foot lot.

(6) The site shall be designed based on the maximum capacity of the facility.

Table 173 - 3. Uses in Industrial and Other Districts

USE	See Section	I	HI	IU	C
COMMERCIAL - RETAIL USES					
Fuel stations	174.041	C	C		
Restaurants/eating establishments	174.039 & 174.009 174.009	C			

USE	See Section	☐	☒	☑	☒
Vehicle, major recreational equipment, RV, and mobile home sales, rental, leasing, and storage	174.049	P	P		
COMMERCIAL - SERVICE USES					
Brewpubs		P			
Building materials establishment		P	P		
Medical Recycling Facility		P	P		
Research and development facilities		P	P		
Service establishments, intensive		P	P		
Service establishments, personal		P	P		
Vehicle and major recreational equipment repair, light and heavy	174. 051049 & <u>174.050</u>	P	P		
Veterinary hospitals and clinics (including boarding of animals)		P	P		
INDUSTRIAL/WAREHOUSING USES					
Assembly of components manufactured off-site		P	P		
Breweries/distilleries		P	P		
Fuel, propane, and natural gas dispensaries	174. 041042	C	P		
Industrial, heavy		C	P		
Industrial, light		P	P		
Self-storage facilities	174.04 <u>78</u>	P	P		
Storage of towed vehicles			P		
Warehousing		P	P		
Welding and machine shops			P		
Wholesaling		P	P		
INSTITUTIONAL USES					
Cemetery				C	
Childcare facilities		C		<u>P</u>	
Churches				P	
Convention centers		P		<u>P</u>	
Corrections facilities	174. 036037	C	C		
Crematoriums	174. 037038		C		
Educational institutions ^(1, 2, 3)		C	C	P	
Government establishments		P	P	P	C
Hospitals				C	
Group home				P	
RECREATION USES					
Adult entertainment establishments	174.031	P			
Public parks, playgrounds or other public recreational facilities				P	P

USE	See Section	☐	☒	☑	☒
Recreation, nature					C
Recreation, indoor		P			
RESIDENTIAL USES					
Assisted living facilities, small and large				C	
Community Residential Homes				C	
Nursing homes				C	
Rooming House				C	
Single family dwellings					C ⁽⁴⁾
TRANSPORTATION USES					
Airports				C	
Freight handling and transportation terminals		C	P		
Parking garages (as principal use)				P	
UTILITY USES					
Communication towers and facilities	174.03 5 ⁴	P	P		
Communication towers and facilities, camouflaged	174.03 5 ⁴			P	
Public utility facilities		P	P	P	
Radio or television transmitter, towers or broadcasting facilities		P	P		
Salvage Yards	174.04 6 ⁷		P		
Tree and landscape recycling	174.04 8 ⁹	C			

P = Permitted Use; C = Conditional Use; Blank cell = Prohibited

(1) The lot shall have frontage on an Arterial or Collector Roadway

(2) The site must be at least 1 acre in size and shall have direct access to a collector or arterial roadway; All buildings shall be set back a minimum of 20 feet from all property lines or meet the district setbacks, whichever are greater.

(3) The site shall be designed based on the maximum capacity of the facility.

(4) SF max density of one unit per ten acres.

§ 173.022. BULK AND DIMENSIONAL STANDARDS

(A) *Bulk and dimensional standards.* Tables 173-4 through 173-7 establish the bulk and dimensional regulations for each zoning district. Except as specified otherwise in this Code, no structure or part thereof, shall hereafter be built or moved on a lot which does not meet all of the minimum bulk and dimensional regulations for the zoning district in which the structure is located; and no structure shall hereafter be used, occupied or arranged for use unless it meets the minimum bulk and dimensional regulations for the zoning district in which such structure is located.

Table 173 - 4. Dimensional Standards – Single Family and Mobile Home Residential Districts

	GU	RR	RE	SRE	RS-1	RS-2	
Minimum lot area	5 ac	1 ac	12,000 sq. ft.	8,000 sq. ft.	8,000 sq. ft.	7,500 sq. ft.	7,500 sq. ft.
Minimum lot width	300'	150'	80'	80'	80'	75'	
Minimum lot depth	300'	200'	120'	100'	100'	100'	
Maximum building coverage	10%	35%	30%	40%	30%	30%	
Minimum living area	1,200 sq. ft.	1,200 sq. ft.	1,600 sq. ft.	1,800 sq. ft.	1,400 sq. ft.	1,200 sq. ft.	800 sq. ft.
Maximum height	35'	35'	25'	25'	25'	25'	
Minimum setback							
• Front	75'	50'	25'	25'	25'	25'	
• Side corner	50'	30'	25'	25'	25'	25'	
• Side interior	30'	20'	12'	8'	8'	8'	
• Rear	50'	30'	25'	25'	20' 25'	25'	
• Site perimeter setback	---	---	---	---	---	---	
Impervious Surface Ratio	0.5	0.5	0.5	0.5	0.5	0.5	
Common open space and recreation area	20% (see §177.005)				20% (see §177.005)		

(1) A mobile home park/subdivision shall be entirely enclosed, exclusive of driveways, at its external boundaries by a solid wall, wall and hedge not less than 6 feet in height.

(2) The RMH district requires an additional 10% of gross land area be set aside and developed for recreational purposes for residential mobile home park/subdivision.

NOTE: See §176.047 for parking/garage requirements.

Table 173 - 5. Dimensional Standards – Multi-Family Residential and Mixed-Use Districts

	RT-10	RM-15	RM-20	CMU ⁽⁴⁾
Density (units per acre)	10	15	20	30 ⁽³⁾
Intensity (Floor Area Ratio)				1.0 ⁽³⁾
Minimum lot area (sq. ft.)				
Single-Family (SF) Detached	6,000 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	6,000 sq. ft.
Duplex ⁽¹⁾	10,000 sq. ft.	8,000 sq. ft.	8,000 sq. ft.	8,000 sq. ft.
Townhomes (TH)	1,600 sq. ft.	1,600 sq. ft.	1,600 sq. ft.	1,600 sq. ft.
Multi-Family (MF)	---	10,000 sq. ft.	10,000 sq. ft.	10,000 sq. ft.
Non-residential	10,000 sq. ft.	10,000 sq. ft.	10,000 sq. ft.	10,000 sq. ft.
Minimum lot width (ft.)				
• SF Detached	50'	50'	NA	50'
• Duplex ⁽¹⁾	100'	80'	NA	80'
• TH (interior lot/end lot)	20/40	20/40	20/40	20/40
• MF	---	100'	100'	100'
• Non-residential	100'	100'	100'	100'
Minimum lot depth (ft.)	80'	80'	80'	80'
Maximum building coverage (%)	35% ⁽⁵⁾	40% ⁽⁵⁾	40% ⁽⁵⁾	50%
Maximum height (ft.)	35'	50'	70'	35' SF/70' ot
Minimum setback (ft.)				
• Front	20'	20'	20' ⁽²⁾	5' min./10' ma
• Side corner	15'	15'	15' ⁽²⁾	5' min./10' ma
• Side interior	TH: 0'/8' Other ⁽⁶⁾	TH 0' 8'/Other ⁽²⁾ ⁽⁶⁾	TH 0'/15' Other ⁽²⁾ ⁽⁶⁾	TH 0'/15' Oth ⁽⁶⁾
• Rear	20'	20'	20' ⁽²⁾	10'
• Parking setback (ft.)	10'	10'	10'	10'
Building separation (ft.)	---	15'	TH: 15'/30' Other	Per building c
Impervious Surface Ratio	0.7	0.7	0.8	0.8

[ADOPTED 09/19/2024]

	RT-10	RM-15	RM-20	CMU ⁽⁴⁾
Common open space and recreation area			20% (see §177.005)	

⁽¹⁾ Lot size and width per duplex site (2 living units).

⁽²⁾ If the building exceeds two stories in height, the setback shall be increased at a rate of ~~10~~5 feet for every floor over two.

⁽³⁾ 35 du/ac and 1.5 FAR in CMU and 50 du/ac and 3.5 FAR in UMU with a density/intensity bonus (see Part 5 of this chapter).

⁽⁴⁾ See Part 8 of this chapter.

⁽⁵⁾ Maximum building coverage 50% for townhome lots.

⁽⁶⁾ "Other" includes townhome end lots.

Table 173 - 6. Dimensional Standards – Office and Commercial Districts

	OP*	RC*	NC*	CC*	
Minimum lot area (sq. ft.)	10,000	15,000	10,000	12,500	
Minimum lot width (ft.)	100'	100'	100'	100'	
Minimum lot depth (ft.)	100'	150'	100'	125'	
Maximum building coverage (%)	25%	35%	30%	35%	
Minimum floor area (sq. ft.)	300	300	300	300 280 hotel/motel or efficiency units ⁽¹⁾	280 e
Maximum height (ft.)	25'	25'	25'	70'	
Minimum building setback (ft.) ⁽³⁾					
Front	30'	40'; 30' along arterials	30'	30'	
Side corner	25'	25'	25'	25'	
Side interior	10'	10'	10'	10'	
Rear	30' 15' abutting dedicated alley	30'	25' 10' abutting dedicated alley	25' 10' abutting dedicated alley	
Minimum parking setback (ft.) ⁽³⁾					
Front	10'	15'; 10' along arterials	10'	10'	
Side corner	10'	10'	10'	10'	
Side interior	10'; 25' next to residential zoning	5' (30' next to residential zoning)	5' (25' next to residential zoning)	5' ⁽²⁾ (25' next to residential zoning)	1 re
Impervious Surface Ratio	0.7	<u>0.7</u>	0.7	0.8	
Common open space	10% (see §177.005)				

* Development within these districts requires compliance with architectural standards (see Part 4 of this chapter).

⁽¹⁾ Hotels/motels shall not exceed 75 rooms/units per acre in the CC district, 50 in HC.

(2) When access and parking areas are shared with adjacent lots, no side interior building and parking area setbacks are required provided the (Requirements) are met.

(3) Lots in commercial or industrial districts abutting a residential district shall provide a minimum building and parking setback of 25 feet unless setback

Table 173 - 7. Dimensional Standards – Industrial & Other Districts

	LI	HI	IU	C
Minimum lot area (sq. ft.)	20,000	30,000	43,560	---
Minimum lot width (ft.)	100'	150'	150'	SF: 100' Other: None
Minimum lot depth (ft.)	200'	200'	200'	SF: 200' Other: None
Maximum building coverage (%)	50%	50%	30%	5%
Minimum floor area (sq. ft.)	---	---	---	SF: 1,000 Other: None
Maximum height (ft.)	100'	100'	40'	25'
Building setback (ft.)				
Front	40'	40'	25'	50'
Side corner	25'	25'	25'	25'
Side interior	20'	20'	25' ⁽¹⁾	25'
Rear	25'	25'	25'	25'
Minimum parking setback (ft.)				
Front	10'	10'	10'	---
Side corner	10'	10'	10'	---
Side interior	10'	10'	10' ⁽¹⁾ (25' next to residential zoning)	---
Impervious Surface Ratio	0.9	0.9	0.9	0.05
Common open space	10% (see §177.005)			

SF: Single family; MF: Multifamily; RES: Residential; COMM: Commercial

⁽¹⁾ When access and parking areas are shared with adjacent lots, no side interior building and parking area setbacks are required provided the provisions of §176.044(M) (Design Requirements) are met.

(B) Bulk and dimensional standards – General provisions.

- (1) *Multiple use of required space prohibited.* No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this code shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building, except as specifically provided for in this code.
- (2) *Reduction of lot area prohibited.* No yard or lot existing at the time of passage of this code shall be reduced in dimension or area below the minimum requirements set forth herein for the district in which it is located. Yards or lots created after the effective date of this chapter shall meet the minimum requirements established by this chapter.
- (3) *Minimum requirements.* Within each district, the regulations set by this chapter shall be minimum regulations and shall apply uniformly to each class or kind of structure, land, or water.
- (4) *Structures to abut an improved street.* Every building hereafter erected or moved shall be on a lot abutting an improved street as defined in Chapter 171.
- (5) *Minimum lot frontage on a street.* All lots shall have a minimum lot frontage on a street of eighty percent (80%) of the required lot width. The frontage shall be measured along the right-of-way line.
- (6) *Erection of more than one (1) principal structure on a lot.* In any district, more than one (1) structure housing a permitted or permissible principal use may be erected on a single lot, except single-family residences, provided that yard and other requirements of this chapter shall be met for each structure as though it were on an individual lot. In no case shall separation between principal structures be less than twice the required side interior setback.
- (7) *Yard encroachments.* Every part of every required setback shall be open and unobstructed from the ground to the sky, except as hereinafter provided or as otherwise permitted in this chapter:
 - (a) Sills or belt courses may project not over eighteen (18) inches into a required yard.
 - (b) Movable awnings may project not over four (4) feet into a required yard, provided that where the yard is less than ten (10) feet in width the projection shall not exceed one-half (½) the width of the yard.
 - (c) Chimneys, fireplaces or pilasters may project not over three (3) feet into a required setback.
 - (d) Fire escapes, stairways, and balconies which are unroofed and unenclosed may project not over five (5) feet into a required rear yard, or not over three (3) feet into a required side yard in any residential district.
 - (e) Overhangs, hoods, canopies or marquees may project not over three (3) feet into a required yard.
 - (f) Fences, walls and hedges shall be permitted in required yards subject to the provisions established herein.
 - (g) Accessory parking may be located in a required front, rear or side yard for single-family and duplex dwellings, provided such parking maintain at least a six (6) foot setback from all side interior lot lines and a ten (10) foot setback from, all rear lot lines.

- (h) Open, unenclosed porches, platforms or paved terraces not covered by a roof or a canopy may extend into the required side yard area not more than six (6) feet, and into the rear yard not more than twelve (12) feet.
 - (i) Unless specifically allowed in this LDC, no required setback area shall be used for any building, driveway, aisle, parking space, vehicle display, back-out area or loading area except that access drives may cross the setback areas.
- (8) *Exceptions to height regulations.* The height limitations contained in this chapter do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.
- (9) *Minimum width of courts.* The minimum width of a court over ten (10) feet in depth shall be thirty (30) feet for one (1) story buildings, forty (40) feet for two (2) story buildings, fifty (50) feet for three (3) story buildings, and sixty (60) feet for four (4) story buildings. For every five (5) feet of height over forty (40) feet the width of such a court shall be increased by two (2) feet, provided that open unenclosed porches may project into a required court not more than twenty-five percent (25%) of the width of such court. Where a roadway is provided in the court, the width allowed for such roadway shall be in addition to that required hereby.
- (10) *Buildings required.* All commercial uses shall provide at least the minimum size building required for the district in which the use is to be located. The building shall contain plumbing facilities adequate to serve the needs of the customers and employees of the commercial use and must meet all requirements of the code of ordinances.
- (11) *Minimum floor elevation.* All buildings not already restricted by floodplain management requirements (as set forth in Chapter 179) intended for human occupancy shall be constructed with the ground floor level at least twelve (12) inches above the highest point of the surface of the public thoroughfare on which the property abuts. The Chief Building Official may waive such requirements after approval from the City Engineer, where the applicant demonstrates that on-site lot and unfinished floor elevations and drainage provides for protection of the finished floor.
- (12) *Waterfront setbacks.* For the purpose of promoting health, safety and general welfare of the community and secured safety from fire, storm, hurricane or other causes, all structures shall maintain a twenty-five (25) foot setback from the mean high-water line of the following:
- (a) Indian River.
 - (b) Palm Bay.
 - (c) Turkey Creek.

The setback requirements hereinabove shall be construed as a minimum setback and if a greater setback is required under any of the zoning districts, then such greater setback requirement shall be enforced.

§ 173.023 through § 173.029 RESERVED

PART 3. RESIDENTIAL DEVELOPMENT TYPES

§ 173.030. CLUSTER SUBDIVISIONS.

(A) *Purpose.* The purpose of this section is to permit the clustering of detached or attached single family home lots in residential developments to promote the protection of open space and conservation of environmentally sensitive lands through creative design.

(B) *General provisions.*

- (1) Cluster development shall be processed in conjunction with a subdivision plat.
- (2) Cluster development shall comply with all other provisions of the land development code, including site plan/subdivision requirements and all other applicable laws, except as noted in this section.
- (3) The tract of land to be subdivided shall be held in single ownership.
- (4) The overall project gross residential density shall meet the requirements of the assigned zoning district and future land use category.
- (5) Cluster developments may only include the uses permitted in the zoning district assigned to the site and shall be subject to the review process (P or C) noted in §173.021.

(6) A Natural Resource Assessment must indicate, describe, and delineate all environmentally sensitive lands to be protected and/or impacted.

(C) *Dimensional standards.*

- (1) Development size: Ten (10) acres minimum.
- (2) Lot size: 6,000 sq. ft. minimum.
- (3) Lot width: Fifty (50) feet minimum.
- (4) Setbacks: The following setbacks shall apply to lots that are fully internal to the site. Lots along the site perimeter shall meet the building setbacks of the district.
 - (a) Front and side corner setback: Ten (10) feet minimum.
 - (b) Side: ~~Eight-Five (85)~~ Eight-Five (85) feet minimum.
 - (c) Rear: Fifteen (15) feet minimum.
- (5) Building coverage: ~~Thirty-Fifty~~ Thirty-Fifty percent (~~530~~ 530) maximum per lot.
- (6) Impervious surface ratio: 0.5 maximum for each lot; 0.7 for buildable area of the entire site.

(D) *Other standards.*

- (1) The design of new development should respect the scale and development pattern of existing residential sites abutting the cluster development. Therefore, cluster developments adjacent to individual lots that are zoned for the same or lower density shall not place any lots with reduced sizes greater than 75% immediately adjacent to, or across a local street from those neighboring lots. ~~A lot meeting the adjacent district lot size requirements, or an open space area shall be used in those areas of the site.~~

- (2) Buffering and screening between the cluster development and adjacent sites shall be in accordance with Chapter 175.
 - (3) The acreage of land saved by applying reduced lot sizes shall be added to the "Protected Open Space" area (see Subsection E, below), which is the area to be protected in perpetuity as a result of the clustering.
 - (4) A minimum of ~~thirty~~ thirty (30) percent of the subdivision must contain Protected Open Space lands, must be contiguous, and shall be interconnected with off-site existing or future green infrastructure.
 - (5) Each protected open space tract must be a minimum of fifty (50) feet wide, contain a minimum fifteen (15) foot native landscaped buffer, and must have a minimum area of 0.5 acres (excluding the buffer).
 - (6) The protected open space may count toward the minimum common open space requirement.
- (E) *Protected open space standards.* For the purpose of this section, protected open space shall mean the portion of the cluster development that has been set aside for permanent protection through the use of an approved legal instrument. The protected open space may include any of the following site features:
- (1) Permitted uses. The following uses shall be permitted within the Protected Open Space.
 - (a) Passive recreation areas
 - (b) Paved and unpaved trails
 - (c) Easements for drainage, access, and underground utility lines
 - (2) Prohibited uses. The following uses shall be prohibited within Protected Open Space:
 - (a) Golf courses and driving ranges;
 - (b) Any active recreation facilities or structures;
 - (c) Roads and parking lots; and
 - (d) Stormwater management facilities.
 - (3) Ownership and management of protected open space.
 - (a) The applicant must identify the owner of the protected space who will be responsible for maintaining it and any facilities located thereon.
 - (b) In conjunction with the subdivision application, the applicant shall submit a plan for management of the protected space that allocates responsibility and guidelines for the maintenance and operation of the protected space and any facilities located thereon, including provisions for ongoing maintenance.
- ~~(b)~~ (c) Ownership and management plans shall be incorporated into the subdivision documents.

§ 173.031. MULTI-FAMILY DWELLING STANDARDS

Multiple-family residential developments that include five (5) or more units shall meet the following provisions.

- (A) The development shall meet the landscape and buffer requirements of Chapter 175.

- (B) Sidewalks, internal and external to the site, are required in accordance with the sidewalk standards of Chapter 176.
- (C) Variations in building height.
- (1) For buildings of two (2) or three (3) stories in height and not exceeding one hundred (100) feet in length, at least fifteen (15) percent of the roof line shall have a variation in height, or an average variation in height, of at least five (5) feet.
 - (2) For buildings of two (2) or three (3) stories in height and in excess of one hundred (100) feet in length, at least two (2) portions of the building shall have a variation in height, or an average variation in height, of at least five (5) feet. The combination of said required variations in height shall amount to not less than fifteen (15) percent of the length of the building.
 - (3) For buildings of four (4) or more stories in height at least fifteen (15) percent of the roof line shall have a variation in height, or an average variation in height, of at least ten (10) feet.
- (D) Variations in building facade.
- (1) For buildings not exceeding one hundred (100) feet in length, at least fifteen (15) percent of the building face shall have a variation in setback of at least five (5) feet.
 - (2) For buildings in excess of one hundred (100) feet in length, at least two (2) portions of the building shall have variation in setback of at least five (5) feet. Variations of less than five (5) feet shall not count toward this requirement. The combination of said required variations in setback shall amount to not less than fifteen (15) percent of the length of the building.
- (E) Balconies shall be a minimum of five (5) feet in depth, unless they are not designed to be accessed.
- § 173.032. TOWNHOMES STANDARDS**
- New townhomes are subject to the following development regulations:
- (A) Up to eight (8) dwelling units may be grouped within one (1) contiguous townhome structure.
- (B) Variation in building design.
- (1) The facades of townhomes within a group shall vary in design and styling so that no more than two abutting townhomes within a group will feature identical facades.
 - (2) No more than two abutting townhomes within a group shall possess a common front building setback. Variation in the setback of front building facades shall be at least four (4) feet.
- (C) A minimum of 16 feet shall be provided between each group of townhome units.
- (D) Townhomes on lots less than 50 feet in width are strongly encouraged to obtain vehicular access from rear alleys so that the area between the townhouse and the public right-of-way can be landscaped.
- (E) Pedestrian access shall be provided from the front of the unit.
- (F) Landscaped strips shall be provided between driveways of adjacent townhomes.
- (G) All land within the project shall be developed and maintained in a neat and orderly condition. Deed covenants shall be developed to ensure the maintenance and upkeep of areas and facilities retained in

common ownership, in order to provide a safe, healthful and attractive living environment within the development, and to prevent the occurrence of blight and deterioration of the individual units.

§ 173.033. MANUFACTURED HOUSING/MOBILE HOMES

(A) Residential design manufactured homes (RDMH).

(1) *Standards to determine similarity in exterior appearance of residential design manufactured homes.* The following standards shall be used to determine similarity in appearance between RDMH homes and site-built homes.

- (a) *Minimum width of main body.* When assembled on site, the body of the RDMH shall not be less than twenty (20) feet. This is not intended to prohibit the attachment of accessory structures to the main building.
- (b) *Minimum roof pitch, minimum roof overhang, roofing materials.* The minimum pitch of the main roof of any RDMH shall be not less than one (1) foot of rise for four (4) feet of horizontal run, and the minimum roof overhang shall be six (6) inches. In cases where site-built housing generally has been constructed in adjacent or nearby locations with roof pitches less than 1:4 and/or roof overhangs are less than six (6) inches, then the RDMH may have less roof pitch and overhang similar to the site-built houses. Any roofing material for RDMH may be used which meets the specifications of the Florida Building Code used for site-built houses.
- (c) *Exterior finish; light reflection.* Any material may be used for exterior finish which is generally acceptable for housing provided the reflection for such exterior shall not be greater than the reflection from siding coated with clean white gloss exterior enamel.
- (d) *Foundation.* RDMH shall be placed upon a permanent foundation. Permanent foundation shall mean:
 - 1. Installation of the home according to Chapter 15C-1, Florida Administrative Code; and
 - 2. Construction of a permanent, perimeter stem wall designed and constructed to comply with the Florida Building Code specifications for exterior non-load bearing walls, extending at a minimum from the ground surface to the bottom of the exterior wall surfaces of the home.

(2) *Procedures for Approval of RDMH.*

- (a) *Applications for RDMH approval.* Applications for approval of manufactured homes as RDMH shall be submitted to the Building Division of the City of Palm Bay.
- (b) *Foundations specifications.* Where there has been prior approval of a foundation proposed to be used, as provided in the standards herein, detailed specifications or descriptions of such foundations shall not be required. Where it is proposed to use foundations not previously approved, specifications shall be supplied in sufficient detail to determine if the proposed foundation meets the standards set out in this section.

(B) Standard design manufactured homes.

- (1) To obtain a permit for SDMH placement, the applicant shall submit an inspection report certified by a professional engineer registered in the state of Florida, stating that all federal, state and local statutes with regard to housing are met.
- (2) Standard design manufactured homes shall bear all stickers, seals or registration as required by federal and state statutes.

(C) *Mobile homes.*

- (1) Because of the absence of building and safety standards for mobile homes constructed prior to June 15, 1976, legally registered mobile homes lawfully existing in the city on the effective date of this section (10-21-99), may continue such use as provided herein and as provided in the City of Palm Bay Code of Ordinances, as a legal nonconforming use. The installation of a mobile home in violation of this section is strictly prohibited.
- (2) Mobile homes shall bear all stickers, seals or registration as required by federal and state statutes.

(D) *Development plan review.*

- (1) As part of the supplementary data required to complete an application for a public hearing for a mobile home park/subdivision development, a scaled and dimensioned plot or site plan of the development shall be submitted as part of such application (if the site plan is larger than eleven (11) inches by seventeen (17) inches, two (2) copies are needed, as well as a digital copy); and if the application is approved, the mobile home park/subdivision shall be built substantially in accordance with such a plan. If the City Manager or designee deems that there is a substantial change from that which is shown on the original application, the developer shall be required to return to the Planning and Zoning Board and the City Council in order to receive approval for such changes as an amendment to the original site plan. The plot or site plan shall include, but not be limited to, location of all lots, service areas, public streets, street signs, walkways, and utilities showing the same underground where such is required. If a public utility equipment and facility is to be located on a site, its dimensions, location, access and other pertinent information should be indicated on the site plan. Adequate access for firefighting and emergency purposes and access to service areas shall be provided. Information concerning abutting land areas, such as land use, zoning, existing structures, and existing streets shall also be included. Site plan approval is limited to one (1) year but may be extended for an additional year by the City Council, for demonstrated progress.
- (2) A completion bond may be required by the City Council. If the construction is not substantially underway within one (1) year after the approval of the site plan, the site plan may be voided by the City Council.
- (3) If the property is to be subdivided, the parcel shall be platted in accordance with the subdivision plat regulations, and all street paving, drainage, water and sewerage facilities shall comply with the subdivision specifications and requirements of the city (see Chapter 177).

§ 173.034. ZERO-LOT LINE DEVELOPMENT STANDARDS.

Zero lot line detached dwellings are allowed in PUDs subject to the following standards.

- (A) *Interior side yard.* The dwelling unit shall be placed on one (1) interior side property line with a zero setback and the dwelling unit setback on the other interior side property line shall be a minimum of ten (10) feet excluding the connecting elements such as fences, walls and trellises. If the side yard abuts a street, the setback should be at least twenty-five (25) feet.
- (B) *Front setback.* All dwelling structures shall be set back a minimum of twenty-five (25) feet from the front property line.
- (C) *Rear setback.* All dwelling structures shall be set back a minimum of ten (10) feet from the rear property line. The placement of patios, pools, garden features and other similar elements should be addressed initially as part of the PUD process.
- (D) *Street frontage.* Each lot shall have a clear direct frontage on public streets or to access ways complying with private street requirements.
- (E) *Platting requirements.* Each dwelling unit shall be located on its own individually platted lot.
- (F) *Building height.* For a single-family dwelling only, the height shall not exceed two (2) stories and twenty-five (25) feet in height.
- (G) *Minimum lot area.* The minimum lot area shall be four thousand and fifty (4,050) square feet, or forty-five (45) feet by ninety (90) feet.
- (H) *Minimum square footage of living spaces.* For each unit, the minimum shall be eight hundred (800) square feet of living space under heat and air conditioning, not including garage and covered porch area.
- (I) *Maximum building coverage.* The maximum building coverage of the structure shall not exceed fifty percent (50%).
- (J) *Opening prohibited on zero-lot line side.* The wall of the dwelling located on the lot line side shall have no doors, air conditioning units or any other type of openings which would detract from the side yard privacy of the adjacent dwelling; provided, however, that atriums or courts shall be permitted on the zero-lot line side when the court or atrium is enclosed by three (3) walls of the dwelling unit, and a solid wall the height of the roof line is provided on the zero-lot line. The wall shall be constructed of the same material as exterior walls of the unit.
- (K) *Maintenance and drainage easement.* A perpetual four (4) foot wall maintenance easement shall be provided on the lot adjacent to the zero-lot line property line, which, with the exception of walls and/or fences, shall be kept clear of structures. This easement shall be included in the covenants of restrictions and incorporated into each deed transferring title to the property. Roof overhangs may penetrate the easement on the adjacent lot a maximum of twenty-four (24) inches. Measures shall be taken by the developer to direct runoff into the overall master drainage plan as submitted with the PUD.

§ 173.035 through § 173.039 RESERVED

PART 4. ARCHITECTURAL STANDARDS

§ 173.040. APPLICABILITY

The standards of this section shall apply to new construction (principal and accessory structures) on sites within the NC, CC, HC, OP, CMU and UMU zoning districts and those fronting an arterial or collector road in the GC zoning district. In the case of building additions or renovations, the standards shall apply if the addition or renovation exceeds fifty percent (50%) of the square footage of the existing structure. Compliance with the requirements set forth in this section shall be demonstrated by submittal of ~~building front elevations and color and material samples at the time of site plan review.~~ colorized architectural style elevations including building dimensions, all openings, and all architectural elements. Elevation sheet shall also include the schedule of materials.

The following buildings are exempt from the requirements of this section:

- (A) New buildings meant to complement a pre-existing structure by use of identical material finishes, scale, and form.
- (B) New buildings that are part of an overall campus plan that has an established architectural theme.
- (C) Public utility equipment, hospitals, churches, and buildings having national or local historic designation.
- (D) Accessory structures not visible from the right-of-way.
- (E) Mechanical equipment such as gasoline pumps, air and vacuum machines, drive-through menu boards and speaker stations, drive-through teller stations, ATMs, and similar appliances which require direct access by the public.

§ 173.041. ARCHITECTURAL STYLES

Structures must adhere to one of the following Architectural Styles. The features listed are only required along elevations facing public rights-of-way. The intent of City Council is that commercial structures adhere to the requirements of this section. However, applicants may pursue an administrative exception. The request for exception shall be in the form of a letter indicating the reasons for the request and the applicant's opinion of their adherence to the requirements. In rendering the final decision, the City Manager or designee shall consider the overall level to which the architectural design complies with the requirements. If the applicant is not satisfied with the Final Administrative Decision, they may appeal that decision pursuant to Chapter 172.

- (A) Florida Vernacular Architectural Style.
 - (1) Masonry or frame construction.
 - (2) Stuck stucco or lap siding finish.
 - (3) Brick wainscot.
 - (4) Architectural shingles or galvalume metal roof acceptable.
 - (5) Exposed lookouts at truss ends, dentil molding, operable shutters that match the window width, period style lighting.
 - (6) Limited color palette to pastel colors or white.

- (7) A front porch or overhang that has a minimum of sixty inches (60") width and encompasses a minimum of fifty percent (50%) of the main building façade.
- (8) No blank wall area to exceed four hundred (400) square feet of area.
- (9) No singular façade shall exceed one hundred (100) lineal feet of run without a minimum sixteen-inch (16") break, by utilizing a directional or material change.

(B) Mediterranean/Spanish Colonial.

- (1) Masonry or frame construction.
- (2) Heavy stucco or concrete finish.
- (3) Barrel vaulted elements over windows and doors.
- (4) Flat or low hip roof lines with interlocking terra-cotta roof tile.
- (5) Terra cotta detailing, quoins, metalwork around windows and doors, relief around cornices, parapets, balconies, and balustrades.
- (6) Limited color palette of white, parchment and coral colors.

(C) Spanish Revival.

- (1) Masonry or frame construction.
- (2) Heavy stucco or masonry finish.
- (3) Barrel arches over windows and doors.
- (4) Flat, gable and/or hip roof lines with interlocking barrel style roof tile.
- (5) Iron work around windows.
- (6) Trim work around doors, parapets, windows, and entryways.
- (7) Color palette of white or the patina of the masonry.

(D) Commercial American.

- (1) Traversable arcade of fabric awning or structural roof.
- (2) Recessed entryway and string course over storefront.
- (3) Flat or low slope roof.
- (4) Parapet with minor course banding and/or cornice.
- (5) Concrete or brick construction.
- (6) Large fixed-plate glass storefront windows.
- (7) Minor trim or fretwork.
- (8) Color palette typically reflects the base material (brick) or lighter colors.

(E) Bungalow.

- (1) Brick or concrete wainscot or base.
- (2) Gable roof line with exposed rafters and secondary rooflines.
- (3) Decorative shake or shingle roof or metal roof.
- (4) Horizontal siding.
- (5) Tapered columns.
- (6) Exposed structural elements for detailing such as beams, ridge vents, rafters, and purlins.
- (7) Useable front porch.
- (8) Color palette may vary.

§ 173.042. PUBLIC SPACE

Structures that exceed five thousand (5,000) square feet of ground floor shall provide outdoor public space, which may include benches, sitting areas, bicycle racks, bus stops, display fountains or landscaping. Structures that exceed fifty thousand (50,000) square feet of the area on the main floor shall provide an area on the site equivalent to three percent (3%) of the main floor area for an outdoor public space. The outdoor public space may count toward the common open space requirement.

§ 173.043. ROOFTOP EQUIPMENT

All HVAC, wireless communication devices, Fire Suppression, Solar Panels, wind generation devices and similar equipment placed on any roof or above the roof line of any commercial structure shall be effectively screened as to not be seen by the public.

§ 173.044. SIGNS

The Sign Code shall be adhered to with the following exceptions:

- (A) The color, construction, and material of each sign shall be compatible with the architecture on the site.
- (B) Every sign frame or support shall be designed as a sympathetic architectural element of the building(s) to which it is principally related.
- (C) Freestanding signs shall have landscaping at the base that is a minimum width of the sign above.
- (D) Freestanding signs over twenty-five (25) feet in height shall be exempt from the design review requirements of this subsection but will require landscaping at the base of each sign that is a minimum width of the sign above.

§ 173.045. EXTERIOR COVERING

- (A) All new residential masonry construction not using architecturally designed block shall require an exterior covering of stone, brick, siding, stucco, or other approved material as determined by the Florida Building Code. The coverage shall be such that individual blocks may not be discerned. For the purpose of this section, architectural block is any split-face, ribbed or fluted masonry block.
- (B) Additions to existing homes without siding, are exempt from the requirements of this subchapter.

- (C) Exterior coverings must be installed continuously around foundations on the outside perimeter of buildings with floors elevated above the ground and where more than twelve (12) inches of vertical open area exists from the ground to the building walls.
- (D) Pre-engineered metal buildings or metal buildings that utilize a fastened metal horizontal girder by which an exterior wall is attached to are not permitted, unless the exterior is designed to simulate non-metal construction. No part of the exterior finish shall utilize metal cladding.
- (E) The predominant exterior color shall be applied to all sides of the structure.

§ 173.046 through § 173.049 RESERVED

PART 5. DEVELOPMENT BONUSES AND INCENTIVES.

§ 173.050. PURPOSE

The bonus program is established to encourage certain features such as more intensive development in the right location, or the provision of elements that are desired in the community. Table 173.8 lists the features that qualify for bonuses, the type of bonus offered, and the minimum conditions for the bonus request to be considered.

§ 173.051. MINIMUM REQUIREMENTS

(A) The following provisions shall be adhered to:

- (1) Only one bonus per feature may be obtained (e.g., density, intensity, or height bonus for the provision of public open space), but a development may qualify under several categories. Densities and intensities shall not exceed the maximum allowed by the site's future land use category designation.
- (2) Building height shall not exceed two stories above the maximum permitted in a zoning district.
- (3) No development shall exceed the maximum density or intensity allowed in the underlying Future Land Use category of the site.
- (4) The use (e.g., single family, townhome, multi-family) shall be a permitted use in the zoning district.
- (5) The affordable housing bonus is not intended to supersede allowances provided by the Live Local Act. Projects processed under the Act are not eligible for the incentives offered in this section.

§ 173.052. PROCESS REVIEW CRITERIA

(A) Development bonuses shall be considered in conjunction with the approval of the site plan. When reviewing bonus requests, the approving authority shall consider the following criteria:

- (1) The proposed project shall not have a negative impact on the transportation level of service.
- (2) The new development shall mitigate any impacts it may have on the scale character of existing residential sites abutting the proposed project.

(3) The applicant shall enter into a developer's agreement with the City committing to the number of affordable units approved and ensuring that the units will remain affordable for a period of time to be designated by the Council.

~~(3) The applicant shall enter into a developers' agreement with the City committing to the number of affordable units and a monitoring program.~~

~~§ 173.053. REQUIREMENTS~~

~~(A) When reviewing a proposal for a development utilizing the density/intensity bonus, the City Manager or designee shall consider the following criteria:~~

~~(1) The proposed project shall not have a negative impact on the transportation level of service.~~

~~(2) The new development shall mitigate any impacts it may have on the scale character of existing residential sites abutting the proposed project.~~

~~(3)(1) The applicant shall enter into a developer's agreement with the City committing to the number of affordable units approved and ensuring that the units will remain affordable for a period of time to be designated by the Council.~~

Table 173 - 8. Development Bonus Program

Proposed feature	Density Bonus	Intensity Bonus	Building Height	Other	Conditions
Vertical mixed-use (residential and commercial or office)			2 stories ⁽¹⁾		Minimum of
Affordable housing	Max allowed in FLU category		2 stories ⁽¹⁾		A minimum of development. Developers' keeping the of 30 years.
Public Open Space and Amenities <u>(In addition to the required open space for the project)</u>	2 4 additional units per acre for every 3,000 sq. ft. of amenities	0.02 additional FAR for every 3,000 sq. ft. of amenities	1 story ⁽¹⁾ for every 3,000 sq. ft. of amenities		Urban plaza three thousand or multi-use systems outside amenities shall maintained,
Parking garage under residential, office or commercial development			1 additional floor-story ⁽¹⁾ per garage level provided		The façade facade incorporate a commercial
Access to Waterfront (Turkey Creek, Palm Bay, and the Indian River Lagoon)			1 additional floor-story ⁽¹⁾	<u>Apply area to Open Space or nonresidential requirement</u>	One or comb 1. View of the of-way (in the 2. Access to t ramps, fishing 3. Outdoor d
Low Impact Design	2 additional units per acre	0.02 additional FAR		<u>Apply area to Open Space requirement</u>	Designs shall capture storm maximum ex consistent with practices (IM Impact Devel

[ADOPTED 09/19/2024]

Proposed feature	Density Bonus	Intensity Bonus	Building Height	Other	Conditions
Emergency storm shelters in mobile home or RV parks	2 additional units per acre				shelters which construction within the lot Standard for Storm Shelter
Use of living shoreline techniques to prevent shoreline erosion				Reduced parking (up to 10% of the minimum number of spaces required)	One or more
Co-location of water-dependent and water-related uses				Reduced parking (up to 10% of the minimum number of spaces required)	Minimum of water-depend Uses must be structure or p shared pedes
<u>Onsite preservation of protected or specimen trees</u>				<u>Reduced parking (up to 10% of the minimum number of spaces required)</u>	

Where the features listed above are already required by the Land Development Code, they shall be provided without a

(1) A story is equivalent to ten feet (10').

§ 173.054. VOLUNTARY INCLUSIONARY HOUSING

(A) The City may enter into an agreement with a developer to provide a specified number or percentage of affordable housing units by F.S. ~~§ 125.01055~~ 166.04151, to be included in a development or allow a developer to contribute to the city's affordable housing alternatives in lieu of building the affordable housing units. In exchange for a developer fulfilling these requirements in a mixed-use residential development, the city may:

[ADOPTED 09/19/2024]

-
- (1) Allow the developer density or intensity bonus incentives; more floor space than allowed under the current designation or zoning; or greater height;
 - (2) Reduce or waive fees, such as building or development fees or water; or
 - (3) Grant other incentives in accordance with Ordinance 2022-73.

§ 173.05~~5~~⁴ through § 173.059 RESERVED

PART 6. PLANNED UNIT DEVELOPMENT ZONING DISTRICT REGULATIONS

§ 173.060. PURPOSE AND INTENT.

The purpose of the Planned Unit Development (PUD) zoning district is to provide a zoning district that allows design flexibility and promotes planned diversification and integration of uses and structures, while also retaining the city council's authority to establish such limitations and regulations as it deems necessary to protect the public health, safety, and general welfare. The PUD district is designed to:

- (A) Encourage flexible land development that sustainably uses land and infrastructure, reduces transportation needs, conserves energy, and maximizes the preservation of natural resources.
- (B) Allow for the integration of different land uses and densities in a single development achieving compatibility in overall site design and scale, both internal and external, to the project site.
- (C) Permit outstanding and innovative residential and nonresidential developments with quality-of-life design features, such as an integration of housing types and accommodation of changing lifestyles within neighborhoods; design that encourages internal and external convenient and comfortable travel by foot, bicycle, and transit through such strategies as pedestrian scale, a building orientation generally toward streets and sidewalks, parking located to the side or rear of buildings, narrow streets, modest setbacks, front porches, connected streets, multiple connections to nearby land uses, terminated vistas, recessed garages, alleys, enhances landscaping, and mixed-uses.
- (D) Establish criteria for the inclusion of compatible associated uses to complement the residential areas within the planned unit development.
- (E) Achieve overall coordinated building and facility relationships, infill development, and eliminate the negative impacts of unplanned and piecemeal development.

§ 173.061. PUD STANDARDS

Each planned unit development shall set forth development standards specific to the proposed preliminary development plan, in keeping with the minimum standards set forth in this Part. These standards shall be described in detail for each type of development permitted within the PUD. For PUDs approved that do not have any identifiable development standards but have not yet completed construction of all phases, the PUD must obtain a preliminary development plan approval from City Council to set standards for all future development.

§ 173.062. PCD, PCRD, AND PMU PROPERTIES.

The Planned Commercial Development (PCD), Planned Community Redevelopment District (PCRD), or Parkway Mixed-Use (PMU), districts have been consolidated with the Planned Unit Development (PUD) district. Properties previously zoned to any of those districts are now deemed to have a PUD zoning designation. The approved Development Orders shall remain in effect as approved. Any proposed changes to those approvals shall be processed based on the requirements of this section.

§ 173.063. MINIMUM PROJECT SIZE.

PUD sites shall contain a minimum of five (5) acres unless entirely comprised of tiny homes. In such cases, the minimum site size shall be one (1) acre.

§ 173.064. UNIFIED OWNERSHIP OR CONTROL.

The title to all land within a proposed site for a planned unit development shall be owned or controlled by a developer submitting the applications provided for under this subchapter. The term CONTROLLED BY shall be interpreted to mean that the developer shall have the written consent of all owners of property within the proposed site not wholly owned by the developer. The consent shall be included in the PUD Agreement and shall contain a statement that the developer is authorized to represent the owners in the submission of an application under the provisions of this subchapter and that the owners shall agree to be bound by the decision of the City Council in the event application is approved.

§ 173.065. PERMITTED USES.

Uses permitted in the planned unit development may include and shall be limited to the following. They may be mixed vertically or horizontally. The specific uses that may be developed in the district shall be identified in the PDP and PUD Agreement.

(A) *Residential uses:*

- (1) Single-family (including zero-lot line development and tiny homes, as defined in chapter 171)
- (2) Multi-family residential dwelling units (including apartments, condominiums, and townhomes) in semi-detached, attached, single, and multi-storied structures.

(B) *Nonresidential uses.* Nonresidential uses may include all Institutional, Commercial and Industrial permitted and conditional uses. The nonresidential uses within residential PUDs shall be compatible with the residential uses, may contain a horizontal or vertical mixture of residential and nonresidential uses where practical, and shall provide for a walkable community to the greatest extent possible. Nonresidential uses shall be delineated in the PUD and consist of a minimum of 20% of the development acreage. PUD's containing 500 dwelling units or less shall be fifteen percent (15%) of the development acreage.

(C) PUDs must be connected to the City of Palm Bay water and sewer distribution system and fronting on public rights-of-way within the City. The City reserves the right to deny extension of public utilities. The decision to extend public sanitary sewer and public water shall be made upon the recommendation of the Utilities Director or designee, and in accordance with Title XX of the Utilities Code.

§ 173.066. MINIMUM NON-RESIDENTIAL USE AREA.

(A) Residential PUDs shall have a non-residential area encompassing a minimum of twenty percent (20%) of the developable acreage of the site, unless the PUD is entirely composed of tiny homes. The non-residential areas shall be situated and buffered so as not to create any detrimental effect on residential uses.

§ 173.067. DENSITY AND INTENSITY.

The maximum and average density and intensity permitted in each PUD shall be established by the underlying Future Land Use as approved by the City Council, upon recommendation of the Planning and Zoning Board.

The criteria for establishing an average density includes existing zoning, adequacy of existing and proposed public facilities and services, site characteristics, and the recommended density of any land use plan involving the area in question. In no case shall the maximum density or intensity permitted exceed the underlying Future Land Use.

§ 173.068. MINIMUM LOT AREA, FRONTAGE, SETBACKS, AND STRUCTURE REQUIREMENTS.

- (A) Unless expressly delineated, minimum lot area, frontage, setbacks and structure requirements shall be compatible with the surrounding existing development and in compliance with the underlying zoning requirements portrayed in the PDP.
- (B) The minimum lot size, lot width, and lot depth shall be negotiated. The average residential lot size for an attached or detached single-family unit shall not be reduced by less than 75% of the required minimum lot size in the underlying zoning. ~~in the adjacent single-family residential zoning district.~~ There is no minimum lot size for multiple-family residential structures, excepting attached single-family units, townhouses, patio homes, and similar clustering of residential units which shall follow the guidelines as established ~~above~~ in the underlying zoning. The city retains the authority to require lot sizes and building heights along the periphery of the project be designed in a manner that is compatible to abutting lots within adjacent residential single-family zoning districts. The transition in lot size should be internalized ~~in order to~~ abate adverse impacts on adjacent single-family zoning districts. The city also retains the authority to require more open space and/or amenities which have a clearly significant public benefit in return for allowing substantial flexibility in the layout and design of the planned unit development.
- (C) Minimum distances between structures shall be:
- (1) Between structures of two (2) stories or less — ten (10) feet.
 - (2) Between structures of three (3) stories — twenty (20) feet.
 - (3) Between structures of four (4) stories — thirty (30) feet.
 - (4) Between structures over four (4) stories — thirty (30) feet, plus five (5) feet for each additional story.
 - (5) Between structures of varying heights, the larger distance separation shall be required.
- (D) The setback from the nearest part of any building wall to the edge of any public right-of-way or private street and the minimum setback maintained between the walls of all structures and the perimeter of any lot or parcel shall be included in the proposed preliminary development plan
- (E) Waterfront PUDs.
- (1) Waterfront projects shall provide public access to the waterfront. The type of access and facilities shall be determined during the project approval process and may be met offsite if deemed appropriate by City Council.
 - (2) Projects between Dixie Highway NE (U.S. #1) and the Indian River Lagoon shall maintain a minimum of thirty percent (30%) of the frontage open through use of breezeways, no-build visibility corridors or other means, to allow views of the water from the street.
- (F) Maximum length of structures: No structure within a PUD shall exceed two hundred (200) feet unless an excess is specifically authorized by the City Council based on a valid justification provided by the applicant.

(G) Minimum living area per unit.

- (1) Single-family detached dwellings — eight hundred (800) square feet.
- (2) Tiny homes — one hundred twenty (120) square feet.
- (3) Multi-family dwellings: The minimum living area for multi-family units shall be as follows:
 - (a) Efficiencies: 500 Sq. Ft.
 - (b) One-bedroom units: 600 Sq. Ft.
 - (c) Two-bedroom units: 750 Sq. Ft.
 - (d) Three-bedroom units: 900 Sq. Ft.
 - (e) Each additional bedroom after three bedrooms: 100 Sq. Ft. per additional bedroom

(H) Additional standards for Tiny Homes: A tiny home must be certified to meet ANSI A119.5 standards. A tiny home exceeding four hundred (400) square feet shall meet the Federal Manufactured Home Construction and Safety Standards and shall have a United States Department of Housing and Urban Development label.

§ 173.069. ACCESS AND DRIVEWAYS.

- (A) Each individual lot within the PUD shall have access to a public street either directly or indirectly via an approach private road, pedestrian way, court or other area dedicated to public or private use or common easement guaranteeing access.
- (B) The city shall be allowed access on privately owned roads, easements and common open space to ensure the police and fire protection of the area to meeting emergency needs, to conduct city services, and to generally ensure the health and safety of the residents of the PUD.

§ 173.070. COMMON RECREATION AND OPEN SPACE.

- (A) PUDs shall have a minimum of twenty-five percent (25%) of the gross site acreage or developable acreage dedicated to common recreation and open space. PUD's containing 500 units or less shall have a minimum of 15% of the gross site acreage or developable acreage dedicated to common recreation and open space. This designated land and water area may contain a combination of activity-based open space area and resource-based open space area as defined in §171.001. Such usable space may be in the form of active or passive recreation areas including, but not limited to playgrounds, golf courses, nature trails, non-public recreational vehicle storage, stables, and lakes. Parking areas, private road rights-of-way, minimum yards, and spacings between dwelling units, may not be included in determining usable common recreation and open space.
- (B) Common recreation and open space may be improved to the extent necessary to complement the residential uses and may contain compatible and complimentary structures for the benefit and enjoyment of the residents of the PUD.
- (C) If golf courses or water areas are used to partially fulfill open space requirements, calculations for such may not exceed sixty percent (60%) of the required open space. All water areas, including wet retention stormwater management ponds, may be included as part of the open space requirement, shall be permanent water bodies and shall be activated, have a minimum sloped edge as per applicable City and

State regulations, and planted with native landscaping. Water areas, lakes, ponds, and wet detention stormwater ponds shall be included in open space requirements if activated by docks, piers, boardwalks, pedestrian trails, benches, pavilions, shade structures, water features, and/or permanent stationary exercise equipment. One hundred percent (100%) of protected open space, including protected wetlands and conservation areas, that are peripherally activated in the uplands, outside the boundary of the wetland or buffer, by any similar activation to water areas above may be counted towards required open space.

- (D) All common recreation and open space shall be preserved for its intended purposes as expressed in the preliminary development plan. The developer shall choose one (1) or a combination of the following three (3) methods of administering common recreation and open space:
- (1) Public dedication accepted by the city may be included in the calculation of the common recreation and open space. This method is subject to formal acceptance by the city in its sole discretion.
 - (2) Establishment of an association or nonprofit corporation of all individuals or corporations owning property within the planned unit development to ensure the maintenance of all common recreation and open space.
 - (3) Retention of ownership, control and maintenance of all common open space by the developer.
- (E) All privately owned recreation and common open space shall continue to conform to its intended use and remain as expressed in the preliminary development plan through the inclusion in all deeds of appropriate restrictions to ensure that the common recreation and open space is permanently preserved according to the preliminary development plan. The deed restrictions shall run with the land and be for the benefit of present as well as future property owners and shall contain a prohibition against partition.
- (F) All common recreation and open space, as well as public and recreational facilities, shall be specifically included in the development schedule and be constructed and fully improved by the developer at an equivalent or greater rate than the construction of residential structures.
- (G) If the developer elects to administer common recreation and open space through an association or nonprofit corporation, the following requirements shall be met:
- (1) The developer must legally establish the association or nonprofit corporation and provide proof of such prior to the issuance of a building permit for any residential structure contained therein.
 - (2) Membership in the association or nonprofit corporation shall be mandatory for all property owners within the planned unit development and the association or corporation shall not discriminate against its members or shareholders.
 - (3) The association or nonprofit corporation shall manage all common open space and recreational and cultural facilities that are not dedicated to the public, shall provide for the maintenance, administration and operation of the land, any other land within the planned unit development not publicly or privately owned, and shall secure adequate liability insurance on the land. If the developer elects an association or nonprofit corporation as a method of administering common recreation and open space, the title to all residential property owners shall include an undivided fee simple estate in all common recreation and open space.

§ 173.071. OFF-STREET PARKING.

Parking counts and parking space/lot standards shall meet the requirements of Chapter 176, unless the applicant demonstrates that different standards are necessary and are consistent with the intent of this LDC. Tiny homes require one (1) parking space per unit.

§ 173.072. TREE PROTECTION AND LANDSCAPING.

Site and parking lot landscaping shall, at minimum, meet the standards of Chapter 175.

§ 173.073. UTILITIES.

- (A) *Underground utilities.* Within the PUD, all utilities shall be installed underground. Primary facilities providing service to the site of the PUD may be exempted from this requirement. Large transformers shall be placed on the ground and contained within pad mounts, enclosures or vaults. The applicant must provide landscaping with shrubs and plants to screen all utility facilities permitted above ground. The planning and zoning board may recommend, and City Council may require that substations be fenced and screened by trees and shrubs or walls resembling a structure which is compatible with the design of the buildings within the PUD.
- (B) *Utility standards.* The minimum construction requirements for driveways, streets or roads, sidewalks, streetlights, sewer facilities, utilities and drainage dedicated to the public or located along public rights-of-way shall be in compliance with the requirements of the city's subdivision regulations set forth in Chapter 177 of this code. The specific development standards of a PUD district may be waived by the City Council if the applicant demonstrates that different standards are necessary and are consistent with the intent of this LDC.

§ 173.074 through § 173.079 RESERVED

PART 7. REGIONAL ACTIVITY CENTER (RAC) PUD.

§ 173.080. PURPOSE.

The provisions of this section are intended to implement Objective 1.6 of the Future Land Use Element of the City's Comprehensive Plan by establishing standards for Regional Activity Centers (RAC). RACs are large-scale, master planned communities which serve as integrated centers of commerce and employment. Developments within a RAC Future Land Use category shall be developed through a rezoning to PUD.

§ 173.081. INTENT.

Development within a RAC shall be based on the generalized principles of Smart Growth, Traditional Neighborhood Design, New Urbanism, or Transit Oriented Design. As such, the RAC shall feature walkability, compact development patterns, quality architecture and urban designs, and a hierarchy of streets or street system to foster connectivity and pedestrian mobility as well as alternative modes of travel. Buildings within a RAC shall meet LEED standards or best management practices from the United States Green Building Council and Florida Green Building Council to the fullest extent practicable.

§ 173.082. DENSITY AND INTENSITY.

Density and intensity within a RAC shall not exceed maximums listed in Policy FLU-1.1A. Furthermore, development within a RAC shall have an overall *minimum* density of five dwelling units per gross residential acre.

§ 173.083. RAC SUBAREAS.

(A) *Subareas required.* RAC PUDs shall provide a balanced mix of uses and shall be composed of Urban Living Areas, Open Space Areas, and a Mixed-Use Town Center or a Workplace (or both) as defined below. When a RAC includes both a Mixed-Use Town Center and a Workplace, the combined size of both uses shall be a minimum of 35% of the RAC's net buildable area.

(1) Urban Living Areas. Residential areas which include a variety of housing types, styles, and price points.

(2) Open Space Areas. Activity-based or resource-based outdoor areas.

(a) Activity-based open space areas provide recreational opportunities and include features such as walkways, bike paths, trails, picnic areas, playgrounds, lakes, and parks.

(b) Resource-based open space areas are intended to protect and enhance environmental systems and may include wetlands, uplands or any other environmental features.

(3) Mixed-Use Town Centers, The recognizable commercial and civic core of the community that is sized to meet the needs of residents within one mile of the community core.

(4) Workplaces. Hubs that provide a variety of employment opportunities.

(B) *Subarea standards.* The following standards shall be met in designing each subarea within the RAC: For purposes of these provisions, net buildable area is defined as the gross acreage of the lands designated as a RAC, less the resource-based Open Space Areas.

(1) Urban Living Areas:

(a) Size: 25% minimum and 40% maximum of the net buildable area of the RAC;

(b) Density: A minimum of 5 units and a maximum of 13 units per gross acre within the Urban Living Area;

(c) Uses: Single family detached, single family attached, multi-family, and appropriate public/semipublic, and recreation uses are permitted.

(2) Mixed-Use Town Center:

(a) Size: 20% minimum and 50% maximum of the net buildable area of the RAC;

(b) Intensity: 2,000,000 square feet maximum;

(c) Uses:

1. Commercial, professional office, multi-family residential, and public/semipublic uses are permitted;

2. Shall include a vertically integrated mix of higher density and intensity development;

3. Residential uses may be located above commercial or professional office uses; and
4. On-street parking must be provided where appropriate.

(3) Workplace:

- (a) Size: 20% minimum and 60% maximum of the net buildable area of the RAC;
- (b) Intensity: 2,000,000 square feet maximum;
- (c) Uses.
 1. Uses may be mixed horizontally or may be contained within multiple use buildings;
 2. Include denser housing products than traditional single-family detached homes;
 3. Commercial, professional office, light industrial multi-family residential, and public/semipublic uses are permitted; and
 4. Parklets shall be encouraged.

(4) Open Space:

- (a) Open Space Areas shall be a minimum of 30% of the gross acreage;
- (b) A minimum of 10% of the Open Space Area shall be activity-based; and
- (c) Stormwater management areas may be included in resource-based Open Space Areas.

§ 173.084. RESIDENTIAL AND EMPLOYMENT USES.

(A) *Residential breakdown.* The residential units in a RAC shall be allocated among the Urban Living Area, Mixed-Use Town Center, and Workplace as follows:

- (1) 20% of the approved residential units shall be placed in the Mixed-Use Town Center or the Workplace;
- (2) Single family units shall be limited to 45% of the total approved residential units;
- (3) Multi-family units shall be a minimum of 55% of the approved residential units; and
- (4) 10% of the approved residential units shall qualify as affordable housing which, for this purpose, shall mean housing affordable to persons with incomes between 80% and 140% of the median household income in Brevard County.

(B) *Employment.* To promote the creation of employment opportunities, the following residential/nonresidential thresholds shall be met:

- (1) Prior to the issuance of building permits for more than one third of the residential units, a minimum of 150 square feet of nonresidential square footage shall be constructed for each residential unit developed.
- (2) Prior to the issuance of building permits for more than two thirds of the residential units, a minimum of 150 square feet of nonresidential square footage shall be constructed for each residential unit developed.
- (3) At buildout, a minimum of 0.6 jobs shall have been created for each residential unit constructed.

- (4) The jobs/housing ratio shall be measured after the issuance of site plan approval for nonresidential development. If upon review, the jobs/housing ratio has not been reached, the City may require appropriate mitigation.

§ 173.085. STREETS AND WALKABILITY STANDARDS.

To ensure that developments within the RAC PUD are pedestrian friendly and promote the efficient movement of people, the following standards shall be met:

- (A) At buildout, all homes shall be within one half mile of transit, a Mixed-Use Town Center, a workplace, a recreational use, or a public/semipublic use.
- (B) Streets shall be pedestrian friendly, tree-lined, and provide for on-street parking where appropriate.
- (C) Homes shall be built close to streets with the majority of the homes having street-facing facades and/or porches, windows and doors. Homes may not need to front on the street so long as the home is designed in a manner that is consistent with the principles of Traditional Neighborhood Design or New Urbanism.
- (D) Mixed-use and commercial structures shall be built close to streets with street facing facades and entrances. Parking lots and parking structures are to be hidden behind the building to the fullest extent practicable.
- (E) Lighting shall be designed to enhance safety and be consistent with “dark sky” objectives to the maximum extent practicable.
- (F) Brick pavers, roundabouts, traffic circles and other traffic calming techniques shall be employed in key locations to enhance aesthetics, improve pedestrian access, reduce vehicle speeds and promote safety within all travel modes.
- (G) All streets shall have sidewalks on both sides. Sidewalks shall be a minimum of six (6) feet in width to accommodate pedestrian activity.
- (H) The street system shall be a well-connected grid-based system that is fully integrated and designed to facilitate the expansion of the system as the RAC develops.
- (I) The street system shall be designed in a hierarchy that provides for alternative cross sections to facilitate the development of narrow neighborhood streets, boulevards, and alleys. Streets are to be interconnected both internally and externally to both move and disperse traffic efficiently.
- (J) The arrangement and design of streets shall promote a pleasant, pedestrian and bicycle-friendly environment with an emphasis on convenient access to surrounding neighborhoods and community amenities.
- (K) Unimproved nature trails and boardwalks connecting residential areas with a Mixed-Use Town Center, a Workplace, recreational uses, and public/semipublic uses shall be provided. Multi-purpose recreation trails shall be at least ten (10) feet wide.
- (L) Traffic calming techniques shall be employed to the maximum extent practicable.
- (M) Transit/bus/trolley locations shall be provided.

§ 173.086. LANDSCAPING.

Landscaping shall be designed and installed using the University of Florida Friendly Plant List and managed in accordance with the latest University of Florida Yards and Neighborhoods Recognition Checklist.

§ 173.087 through § 173.089 RESERVED

PART 8. CMU AND UMU DISTRICT STANDARDS

§ 173.090. PURPOSE AND INTENT.

The purpose of this section is to establish standards to implement the Community Mixed-Use and Urban Mixed-Use Future Land Use categories through the application of the Community Mixed-Use and Urban Mixed-Use zoning districts. With preset standards for these districts, applicants can design unified developments with a variety of uses, building types, and densities/intensities without having to process a Planned Unit Development. See Chapter 172 for the required steps to process a development in the mixed-use districts.

The regulations contained in this section are intended to:

- (A) Create walkable communities that provide within walking distance most of the activities of daily living so that residents of all ages may gain independence of movement, thereby reducing the number and length of vehicular trips;
- (B) Provide a variety of places to go and things to do within walking distance, including an assortment of residential buildings (i.e., detaches homes, townhouses, apartments, etc.), workplace buildings (i.e., offices, studios, craft shops, etc.), neighborhood commercial buildings (i.e., grocery stores, craft shops, boutiques, salons, restaurants, etc.), and public buildings (i.e., schools, churches, libraries, assembly halls, etc.), bound together by a well-planned public realm;
- (C) Ensure the provision of tree-lined streets, sidewalks, playgrounds, parks, benches, picnic shelters and gazebos which help create neighborhood character and offer amenities to the entire community;
- (D) Provide a variety of housing types and sizes to accommodate the needs of a diverse population;
- (E) Ensure a coordinated approach to site and building design;
- (F) Achieve the integration of new developments to external pedestrian and vehicular network;
- (G) Support cohesive, mixed-use development with higher development densities and intensities at nodes;
and
- (H) Encourage the development of high-quality mixed-use through development incentives.

Figure 173 - 1. Inspiration images for UMU



Figure 173 - 2. Inspiration images for CMU



§ 173.091. MIX OF USES

Table 173-2 lists the uses permitted within the CMU and UMU districts. The MU Master Site Plan shall show a mix of uses in a vertical or horizontal fashion. When laying out the uses, the most dense/intense uses shall be concentrated at major intersection nodes with a gradual transition to a less dense urban form at the edges of the development. To ensure a balance between housing, retail, office, and other commercial and light industrial development within new MU zoning districts, the following mix of uses shall be achieved (percentage of gross acreage). For vertical mixed-use, the acreage of a site used for several uses may be double counted (e.g., a 10-acre site with ground floor commercial and residential above may be counted as 10 acres of commercial and 10 acres of residential – 50% of each use).

Table 173 - 9. Required Mix of Uses:

Use Type	CMU		UMU	
	Minimum	Maximum	Minimum	Maximum
Residential	50%	90%	10%	50%
Commercial	10%	50%	50%	90%
Industrial	None	50%	None	50%
<u>Institutional</u>	<u>None</u>	<u>50%</u>	<u>None</u>	<u>50%</u>
Common Open Space	30 <u>25</u> %	NA	30 <u>25</u> %	NA

§ 173.092. SITE DEVELOPMENT STANDARDS.

New development in the Community Mixed-Use and Urban Mixed-Use districts shall meet the standards of this section. Townhomes, multifamily, and zero-lot-line developments shall also comply with the standards noted in §173.032, §173.031, and §173.034 for such uses. All other uses are also subject to the architectural standards contained in Part 4 of this chapter.

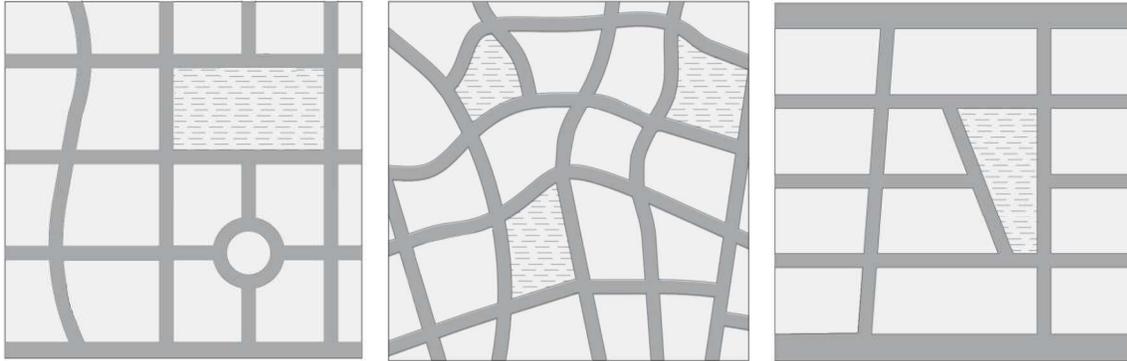
(A) *Minimum site area.*

- (1) The total gross acreage of a property being rezoned to CMU shall comprise a minimum of 100 contiguous acres, unless the site is already adjacent to an CMU district and the new development will integrate to the existing neighboring mixed-use. There is no minimum site area requirement for rezoning to UMU.
- (2) A site proposed for rezoning to CMU or UMU shall be owned by or under the control of the applicant. Approval of the rezoning application by the city shall be based on the understanding that, if the applicant proceeds with the proposed development, the applicant will:
 - (a) Do so in accord with the officially approved final MU Master Site Plan for the site, and any other conditions or modifications the City Council may impose.
 - (b) Provide agreements, covenants, contracts, deed restrictions or sureties acceptable to the city for completion of the undertaking in accordance with the adopted final master plan as well as for the continuing operation and maintenance of those areas, functions and facilities that are not to be provided, operated, or maintained at public expense.
 - (c) Bind all development successors in title to any commitments made under this section.

(B) *Block standards and connectivity.* Connectivity is of utmost importance in both districts, and it is achieved by ensuring blocks and streets are laid out to provide that connectivity for pedestrians and vehicles. While an orthogonal grid is the most obvious method for achieving connectivity, meandering roads are also acceptable provided they preserve the connectivity (see Figure 173-3). Proposed developments shall be required to provide connectivity by meeting the following standards. The City Manager or designee may allow adjustments based on the presence of environmentally sensitive lands, tree protection, or other existing site-specific features.

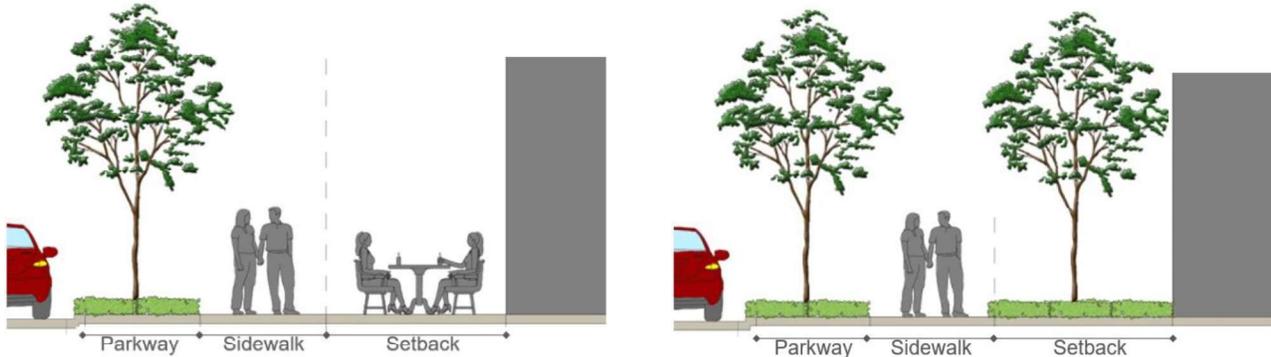
- (1) New blocks shall not exceed a 2,000 lineal foot perimeter and block length shall not exceed 600 feet.
- (2) To prevent the creation of mega-blocks due to ownership of large tracts, vehicular and pedestrian connections shall be provided through the development. Gated communities are not permitted within this district. Through traffic issues may be deflected by using traffic calming techniques (e.g., lane shifts, roundabouts, non-direct routes).

Figure 173 - 3. Examples of Connectivity



- (C) *Development density and intensity.* Individual components of the mixed-use development (i.e., pods, neighborhoods) may have a range of maximum densities based on the intended character of each area. However, the overall maximum density for the entire development site shall be as shown in Table 173-5.
- (D) *Lot sizes.* The CMU district is intended to include a wide variety of housing choices. The minimum size of residential sites shall vary to accommodate those housing products as shown in Table 173-5. A mix of single family, townhomes, and multi-family housing is encouraged. In no event shall a development within a CMU district have more than 70% of the housing stock be the same housing type. The Master Site Plan shall specify where the various housing products will be located.
- (E) *Setbacks.*
- (1) Residential uses shall meet the standards listed in Table 173-5. However, porches and living areas may encroach up to 10 feet into the front yard setback.
 - (2) Non-residential buildings should be built close to the street to emphasize pedestrian activity. Therefore, the setbacks listed in Table 173-5 shall be met. However, the minimum setback may be reduced to zero (0) if an eight (8)-foot wide public furnishing zone and a six (6)-foot public sidewalk are present or proposed adjacent to the site.
 - (3) The maximum setbacks may be waived to allow for pedestrian plazas/forecourts.
 - (4) In no event shall parking be located between the building and the street, unless otherwise permitted in §173-093, Parking Location and Design.
 - (5) The front and side corner setbacks may be used for landscape, hardscape, or outdoor dining (see Figure 173-4).

Figure 173 - 4. Examples of Front and Street Side Setback Area Activity



Examples of Street Setback design: outdoor seating (left) and landscape (right).

§ 173.093. PARKING LOCATION AND DESIGN

The buildings must be the predominant element/view from the street. Therefore, parking areas must be screened as follows:

- (A) Surface parking lots shall be located in the rear of the lot, behind the building. They may also locate between the building and the side property line provided the building frontage requirements are met.
- (B) Surface and structure parking areas shall be accessed from a secondary street (secondary streets shall be identified in the street hierarchy map), from an adjacent property (shared use agreement necessary), or from rear alleys if any of these are available or proposed as part of the development. Access through single-family residential neighborhoods, however, shall not be allowed.
- (C) Surface parking areas located along a public street shall be screened from street view by a 3-foot street wall placed within the parking setback area (see §175.025 for street wall design requirements).
- (D) Parking structures facing the street shall be placed behind a liner building that houses active uses (e.g., commercial, office, residential). The liner building, which may be attached or detached from the parking structure, shall extend for a minimum of seventy-five (75) percent of the length of the parking structure, and shall have a minimum depth of thirty (30) feet. Any portion of a parking garage that is not concealed behind a building shall be screened to conceal all internal elements such as plumbing pipes, fans, ducts and lighting. Ramping should be internalized wherever possible. Exposed spandrels shall be prohibited.

§ 173.094. OPEN SPACE REQUIREMENTS.

Mixed-use developments shall ensure the provision of common open space. The various components of the mixed-use development may have higher or lower percentages than required in §177.005 as long as the overall project percentage is met. See §177.005 for other applicable requirements.

§ 173.095. BUILDING STANDARDS.

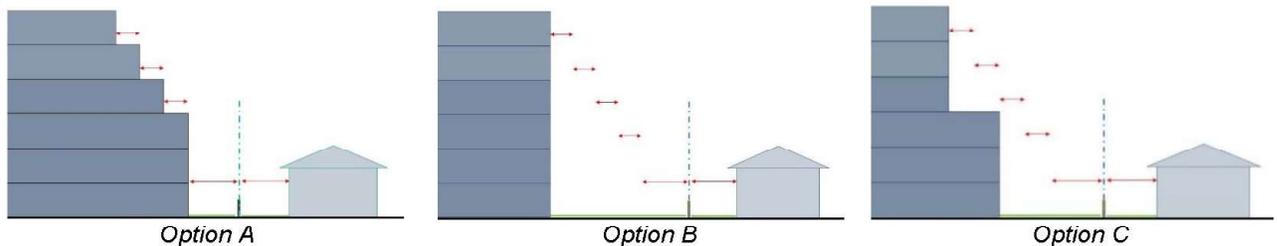
(A) Building height.

- (1) Maximum height. Individual components of the mixed-use development (i.e., pods, neighborhoods) may have different building heights based on the intended character of each area. The maximum

building height allowed shall be as shown in Table 173-5. Additional building height may be permitted per Part 5 of this chapter (Development Bonuses and Incentives).

(2) *Building transitions.* To mitigate potential conflicts between neighboring developments, the following considerations shall be made during the review process with particular focus on proposed structures and uses located at the perimeter of the proposed development:

(a) Multi-story buildings adjacent to single family homes shall provide a 10-foot setback for each floor above two stories. The setback may be provided as a step back for each floor, as a setback for the entire building, or a combination of the two.



(b) Compatibility may be achieved through the use of open space (parks, plazas, squares, courts, etc.), and natural features such as topography, waterways, existing trees and vegetation.

(c) Siting of less-intensive uses around the perimeter of the development, particularly when the development directly abuts a residential area (i.e., offices instead of bars/restaurants).

(d) Enhanced landscaping and buffers between mixed-use developments and existing off-site single-family residential areas.

(B) *Building orientation.* All buildings shall front a street. There shall be no privacy fences lining up streets.

Figure 173 - 5. Building orientation



Left: Not permitted in MU districts; Right: Required building orientation

(C) *Building frontage.* Building frontage is the proportion of the front façade compared to the lot width measured within the required setback (see Figure 173-6). To ensure façade continuity and activity along the street, in addition to avoiding large expanses of blocks that are not framed by buildings, all new non-residential and multi-family buildings shall meet the following provisions. Institutional uses are exempt from building frontage requirements.

- (1) The MU Master Site Plan shall include a street hierarchy map to identify the “primary” streets, which refer to those streets new development should be oriented to. All lots should have at least one frontage on a primary street.
- (2) All new buildings shall have a minimum building frontage of 50% along primary streets. For lots with frontage on multiple primary streets, the applicant must provide justification for choosing one over the others to meet the requirement.
- (3) In the case where the required building frontage cannot be met due to the need to provide vehicular access from the street, a gateway, arch, or similar feature shall be provided to preserve the block continuity and may be counted toward meeting the building frontage requirement, as shown on the figure below.

Figure 173 - 6. Building Frontage

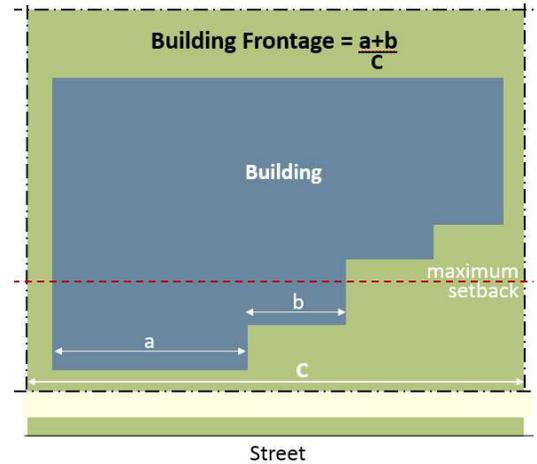


Figure 173 - 7. Gateway Feature



Gateway feature designed to meet minimum building frontage.

§ 173.096 through § 173.099 RESERVED

PART 9. NONCONFORMANCE PROVISIONS

§ 173.100. INTENT.

Within the districts established by this chapter or amendments that may later be adopted, there exists lots, structures, uses of land and structures and characteristics of use which were lawful before this chapter was passed or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendments.

It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their continuation. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

§ 173.101. EXTENSION AND ENLARGEMENT.

- (A) A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this chapter by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.
- (B) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which an active building permit has been issued. Actual building construction shall be diligently carried on until the subject structure is completed.

§ 173.102. NONCONFORMING LOTS OF RECORD.

- (A) In any district, permitted principal and accessory structures may be erected on any single lot that is of record on the effective date of this section, notwithstanding limitations imposed by other provisions of this code of ordinances and any other applicable ordinance of the city. Such lots must be in separate ownership and not of continuous frontage with other lots in the same ownership. These provisions shall apply even though such lot fails to meet the requirements for area or width or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through the procedure established in §172.025.
- (B) If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the lands involved shall be considered to be an undivided parcel for the purpose of this chapter, and no portion of the parcel shall be used which does not meet lot width and area requirements established by this chapter.

§ 173.103. NONCONFORMING USES OF LAND.

Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- (A) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter; unless such use is changed to a use permitted in the district in which such use is located;
- (B) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter;

- (C) If any such nonconforming use of land ceases for any reason for a period of more than ninety (90) consecutive days. Any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located;
- (D) No additional structure which does not conform to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

§ 173.104. NONCONFORMING STRUCTURES.

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

- (A) No such structure may be enlarged or altered in a way which increases its nonconformity;
- (B) But any structure or portion thereof may be altered to decrease its nonconformity;
- (C) Should such a structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter;
- (D) Should such a structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.

§ 173.105. NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION.

If a lawful use involving individual structures, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter, that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (A) No existing structure devoted to a use not permitted by this chapter in the district on which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
- (B) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building;
- (C) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed;
- (D) When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for six (6) consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located;
- (E) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction, for the

purpose of this chapter, is defined as damage to an extent of more than fifty percent (50%) of the replacement cost at time of destruction.

§ 173.106. REPAIRS AND MAINTENANCE.

(A) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of six (6) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent (10%) of the current replacement value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this chapter shall not be increased.

(B) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

§ 173.107. NONCONFORMING OR SUB-STANDARD LOTS CREATED BY EMINENT DOMAIN PROCEEDINGS.

Any lot or parcel which shall be made nonconforming or substandard as a result of eminent domain proceedings instituted by the city or other governmental agency or through a voluntary conveyance by a lot owner in lieu of formal eminent domain proceedings, which lot or parcel except for such eminent domain or voluntary conveyance shall be deemed to be a conforming lot or parcel for all purposes under this chapter. However, any new construction or building addition shall conform to the subject yard requirements of the applicable district. Any re-construction or maintenance of the existing structures may be performed with no additional encroachment into the subject yard requirements.

§ 173.108. USES UNDER CONDITIONAL USE PROVISIONS NOT NONCONFORMING USES.

Any use for which a conditional use is permitted as provided in this chapter shall not be deemed a nonconforming use but shall without further action be deemed a conforming use in such district.

§ 173.109. TEMPORARY USES.

The casual, intermittent, temporary or illegal use of land or structures shall not be sufficient to establish the existence of a nonconforming use. Such use shall not be validated by the adoption of this chapter unless it complies with the terms of this chapter.

§ 173.110 through § 173.119 RESERVED

PART 10. VESTED RIGHTS.

§ 173.120. PREVIOUSLY AUTHORIZED DEVELOPMENT.

In the event any provision of this Land Development Code would limit or modify the vested rights of any person or entity to complete a development that has been previously authorized, then in that event, the city may recognize the right to complete the development as provided herein. The city recognizes the right of any person to complete the following development:

(A) Development that has received a building permit as long as that permit remains valid;

(B) Development that has received final site plan approval shall have one (1) year to obtain and maintain a valid building permit; and

- (C) Development that has filed a completed application for a building permit shall have 180 days to obtain and maintain a valid building permit.
- (D) Development that has received preliminary plat approval or preliminary PUD approval provided the development has secured a permit to construct all or any phase of such development and is continuing the development in good faith.

§ 173.121. APPROVAL EXPIRATION.

Any person or entity with vested rights who has a right to complete a development and has secured a building permit, final plat approval, final site plan approval, or preliminary approval as provided above shall lose its right to complete such development if such development does not maintain a current building permit, or current site plan or development approval as provided for by this code of ordinances of the city. Once a development has lost its current approval, then in that event future development shall comply with applicable provisions of the comprehensive plan and maps.