

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF MELBOURNE BEACH, BREVARD COUNTY, FLORIDA, RELATING TO LAND DEVELOPMENT; MAKING FINDINGS; CREATING SECTION 7A-51.1, AND AMENDING SECTION 7A-136, LAND DEVELOPMENT CODE, APPENDIX A, TOWN CODE OF MELBOURNE BEACH, FLORIDA; PROVIDING FOR SITE PLAN REVIEW IN THE 1-RS, 2-RS, AND 3-RS ZONING DISTRICTS; AMENDING THE DUTIES OF THE PLANNING AND ZONING BOARD; PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING FOR THE REPEAL OF INCONSISTENT RESOLUTIONS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, there is currently no codified procedure for review of site plans for development within the 1-RS, 2-RS, and 3-RS zoning districts;

WHEREAS, the 1-RS, 2-RS, and 3-RS zoning districts constitute in excess of 50% of the geographic land area of the Town;

WHEREAS, the Planning and Zoning Board determines that it is in the public interest and in the promotion of the public safety, welfare, and aesthetics that site plan review be provided for with regard to geographic areas comprising the majority of the Town;

WHEREAS, Future Land Use Element Policy 2.2 of the Comprehensive Plan requires that the Town shall review land development regulations to insure that they are consistent with changes in the community and that they reflect improvements in

methods and practices in the regulation of land use, and the Planning and Zoning Board finds that this Ordinance will promote and is consistent with this policy;

WHEREAS, Future Land Use Element Policy 13.2 of the Comprehensive Plan requires that the Town shall adopt standardized procedures for site plan review, and given that there is no codified procedure for site plan review in the 1-RS, 2-RS, or 3-RS zoning districts, the Planning and Zoning Board finds that this Ordinance is consistent with Future Land Use Element Policy 13.2 of the Comprehensive Plan;

WHEREAS, Housing Element Objective 2.0 of the Comprehensive Plan requires that the Town shall maintain the residential character of Town and prevent blighting influences, and the Planning and Zoning Board finds that this Ordinance is consistent with Housing Element Objective 2.0 of the Comprehensive Plan by providing for a uniform method of assuring that all new housing or redevelopment of housing is compliant with the zoning provisions of the Land Development Code, which implement the Comprehensive Plan;

WHEREAS, the Planning and Zoning Board, sitting as both the Planning and Zoning Board and the Local Planning Agency (collectively, the "LPA"), finds that this Ordinance is consistent with the Town's Comprehensive Plan;

WHEREAS, the LPA has recommended adoption of this Ordinance as being in promotion of the public safety, aesthetics, and welfare as a means of protecting the community from blight and development inconsistent with zoning regulations of the Town.

BE IT ENACTED BY THE TOWN OF MELBOURNE BEACH, FLORIDA:

SECTION 1. That Appendix A of the Town Code of the Town of Melbourne Beach, Florida, is hereby amended by adding a Section, to be numbered 7A-51.1, which said section reads as follows:

§ 7A-51.1. SITE PLAN APPROVAL FOR SINGLE-FAMILY RESIDENTIAL ZONING DISTRICTS 1-RS, 2-RS, AND 3-RS.

(a) Purpose. The purpose of this section is to assure that all development of principal permitted uses within the 1-RS, 2-RS, and 3-RS meets the requirements of this chapter 7A. This review shall be applicable for all principal uses, certain accessory uses, and special exceptions within the 1-RS, 2-RS, and the 3-RS zoning districts, except for churches, museums, places of worship, temples, libraries or schools in the 1-RS, 2-RS, or 3-RS zoning districts, which shall be reviewed pursuant to section 7A-51. At a minimum, all site plans subject to this section shall be reviewed and evaluated by the Building Official and the Town Commission. As provided in sub-section (b), the Planning and Zoning Board and the Zoning Official may from time

to time also be required to review and evaluate site plans pursuant to this section.

(b) Site plan approval required.

(1) A site plan must be reviewed and evaluated by the Building Official and approved by the Town Commission prior to issuance of a permit for development and construction of a principal use, an accessory use developed simultaneous with a principal use, or special exception in the 1-RS, 2-RS, or 3-RS zoning district, as provided in sub-section (c).

(2) From time to time, the Town Commission may by voice vote direct that all or certain of the site plans subject to review pursuant to this section shall also be reviewed and evaluated by the Zoning Official and/or the Planning and Zoning Board. The review and evaluation authority of site plans pursuant to this section by the Zoning Official and/or the Planning and Zoning Board may also be withdrawn from time to time by voice vote of the Town Commission.

Review and evaluation of site plans by the Planning and Zoning Board pursuant to this section, if provided for by the Town Commission, shall occur after review by the Building Official and prior to review and approval by the Town Commission. Upon completion of review by the Planning and Zoning Board, the Planning and Zoning Board shall make a

recommendation to the Town Commission with regard to appropriate action to be taken by the Town Commission relating to a site plan reviewed pursuant to this section.

Review and evaluation of site plans by the Zoning Official, if provided for by the Town Commission, shall occur prior to review and evaluation by the Planning and Zoning Board and the Town Commission. Upon completion of review by the Zoning Official, the Zoning Official shall make a recommendation with regard to appropriate action to be taken relating to a site plan reviewed pursuant to this section.

(c) Site plan review and approval pursuant to this section shall occur with regard to any of the following types of development:

(1) New construction for any principal use structure, any accessory use structure developed simultaneous with any principal use structure or the expansion or redevelopment of any principal use structure, or use permitted by special exception, in the 1-RS, 2-RS, or 3-RS zoning districts. As used in the foregoing sentence, the term "simultaneous" shall mean that a building permit for development of an accessory use structure is to be issued within 180 days of the issuance of a building permit for new construction of, or the expansion or redevelopment of, any principal use structure;

(2) Construction or alterations that will increase the height of an existing principal use building or structure, including but not limited to additional stories, false roofs, false walls, and facades, in the 1-RS, 2-RS, or 3-RS zoning districts;

(3) Construction or alteration that will expand the footprint of an existing principal use structure or building, or use permitted by special exception, including but not limited to porches, patios, decks, balconies or the like of an existing structure, all in the 1-RS, 2-RS, or 3-RS zoning districts; and

(4) Construction or alteration that occurs in conjunction with a change in the principal use or use permitted by special exception of an existing building or structure, all in the 1-RS, 2-RS, or 3-RS zoning districts.

(d) General consideration and site plan review for development. The Building Official and if so directed the Zoning Official and the Planning and Zoning Board shall ascertain that proposed lot area, lot width, lot depth, lot coverage, minimum living area, building or structure height, yard requirements, applicable ocean setback, number of stories, and use of a principal structure are consistent with and adequate to meet the requirements of this Land Development Code and other applicable provisions of the Land Development Code or

are or will be subject to a variance permitting the varying of applicable provisions of the Land Development Code.

(e) Procedure for obtaining site plan approval shall be as follows:

(1) Preapplication conference. The applicant shall meet with the Building Official to discuss basic site plan requirements, consider preliminary features of the site and the proposed development and determine if the proposed use conforms to the zoning requirements of the district.

(2) Site plan checklist. The applicant shall properly fill out a checklist provided by the Building Official. This checklist will summarize the site plan, and it will be used as a guide for site plan evaluation.

(3) Preliminary site plan. Following the preapplication conference, seven copies of a preliminary site plan prepared and sealed by a civil engineer or architect, registered and licensed by the State of Florida, showing the proposed general layout and a vicinity map showing the location of abutting streets, existing and proposed use of the site and all the factors required by sub-sections (d) and (f) shall be submitted to the Building Department.

(4) Review and recommendations. Applications for site plan approval shall be submitted to the Building Official

who shall review and evaluate the site plan to assure compliance with the requirements of this section, making recommendations to the Town Commission and, if applicable, the Planning and Zoning Board. If the Town Commission has directed that site plans of the type submitted are to be evaluated by the Zoning Official and/or the Planning and Zoning Board, a copy of the site plan shall be forwarded by the Building Department to the Zoning Official and/or the Planning and Zoning Board for review and evaluation to assure compliance with the requirements of this section. The Zoning Official and/or the Planning and Zoning Board shall make recommendations to the Town Commission and, if applicable, the Planning and Zoning Board.

(5) Upon completion of the review and evaluation of the Building Official and, if applicable, the Zoning Official, the recommendations with regard to approval of the site plan shall be forwarded to the Planning and Zoning Board, if review has been directed by this board. Otherwise, the site plan and recommendations shall forwarded directly to the Town Commission and placed on the Commission's consent agenda. If directed by the Town Commission, the Planning and Zoning Board shall review and evaluate the site plan as provided by this section. Upon completion of review and evaluation, the site plan shall be forwarded to the Town Commission, together with the comments and

recommendation of the Planning and Zoning Board and other staff reviewing authorities. If review has not been directed by the Town Commission to be conducted by the Planning and Zoning Board, the applicable Town staff report and recommendations shall be forwarded directly to the Town Commission and placed on the Commission's consent agenda. The Town Commission then shall review all comments and recommendations and take appropriate action with regard to the proposed site plan.

(f) Site plan requirements. Site plans shall include:

(1) Name, location, owner and designer of the proposed development and the intended use;

(2) Location of the site in relation to surrounding properties, including the means of ingress and egress to such properties;

(3) Date, north arrow and graphic scale (not less than one inch equals 20 feet);

(4) Location of all property lines, existing streets adjacent to the subject property, easements, as well as proposed driveways and general lot layout;

(5) All proposed structures, major features and fences shall be fully dimensioned, including the height of all structures and the distance between principal and accessory

structures on site and the distance between structures and driveways, and property or lot lines.

(6) A professionally prepared plan drawn to scale and depicting the height dimension of the proposed structure, construction or expansion or redevelopment thereof.

(g) Final approval to site plan.

(1) Upon the site plan being approved and a building permit being issued, the development shall be built substantially in accordance with the site plan and the plans and specifications and in such a manner that no requirements of the Land Development Code are violated.

(2) Site plan approval of a site plan shall become a binding condition on the use of the land encompassed by the approved site plan under the applicable land use classification. Upon any conveyance of any portion of such land encompassed by the approved site plan, the grantee or transferee shall also be bound by the approved site plan. All changes will be recorded with the original site plan and retained at the Town Hall.

(3) Site plans for the 1-RS, 2-RS, and 3-RS zoning districts are approved for 365 days. During that time a building permit must be applied for. In the event a permit is not applied for within that 365 day period, application must be

made for a new site plan approval. Any change in the Land Development Code that occurs during that period will be applicable to the new site plan approval.

SECTION 2. That Section 7A-136, Appendix A, of the Town Code of the Town of Melbourne Beach, Florida, is hereby amended to read as follows:

§ 7A-136. POWERS AND DUTIES.

(a) The Planning and Zoning Board shall have the powers and duties set forth herein.

* * *

(g) The Planning and Zoning Board ~~Official~~ shall review site plans for all multi-family residential and commercial construction as provided by section 7A-51 to determine compliance with the Land Development Code, compliance with all height and setback regulations and §7A-59 of the Town of Melbourne Beach Code of Ordinances, ~~compliance with construction codes~~ and to prepare written recommendations for the Town Commission. If the Town Commission has directed from time to time that the Planning and Zoning Board undertake review of site plans for development within the 1-RS, 2-RS, and 3-RS zoning districts as provided by section 7A-51.1, the Planning and Zoning Board shall review site plans for single-family residential and other development as provided by section 7A-51.1

to determine compliance with the Land Development Code and to prepare written recommendations for the Town Commission.

(h) No permit for building, remodeling, or building expansion shall be issued on any multi-family residential or commercial structure until a site plan required to be reviewed pursuant to section 7A-51 is reviewed and approved by the Zoning Planning Official for compliance with all provisions of the Town of Melbourne Beach Code of Ordinances.

SECTION 3. Severability/Interpretation Clause.

(a) In the event that any term, provision, clause, sentence or section of this Ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

(b) In interpreting the provisions of this Ordinance, the following rules and symbols shall apply:

(1) Words underlined are additions to existing text.

(2) Words ~~stricken through~~ are deletions from existing text.

(3) Asterisks (* * *) indicates a deletion from the Ordinance of text existing in the Code of Ordinances. It is intended that the text in the Code of Ordinance denoted by the asterisks and not set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance.

SECTION 4. Ordinances and Resolutions in Conflict. All ordinances or resolutions or parts thereof that may be determined to be in conflict herewith, except portions of the Comprehensive Plan, are hereby repealed.

SECTION 5. Effective Date. This Ordinance shall become effective upon adoption.

PASSED by the Town Commission of the Town of Melbourne Beach on first reading on the ____ day of _____, 2010, and ADOPTED by the Town Commission of the Town of Melbourne Beach, Florida, on final reading on the ___ day of _____, 2010.

TOWN OF MELBOURNE
BEACH, FLORIDA

By: _____
Rita Karpie, Mayor

ATTEST:

Christina Hoffkins,
Town Clerk

(TOWN SEAL)