

## ORDINANCE NO. 2016-10

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 98 ZONING, ARTICLE III DISTRICTS; CREATING DIVISION 21, GATEWAY INTERCHANGE DISTRICT, OF THE CODE OF ORDINANCES OF WEST MELBOURNE, FLORIDA; PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING FOR THE REPEAL OF ORDINANCES AND RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the City Council of West Melbourne, Florida has adopted Parkway Interchange Use as an amendment to the Future Land Use Element of the Comprehensive Plan; and

**WHEREAS**, the City must revise the Land Development Regulations to incorporate a zoning district compatible with the Parkway Interchange future land use designation and policies found in the future land use element; and

**WHEREAS**, the City Council of West Melbourne, Florida has identified Gateway Interchange District regulations as being compatible with the Parkway Interchange future land use designation and must be incorporated into the Code of Ordinances.

**BE IT ORDAINED** by the City Council of the City of West Melbourne, Brevard County, Florida, that:

### **Section 1.**

Division 21, Gateway Interchange District, shall be added to Chapter 98 Zoning, Article III Districts of the Code of Ordinances of West Melbourne, Florida, and read as set forth in Exhibit "A" attached hereto and incorporated by reference herein.

### **Section 2.**

Severability/Interpretation Clause. In the event that any term, provision, clause 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, and such invalidity, or 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.

### **Section 3.**

That all ordinances or resolutions or parts thereof that may be determined to be in conflict herewith are hereby repealed.

### **Section 4.**

The City Clerk is hereby authorized and directed to cause the provisions of Section 1 of this Ordinance and Exhibit "A" hereto to be incorporated into the Code of Ordinances of the City. It is the intention of the City Council of the City of West Melbourne that the

provisions of this ordinance shall be made a part of the City of West Melbourne Code of Ordinances and the sections be renumbered to accomplish such intention.

**Section 5.** This ordinance shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of West Melbourne, Brevard County, Florida, this 20<sup>th</sup> day of September, 2016.



*Sue Frank*

Sue Frank, City Clerk

*Hal Rose*

MAYOR

Reviewed as to form and content:

*Morris Richardson*

Morris Richardson, City Attorney

1<sup>st</sup> READING: August 16, 2016

2<sup>nd</sup> READING: September 20, 2016

## Exhibit A to Ordinance Number 2016-10

### DIVISION 21. – GATEWAY INTERCHANGE DISTRICT

#### Sec. 98-829. - Intent.

- (a) In 2015-2016, Brevard County constructed sections of the St. Johns Heritage Parkway from Malabar Road north to US 192 (SR 500, also known as West New Haven Avenue) as a limited access arterial. The roadway is intended to provide another north-south route, in addition to the existing routes, for vehicular movement from South Brevard to Central Brevard. The properties that are adjacent to the St. Johns Heritage Parkway have negotiated limited access to specific access points on the parkway with Brevard County. This area is designated as Parkway Interchange on the city's future land use map in recognition of the probable future commercial character of the area.
- (b) The provisions of this district are intended to provide zoning compatible with the Parkway Interchange future land use designation policies found in the future land use element of the City's "Horizon 2030 Comprehensive Plan". The permitted uses, development and design standards are intended to promote the adjacent thoroughfare's primary function of carrying an uninterrupted flow of traffic; provide an attractive physical environment that is oriented to the St. Johns Heritage Parkway or other arterial roads such as US 192; create cohesive mixed uses both horizontally and vertically; and to promote the area's integration of new land uses.

#### Sec. 98-830. - Principal uses and structures.

The principal uses and structures in the Gateway Interchange district can be present on one site or on separate distinct sites. The following are the four allowed land use groups:

##### (1) *Commercial*

- a. Retail stores, and indoor sales rooms and display rooms.
- b. Retail stores using outside display areas, provided the following are met:
  1. The area of outside display shall not exceed in size one-third the enclosed area of the principal structure.
  2. The outside display area shall be treated with a hard material suitable for pedestrian traffic.
  3. The outside display area may be open along the front of the lot but shall be effectively screened rendering the sides opaque in order to avoid any deleterious effect on adjacent properties.
  4. The outside display area shall be considered the same as the floor area for the purpose of calculating off-street parking requirements and yard and lot coverage.
- c. Personal service establishments such as barbershops and beauty shops, laundry and dry cleaning pickup stations, tailor shops and similar uses.
- d. Professional offices, studios, clinics (not veterinary), general offices, business schools and similar uses.
- e. Hotels and motels.
- f. Restaurants. Drive-throughs must meet the following criteria:
  1. Stacking lanes for the order windows shall be at least ten feet × 88 feet in size to accommodate a minimum of four vehicles per lane.

2. Driveways shall not be located closer than 25 feet from any abutting residential zoning district or residential use.
  3. A separate lane shall be provided in the last 44 feet of length to allow drivers to detour around other vehicles in the drive through queue.
- g. Banks and financial institutions.
  - h. Indoor commercial recreation such as theaters, driving ranges, and other indoor interactive entertainment except drive-in theaters.
  - i. New and used motor vehicle, major recreational equipment and mobile home sales or rentals with accessory uses, subject to the following restrictions:
    1. All outside areas where merchandise is displayed shall be paved.
    2. All servicing and repair facilities except gasoline pumps shall be located in an enclosed structure.
    3. There shall be no storage of junked or wrecked automobiles other than temporary storage for those awaiting repair. Such temporary storage shall be in an enclosed area, and the vehicles shall not be visible from outside the property.
    4. Ingress and egress points shall not be placed so as to interfere with the movement of pedestrian traffic on public sidewalks.
  - j. Studios.
  - k. Vocational and trade schools.
  - l. Day cares (child or adult).
  - m. Public and private clubs and lodges.

*(2) Industrial*

- (a) Indoor Research, design and development activities and accessory laboratories, where:
  1. the use does not involve the operation of heavy machinery or equipment, creation of noise, fumes, dirt, or dust, or damage to or interference with other properties;
  2. all work is done within the building; and
  3. no product is manufactured except purely incidental results of such research, design and development of activities for the purpose of these activities only and not for sale.
- (b) Plant nurseries and greenhouses, provided that no outside display of merchandise shall be contained within 20 feet of the existing roadway.
- (c) Warehousing and storage in enclosed structures.

*(3) Residential*

Multiple-family dwellings which meet the lot, structure and density requirements in this Division 21.

*(4) Institutional*

- a. Cultural facilities including indoor museums, libraries, art galleries, and public community centers.
- b. Churches or places of worship within shopping centers, providing the following conditions are met:
  1. Each church or place of worship shall provide the following information to ensure church operation does not conflict with existing permitted uses by reducing available parking below city requirements or adversely impacting the permitted uses:

- (a). hours of operation;
  - (b). distance between the church and any existing business licensed to serve or sell alcoholic beverages; and
  - (c). number of seats for the facility and unit size in square feet.
2. No vehicle in excess of 10,000 pounds gross weight may be stored on-site, except during passenger drop-off or pick-up.

Sec. 98-831. - Accessory uses and structures.

The accessory uses and structures in the Gateway Interchange district are the customary accessory uses of one or more of the principal uses clearly incidental and subordinate to the principal use, in keeping with the highway approach character of the district. The following accessory uses have specific additional requirements:

- (1) Unmanned ice vending or water dispensing buildings that meet the following requirements:
- a. The location of said buildings shall at a minimum conform to the side, front and rear yard setbacks of the property. However, in no case shall the structure be placed less than 100 feet to the closest residential structure, nor closer than five feet to the rear and side property lines.
  - b. One parking space shall be provided per device that meets the provisions of the development standards code, parking sections, or as approved by the city to meet the intent of the code.
  - c. All loading, unloading, or servicing of said ice vending building shall occur on private property and not in public rights-of-way.
  - d. No blinking, unshaded or colored lights shall be used to illuminate or advertise the ice vending building.
  - e. No insignia or design of any kind may be painted or affixed to an ice vending building except such signs as are permitted in the provisions of the signs code.
  - f. Roof-mounted mechanical equipment shall not be visible and shall be architecturally screened. Flat roof lengths longer than ten feet in length shall be concealed with either a five-foot tall parapet including a cap or cornice treatment or two or more sloping roof planes that extend a minimum of three feet above the eave.
  - g. If a manufactured prefabricated building is used, the exterior surface shall be covered with a facade that includes stucco, stone, stained wood or brick materials, textured building paint, or shall be constructed to be architecturally compatible with the principal structure.
  - h. When placed near a front or side corner yard, landscaping shall be provided along the property line or near the building in accordance with the provisions of the vegetation, landscaping and tree preservation code, or as approved by the city to meet the intent of providing landscaping.
  - i. Unmanned buildings shall be maintained in good repair, structurally sound and sanitary. Peeling, flaking and chipped paint shall be prohibited.

Sec. 98-832. - Conditional uses.

The conditional uses in the Gateway Interchange district are as follows:

(1) *Commercial*

- a. Veterinary hospitals and clinics, providing that the following conditions are met:
  - 1. All areas used for boarding or temporary housing of animals shall be completely enclosed unless appropriate safeguards are constructed to control objectionable odors and/or noise, as determined by the board of adjustment.

2. Any area used for boarding or temporary housing of animals shall be buffered from all adjacent properties by a visual and aural screen, meeting the specifications of division 5 of article V of this chapter, and any other conditions required by the board of adjustment.

- b. Outdoor commercial recreation including golf courses, field sports and similar activities.
- c. Amusement centers including theme attractions for sports, entertainment, amusement, or recreation, including but not limited to, sports arena, stadium, racetrack, tourist attraction, or amusement park at a size that is less than "Development of Regional Impact" (the size threshold is described in the Florida Statutes as providing parking for between 100 to 2500 cars or between 300 to 4,000 permanent seats, whichever set, cars or seats, is less), which amusement centers shall meet the following criteria:

1. *Architecture:*

(a) *Overall design.*

(b) The design elements of the building, and outdoor entertainment areas shall be architecturally compatible (color, materials, massing, detailing and overall architectural design).

(c) The overall design of the facility shall be aesthetically compatible with surrounding properties.

(d) All amenities such as lighting fixtures, trash cans, outdoor furniture and other features shall be compatible with the design of the building.

2. *Building Code:*

(a) All permanent and temporary amusement rides installed, erected or operated shall comply with the West Melbourne Building Code and the State of Florida building codes.

3. *Performance Standards:*

(a) Outdoor display of merchandise shall be shielded from view from the public streets.

(b) Occupied buildings shall be placed at least 100 feet from the outside wall of adjacent multi-family buildings.

(c) No pole mounting lighting adjacent to residential property.

(d) Hours of operation – Park operation shall cease promptly at midnight. If amusement park attractions and rides are operated completely in an enclosed building, the hours of operation restriction is not applicable.

(e) Security – Developer/park operator(s) shall meet with the City of West Melbourne Police Department and Brevard County Sheriff Department prior to the public hearings.

(f) Temporary attractions – Carnivals and circuses are required to obtain a special events permit.

(2) *Industrial*

a. Distribution centers.

b. Wholesale establishments.

c. Greenhouses. [Note: greenhouses listed as principal use in preceding section.]

(3) *Institutional*

Cultural facilities with outdoor museums (botanical gardens, statues, interactive exhibits) and outdoor art exhibits

Sec. 98-833. - Prohibited uses and structures.

The prohibited uses and structures in the GTWY-I district are as follows:

- (1) Emergency feeding establishments.
- (2) Recovery and treatment centers for substance abuse and other substance related illnesses.
- (3) Corrections or criminal retention facilities.
- (4) Tattoo parlors and body piercing establishments.
- (5) Towers for communication facilities.
- (6) Truck stops or similar semi-trailer parking centers.
- (7) Any use not in keeping with the highway approach character of the district.
- (8) Exposed metal buildings without architectural finish.
- (9) Fireworks retail sales or manufacturing.
- (10) Development of Regional Impact size amusement centers (threshold defined in the Florida Statutes as sports arena, stadium, racetrack, tourist attraction, or amusement park which provides parking for more than 2500 cars or 4,000 permanent seats.
- (11) Uses which involve drilling, excavation and/or removal of earth materials, except for water wells.
- (12) Any dumping, disposal, incineration or reduction of garbage or refuse of any nature whatsoever, other than handling or reducing any such waste matter.
- (13) All uses not specifically or provisionally permitted in this division.

Sec. 98-834. - Lot and structure requirements.

The lot and structure requirements in the GTWY-I district for non-residential uses are as follows:

- (1) Minimum lot area: 43,560 square feet.
- (2) Minimum lot width: 125 feet.
- (3) Minimum lot depth: 125 feet.
- (4) Maximum building coverage: 50 percent.
- (5) Minimum floor area: 300 square feet.
- (6) Maximum height: 65 feet, except hotels which may be 120 feet.
- (7) Minimum building setback requirements\*:
  - a. Front: 50 feet.
  - b. Side, interior: 25 feet.
  - c. Side, corner: 40 feet.
  - d. Rear: 30 feet.

\* A waiver of ten percent to the setback dimension can be obtained administratively when the outside wall of the proposed structure contains no overhangs and there are no proposed above ground infrastructure features (air handlers, pumps, etc.) adjacent to the outside wall. A request for waiver must be submitted in writing with a description of the hardship related to the shape of the lot, the location of the lot, or other design constraints.

The lot and structure requirements in the GTWY-I district for multi-family residential uses are as follows:

- (1) Minimum lot area: 12,000 square feet.
- (2) Minimum lot width: 100 feet.
- (3) Minimum lot depth: 100 feet.
- (4) Maximum building coverage: 50 percent.
- (5) Minimum living area:
  - a. Efficiency apartment: 450 square feet.
  - b. One-bedroom apartment: 550 square feet.
  - c. Two-bedroom apartment: 650 square feet.
  - d. Three-bedroom apartment: 800 square feet.
  - e. More than three-bedroom apartment: 800 square feet, plus 100 square feet for each additional bedroom.
- (6) Maximum height: 50 feet.
- (7) Minimum yard requirements (building setbacks):
  - a. Front: 30 feet.
  - b. Side, interior: 15 feet.
  - c. Side, corner: 25 feet.
  - d. Rear: 25 feet.

#### Sec. 98-835 - Performance standards.

The following land use intensity ratios and performance standards recognize the existing variety of the land uses and development patterns that exist in the GTWY-I zoning district and provide the necessary flexibility to meet the intent of retaining a mixed use development pattern.

##### (1) *General provisions:*

- a. The placement of the Gateway Interchange zoning district shall be consistent with the Parkway Interchange future land use policy which states that properties to have this zoning and future land use can only be at the intersection of the St. Johns Heritage Parkway and an arterial road, both of which must be within ½ mile to I-95.
- b. The minimum area for application of the GTWY-I zoning district shall be ten acres of a contiguous area located adjacent to arterial roads.
- c. The GTWY-I zoning district shall at a minimum contain three types of land use groups.
- d. No one land use group shall comprise more than 90 percent of a designated GTWY-I zoned area.
- e. All utilities, including telephone, television, electrical and other infrastructure shall be installed underground except for utility cabinets, lift stations or other devices that are required to be above ground.

- f. The minimum floor area for townhouses shall be 1,200 square feet.
  - g. Residential that is integrated with commercial, industrial and institutional uses shall be subject to the setbacks of these nonresidential uses.
- (2) *Design provisions:*
- a. *Access.* Each lot shall have a maximum of two driveways to any one street.
  - b. *Accessory structures.* All accessory structures shall be located behind the front building line of the principal structure.
  - c. *Appearance.* The following criteria shall apply:
    - 1. Predominant exterior color shall be applied to all sides of a building and accessory structures.
    - 2. Flat roofs shall be allowed for nonresidential uses, however all accessory structures placed on flat roofs shall be shielded from view with an opaque structure matching the architecture of the building.
    - 3. All buildings with 100 feet or more of wall space shall contain columns, facade engraving/etching, recessing and protruding wall planes, columns, porches, overhangs or other features to provide building mass relief.
    - 4. For nonresidential buildings at least two intersecting wall planes of 100 feet or more facing a right-of-way shall contain windows, preferably at ground level, unless the building official states that such features are not feasible.

Sec. 98-836. - Density.

For any residential permitted use within the GTWY-I district, the density shall not exceed 20 dwelling units per acre unless the project meets the criteria as specified in the City's adopted Future Land Use Element of the comprehensive plan, as a density bonus, in which case a density bonus of an additional five (5) dwelling units/acre is allowed. This means that if the criteria is met per the adopted Future Land Use designation, then up to 25 dwelling units would be allowed.