ORDINANCE NO. 2014-11

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE XVII, LAND DEVELOPMENT CODE, CHAPTER 185, ZONING CODE, BY CREATING A NEW ZONING DISTRICT TO BE KNOWN AS THE PARKWAY MIXED USE DISTRICT (PMU); PROVIDING CRITERIA FOR THE ZONING DISTRICT; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR INCLUSION IN THE CITY OF PALM BAY CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The City of Palm Bay Code of Ordinances, Title XVII, Land Development Code, Chapter 185, Zoning Code, is hereby amended by including as Section 185.057 the following language:

"SECTION 185.057 PMU – PARKWAY MIXED USE DISTRICT.

(A) *Intent*. The Parkway Mixed Use (PMU) zoning district is a Planned Development intended to establish types of development and arrangements of land uses that are consistent with the Comprehensive Plan, but which are not otherwise provided for or allowed in the zoning districts set out in this chapter. Subsequent development within the PMU district is implemented by the approval of one or more site and development plans, known as Final PMU Development Plans. The purpose of planned developments is to encourage the creation and of designed neighborhoods and communities that provide a full range of residence types, as well as commercial uses that serve the inhabitants of the immediate community and surrounding neighborhoods.

The standards for creating a new PMU district set out herein are intended to promote flexibility of design and diversification and integration of uses and structures. The process set out herein allows the City Council to evaluate applications to establish new PMU districts and to render final determination as to whether applications should be approved, approved with conditions, or denied. In addition, the City Council may establish such additional limitations and regulations as are deemed necessary to protect the public health, safety, and general welfare. Specifically, the PMU district is intended to:

(1) Promote more efficient and economical uses of land.

(2) Provide flexibility to meet changing needs, technologies, economics, and consumer preferences.

(3) Encourage uses of land which reduce transportation needs and which conserve energy and natural resources to the maximum extent possible.

(4) Preserve to the greatest extent possible, and utilize in a harmonious fashion, existing environmental features and amenities; with an emphasis on preserving existing exceptional specimen trees, to be incorporated into the development.

(5) Lower development and building costs by permitting smaller networks of utilities and streets and the use of more economical building types and shared facilities.

(6) Simplification of the procedure for obtaining approval of proposed developments through the combining and coordinating of land uses, building types, and building relationships within a planned development, which otherwise would not be provided under a conventional zoning district.

(B) *Establishment of a new PMU district.*

(1) *Eligibility for application.* Applications for establishment of a new PMU zoning district shall demonstrate compliance with the following minimum eligibility criteria:

(a) *Minimum area for a PMU zoning district.* The minimum area required for an application to a PMU district shall be twenty (20) acres and there shall be a minimum of 40 square feet of commercial space provided for each residential unit proposed within the PMU.

(b) *Maximum density.* The maximum overall residential density within a PMU district shall be ten (10) dwelling units per acre.

(c) *Commercial uses.* Permitted uses are retail (free-standing or combined in a plaza); personal service establishments, daycare centers, church/religious uses, restaurants, financial institutions, office uses, service stations with fuel sales, food service, theaters, professional office uses, medical and/or veterinary clinics and other uses approved by City Council during the development approval process.

(d) *Configuration of the PMU zoning district.* The PMU zoning district shall consist of a discrete area of land of sufficient size to accommodate the proposed uses. Multiple parcels may be combined for purposes of establishing the PMU boundaries provided they are contiguous and under common ownership by the applicant(s). Separation by roadways, canals or similar dividers shall be considered contiguous for purposes of this section.

(e) *Unified control/ownership.* All properties included for the purpose of application to amend the official zoning map to create a PMU district shall be under the ownership or control of the applicant(s).

(2) *Review process.* The approval of a PMU zoning map amendment and associated application rests with the City Council. An application for a PMU zoning district shall include a Preliminary Design Plan (PDP); a PMU zoning district shall not be

established unless and until an associated PDP is approved by the City Council. Review of an application for a PMU zoning map amendment and associated concept plan shall be processed as follows:

(a) *Preliminary design plan (PDP) application.* A PDP application shall be submitted in accordance with the submittal requirements set forth in subsection (3).

(b) *Planning and Zoning Board Public Hearing and Recommendation.* The Planning and Zoning Board shall conduct a public hearing on the PMU zoning map amendment and PDP and formulate findings supporting a recommendation to the City Council to approve, approve with conditions, or deny the application. The Board's recommendation shall be forwarded to the City Council for final action.

(c) *City Council Public Hearing and Disposition.* The City Council shall conduct a public hearing on the PMU zoning map amendment and PDP application. The Council's final action to approve, approve with conditions, or deny the application shall be based upon the recommendations of the Planning and Zoning Board, city staff, public testimony, and findings made at the public hearing. The decision of the City Council shall be final.

(d) *Adoption of Implementing Ordinance.* City Council approval or approval with conditions for a PMU zoning map amendment and PDP application shall be adopted into an implementing ordinance. The ordinance shall be adopted pursuant to state statutes and shall include a legal description of the property, a copy of the PDP layout and any conditions placed on the approval by City Council.

(3) *Application content and submittal requirements.*

(a) *Preliminary design plan (PDP).* A PDP is a generalized plan that establishes the allowable land uses and the allowable development density or intensity ranges as well as any corresponding development and design standards for all lands within the PMU zoning district.

The PDP shall consist of the graphic and/or textual information itemized in subsections 1 through 4 below.

1. A general plan for the use of all lands within the proposed PMU. Such plans shall indicate the general location of residential areas (including maximum density and unit types), open space, parks, passive or scenic areas, and nonresidential areas (including maximum building square footage or other intensity maximums).

2. A plan of vehicular and pedestrian circulation showing the general locations and right-of-way widths of roads, sidewalks, the capacity of the system and major access points to the external and internal thoroughfare network.

3. A summary of allowable development. The summary shall provide:

a. The total acreage of the PMU district and each phase, as may be proposed;

b. The acreage of areas proposed for specific land uses to be allowed within the PMU district and phases proposed in the concept plan, as may be applicable;

c. The acreage of open space or conservation areas within the PMU district and phases proposed in the concept plan;

d. The minimum and maximum allowable residential density to be allowed within the PMU district and each phase proposed in the concept plan, measured in residential dwelling units per acre; and

e. The minimum and maximum allowable nonresidential development intensity to be allowed within the PMU district and each phase, measured in gross building square footage or other appropriate intensity measure.

(b) Site condition map(s) and data that include:

1. A legal description of the properties included in the application with an associated boundary survey signed and sealed by a registered Florida land surveyor.

2. Name of the PMU; the owners of all properties included in the PMU district; the agent for the PMU application, and address and phone number of the agent; and, date of drawing and of any subsequent revision.

3. Scale, north arrow, and general location map showing relationship of the site to external uses, structures, and features.

(c) An Environmental Assessment of the property identifying major environmental features of the site and endangered wildlife and vegetation.

(C) *Final Development Plan.* The PMU Final Development Plan is a site and development plan consistent with and intended to implement a PMU preliminary development plan. The final plan may pertain to an entire PMU district or one or more phases of the project. Final subdivision approval may be combined as part of the PMU Final Development Plan.

(1) *Review process.* The approval of a PMU Final Development Plan rests with the City Council. An application for a Final Development Plan shall be processed as follows:

(a) *Final design plan (FDP) application.* An FDP application shall be submitted in accordance with the submittal requirements set forth in subsection (2).

(b) *Planning and Zoning Board Public Hearing and Recommendation.* The Planning and Zoning Board shall conduct a public hearing on the PMU zoning map amendment and FDP and formulate findings supporting a

recommendation to the City Council to approve, approve with conditions, or deny the application. The Board's recommendation shall be forwarded to the City Council for final action.

(c) *City Council Public Hearing and Disposition.* The City Council shall conduct a public hearing on the PMU zoning map amendment and FDP application. The Council's final action to approve, approve with conditions, or deny the application shall be based upon the recommendations of the Planning and Zoning Board, city staff, public testimony, and findings made at the public hearing. The decision of the City Council shall be final.

(d) *Adoption of Implementing Ordinance.* City Council approval or approval with conditions for a PMU zoning map amendment and FDP application shall be adopted into an implementing ordinance. The ordinance shall be adopted pursuant to state statutes and shall include a legal description of the property, a copy of the FDP layout and any conditions placed on the approval by City Council.

(2) *Required exhibits.*

(a) If the applicant intends to subdivide land as part of their application of the PMU district than they shall meet the requirements of Chapter 184 Subdivisions.

(b) A schematic layout of the proposed development shall be submitted on which structures shall be located in relation to each other and to major entrances into and off the site; internal circulation ways; parking and service areas; a landscaped areas. The site plan and supporting data shall also show proposed standards for development, including restrictions of the use of property; plans for the provision of utilities, including water, sewer and drainage facilities; plans for protection of abutting properties.

(c) Identification of planned maintenance responsibility for all aspects of the development. Specifically identify all facilities proposed for maintenance by the City or other governmental entities.

(d) Declaration of covenants and restrictions shall be submitted for individual subdivisions and commercial areas that govern such items as accessory uses, architectural requirements (if any), and other items not covered by the PMU zoning standards.

(e) A Traffic Study meeting generally accepted engineering practices examining the impact of the proposed development on the surrounding roadway network.

(D) *Joint preliminary development and final development plan application.* At the option of the applicant, a Preliminary Development Plan (PDP) may be reviewed simultaneously with a Final Development Plan (FDP). In addition, modifications to an approved PDP may be made as part of the approval process for an FDP. All applicable requirements for both the PDP and the FDP submittal applications must be addressed.

(E) *Administrative Process following Final Development Plan Approval.* Physical development of the property must be consistent with the approved Preliminary Development Plan and the Final Development Plan for the PMU project. Administrative review and approval processes for subdivisions, site plans, building permits other land development regulations shall ensure such consistency. Substantial changes, as determined by the Growth Management Director, shall require re-submittal for Final Development Plan approval. Minor changes not deemed to be substantial may be approved administratively.

(F) *Development Standards.* Standards for development shall be provided by the applicant at the time of submittal for a Preliminary Development Plan. These standards shall include such items as minimum lot sizes; minimum lot widths and depths; minimum yard areas (setbacks) for all types of uses; minimum living areas; minimum building areas (if applicable); maximum height of structures; and such other items as will be needed to facilitate construction of the proposed community.

(G) *Signage.* Standards for signs shall be provided by the applicant at the time of submittal for a Preliminary Development Plan. These standards shall address allowable sign locations; size; height; maximum number of signs permitted; lighting and landscaping requirements; etc.

(H) *Landscaping and Tree Preservation.* Standards for landscaping shall be provided by the applicant at the time of submittal for a Preliminary Development Plan. These standards shall address the number of trees, shrubs and other plantings for both residential and nonresidential uses. A project developing under the PMU zoning category must follow the requirements for tree preservation and mitigation found in Chapter 180, of the Palm Bay Code of Ordinances.

(I) *Walls and Fences.* Standards for walls and fences shall be provided by the applicant at the time of submittal for a Preliminary Development Plan. These standards shall address the size, type and placement of walls and fences. Careful consideration shall be given to the site visibility of the motoring public, while protecting the rights and property values of the property owners of the PMU community."

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 3. It is the intention of the City Council of the City of Palm Bay that the provisions of this Ordinance shall be made a part of the City of Palm Bay Code of Ordinances and the sections may be renumbered to accomplish such intention.

SECTION 4. If any portion, clause, phrase, sentence or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the City Council of the City of Palm Bay that any such unconstitutional, invalid, inapplicable, inoperative or void portion or portions of this ordinance did not induce its passage, and that without the inclusion of any such portion or portions of this ordinance, the City Council would have enacted the valid constitutional portions thereof.

SECTION 5. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting No. 2014-08, held on April 3, 2014; and read in title only and duly enacted at Meeting No. 2014-09, held on April 17, 2014.

William Capote, MAYOR

ATTEST:

CORPORATE SEAL CITY OF PALM BAY FLORIDA

Alice Passmore, CITY CLERK

Reviewed by CAO: _____

Applicant: City of Palm Bay
Case No.: T-2-2014