



**City Council Work Session
City of Belleair Beach, Florida**

**Monday, March 18, 2024
Community Center, 6:00 PM**

**PUBLIC MEETING NOTICE
AGENDA**

Call to Order
Pledge of Allegiance
Roll Call

1. Code Review – Chapter 94
2. General Business

Adjournment

Any person who decides to appeal any decision of the City Council with respect to any matter considered at this meeting will need a record of the proceedings and for such purposes may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. The law does not require the City Clerk to transcribe verbatim minutes, therefore, the applicant must make the necessary arrangements with a private reporter or private reporting firm and bear the resulting expense. Any person with a disability requiring reasonable accommodation in order to participate in this meeting should call 727-595-4646 or fax a written request to 727-593-1409.

Renee Rose, CMC
City Clerk

Chapter 94 ZONING

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Required Setback—Waterfront Lots

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²Cross reference(s)—Communications facilities in the right-of-way, § 50-81 et seq.; telecommunications use of right-of-way, § 50-131 et seq.; satellite antennas, ch. 82.

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Nonwaterfront Lot Pool Fence Requirement

Waterfront Lot Pool Fence Requirement

(Ord. No. 06-10, § 1, 6-5-2006)

Chapter 94 ZONING¹

ARTICLE I. IN GENERAL

Sec. 94-1. Purpose.

- (a) The purpose of this chapter is to ensure order in the streets; secure safety from fire and flood; promote health and well-being; prevent overcrowding of land; avoid concentration of population; make easy the provision of transportation, water, sewage, parks and other public requirements; perpetuate the residential character of the city; and ensure compliance with the provisions of chapter 74 of this Code and amendments or replacements thereof.
- (b) All land use and development shall be in accordance with the city's comprehensive plan and this chapter. Where the regulations set forth in this chapter differ from the city's comprehensive plan, the more restrictive regulations shall be applied.
- (c) Actively strive to achieve and adhere to the City of Belleair Beach Strategic Plan as the guiding document for:
 - (1) Mission.
 - (2) Vision.
 - (3) Core values.
 - (4) Goals.

(Ord. No. 94-14, § 1(27-1), 9-7-1994; Ord. No. 22-01, § 2, 6-6-2022)

Sec. 94-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory structure means a structure the use of which is incidental to that of the main building, and which is attached to or adjacent to the main building but shall not include terrace walkways without steps or nonpermanent decorative blocks used to retain landscaping plants or trees.

Balcony means a platform that projects from the wall or on top of a building and is enclosed by a parapet or railing.

Building means any structure designed or intended for the support, enclosure, shelter or protection of persons, chattels or property.

Building permit means an authorization from the county building department to build new construction or to alter, repair or add to existing construction.

¹Cross reference(s)—Buildings and building regulations, ch. 10; environment, ch. 22; marine structures, activities and facilities, ch. 30; vegetation, ch. 66; flood protection, ch. 74; planning, ch. 78; subdivisions, ch. 90.

Commercial purpose means a use for compensation including, but not limited to, the transport of persons, animals, commodities, materials, articles of trade, or the performance or tender of services.

Commercial trailer or vehicle means a trailer or vehicle which is used in a commercial enterprise, and which bears the name or firm, or identification of the purpose of the trailer or vehicle and/or a trailer or vehicle which is of the type not normally used to carry human passengers.

Commercial vehicle means a motor vehicle propelled by other than muscular power operated or intended to be operated over public streets and highways and used as a means of transporting persons or property and is used for commercial purposes including a vehicle towed by a motor-powered vehicle; or is a passenger vehicle with visible commercial lettering (excluding a small door commercial logo or decal); or is a truck, pickup truck, trailer, semi-trailer, truck-tractor, or tractor-trailer combination as defined in F.S. ch. 320; or is a moving van, delivery truck, dump truck, service vehicle, tow truck, wrecker, bus, crane, dragline, earth mover, bulldozer, backhoe, trencher or similar vehicle. The terms also include any vehicle used as a platform for a derrick, hoist, crane, compressor, tank(s), ladder racks, or similar equipment or as a means of transporting or storing a commercial vehicle. Automobiles, vans, noncommercial vehicles, noncommercial pickup trucks weighing no more than 10,000 pounds (as determined by the vehicle's registration), and other similar vehicles are specifically excluded from this definition.

Condominium means a building or complex of buildings consisting of rooms or suites of rooms which are designed for residential or rental ownership and occupation. Each separate unit shall be considered to be a condominium unit.

Deck means a flat, floored, roofless area adjoining a house, or portion thereof.

Density means the measure of permitted residential development expressed as a maximum number of dwelling units per gross acre of land area.

Dwelling, single-family, means a residential building designed for occupancy by one individual or family.

Family and family unit means one or more persons related by blood, adoption or marriage, living and cooking together as a single housekeeping unit, exclusive of household servants. A maximum of two persons not related by blood, adoption or marriage, living and cooking together as a single housekeeping unit, shall be deemed to constitute a family.

Fence means a hedge, masonry wall, wood, wire or plastic structure which is used or erected along a yard.

Floor area ratio (FAR) means a measurement of the intensity of building development on a site. A floor area ratio is the relationship between the gross floor area on a site and the gross land area. The FAR is calculated by adding together the gross floor areas of all buildings on the site and dividing by the gross land area.

Grade line means the same height as the highest point on the crown of the road which borders on the lot, or combination of lots, and on corner lots. Such term means the highest point on the crowns of the intersecting roads.

Gross land area, for the purpose of computing density/intensity, means that total land area within the property boundaries of the subject parcel, and specifically exclusive of any submerged land or public road right-of-way.

Habitable space means any space contained within a dwelling that is occupied regularly, routinely or for a period of time, except space used exclusively for parking and/or storage.

Hedge means two or more closely and densely growing bushes or shrubs along a property or boundary line that generally obstructs a person's view through it.

Impervious surface means a surface that has been compacted or covered with a layer of material so that it is highly resistant to, or prevents infiltration by, stormwater. Such term includes surfaces such as compacted sand,

lime rock or clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots, and other similar surfaces.

Impervious surface ratio (ISR) means a measure of the intensity of hard-surfaced development on a site. An impervious surface ratio is the relationship between the total impervious surface area on a site and the gross land area. The ISR is calculated by dividing the square footage of the area of all impervious surfaces on the site by the square footage of the gross land area.

Living fence is a permanent hedge that is sufficiently dense so as to serve the traditional functions of a manufactured fence, especially the functions of privacy and security.

Living level means a level of a structure containing habitable space, and also means the lowest floor as defined in chapter 74, section 74-134 of the city code. The living level shall additionally be constructed in compliance with chapter 74 of the City Code.

Lot, residential low (RL) district II, means a parcel of land, including one or more contiguous lots, or portions thereof, intended for occupancy by a single-family dwelling, including the open spaces required under this chapter.

Lot, residential medium (RM) district I, means a parcel of land occupied or intended for occupancy by a building, including the open spaces required under this chapter. For the purpose of this chapter, the word "lot" means any number of contiguous lots, or portions thereof, upon which one or more structures for a single use are erected or are to be erected.

Mobile home means a vehicle which is commonly known as a mobile home, camp car, house car, house trailer, mobile trailer, recreational vehicle or similar such names. Any vehicle which contains, or is modified to include, equipment commonly used for living or sleeping purposes shall also be considered to be a mobile home under this chapter.

Manufactured building, modular building, or factory-built building means a closed structure, building assembly, or system of subassemblies, which may include structural, electrical, plumbing, heating, ventilating, or other service systems manufactured in manufacturing facilities for installation or erection as a finished building or as part of a finished building, which shall include, but not be limited to, residential, commercial, institutional, storage, and industrial structures. The term includes buildings not intended for human habitation such as lawn storage buildings and storage sheds manufactured and assembled offsite by a manufacturer certified in conformance with F.S. § 553.36(13).

Motel means a building, or group of buildings, of rental units providing sleeping or living accommodations primarily for transients.

New construction means structures for which the start of construction commenced on or after the effective date of the ordinance from which this chapter is derived.

Nonconformity (nonconforming lot, nonconforming structure or nonconforming use) means a lot, structure or use, the characteristics of which were established and lawful prior to the passage of the ordinance from which this chapter is derived.

Off-street parking space (applies only to district I) means an area located outside of the public right-of-way for the parking of automotive vehicles. Such space shall not be less than 280 square feet, which includes access drives and maneuver areas.

Open space means the portion of a lot that contains no structures or parking areas, and the areas designated for passive or active recreational use.

Public use means the use of land, buildings or structures by a municipal or other governmental agency to provide protective, administrative, social and recreational services directly to the general public, including municipal buildings, community centers, public parks/beaches and preservation tracts.

Public/semipublic use means the primary and secondary uses listed under the preservation, recreation/open space and institutional plan categories of the city plan.

Residence means any structure with sleeping and housekeeping accommodations. Living units of apartment and condominium buildings shall be considered to be residences. This term also includes such terms as "home," "house," "dwelling" and "single-family dwelling."

Residential zoning district means the boundaries of an area of the incorporated part of Belleair Beach, Florida, designated by residential zone districts classification with uniform use regulations, and includes private and public property. When streets or alleyways are used to designate boundaries, said boundaries shall be considered to be the centerline of said streets or alleyways.

Separate building means any outbuilding, including, but not limited to, garages, sheds, carports, etc., the foundation perimeter and building wall of which, up to the first lintel height (minimum of eight feet), has less than 12 feet in common with a main wall of the main building.

Setback means the minimum distance from the property lines to the outermost vertical component of a building including stairs, balconies, elevator shafts, accessory structures, or other components of a building, but not including roof eaves. On waterfront lots, the inside edge of the seawall cap shall be considered to be the rear property line. Where no seawall is erected on the property, the coastal construction setback line, as determined by the state department of environmental regulation and the Army Corps of Engineers, shall be considered the rear property line.

Stairs means any step or series of steps designed to change the elevation of the path of travel.

Start of construction means the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, or any work beyond the stage of excavation. Permanent construction shall not include land preparation, such as clearing, grading and filling; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure, or any part thereof, on its pilings or foundation.

Story means the portion of a building included between the surface of any floor and the next floor above it, or if there is no floor above it, then the space between such floor and the ceiling next above it. For purposes of this chapter, the ground floor of a building to the floor or ceiling above it, regardless of its composition (sand, blacktop, concrete, etc.), shall be considered the first story of the building. For the purpose of this definition, the term "floor" shall include the floor of a garage, storage or parking area. The use of any area beneath the floor of the first living level shall cause such area to be defined as a "story."

Street means all publicly owned rights-of-way, not including parking lots, dedicated to the use of vehicular traffic.

Structural alteration means any change in the supporting members of a building, such as bearing walls and partitions, columns, beams, girders or any substantial changes in the roof or exterior walls.

Structure means anything, excluding paving, constructed or erected with a fixed location on the ground, including, but not limited to, buildings, screen enclosures, swimming pools, gazebos, pergolas and trellises.

Substantial improvement means any repair, reconstruction, alteration, improvement, or combination thereof, made to a structure, which takes place within a five-year period beginning on the date upon which an application for a building permit is filed with the county building department, for which the cumulative cost of the improvement equals or exceeds 50 percent of the fair market value of the structure. The fair market value of the structure shall be the appraised value of the structure at the time the initial application for a building permit is made. The fair market value shall be used during the five-year period to determine whether the cumulative improvements during such five years equals or exceeds 50 percent of the fair market value. In the case of damage,

the fair market value shall be the appraised value of the structure prior to the damage occurring. For the purpose of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. This term does not, however, include any:

- (1) Project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to ensure safe living conditions; or
- (2) Alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Trailer means a vehicle which does not have a means of self-propulsion, and which is customarily moved by being attached to an automotive vehicle.

Utility or storage shed means a simple roofed structure, typically made of wood or metal generally used as a utility storage space for equipment or tools. A utility or storage shed does not include a dock storage box or a small vertical storage locker structure.

Variance means a deviation from the minimum regulations of this chapter pertaining to lot areas, floor areas, setbacks, construction, building heights or any other regulation, except use.

(Ord. No. 94-14, § 1(27-2), 9-7-1994; Ord. No. 96-10, § 1, 8-5-1996; Ord. No. 98-16, § 1, 2-1-1999; Ord. No. 00-09, § 1, 1-8-2001; Ord. No. 03-02, § 1, 2-3-2003; Ord. No. 07-14, § 1, 12-3-2007; Ord. No. 08-01, § 1, 9-4-2008; Ord. No. 14-09, § 1, 9-8-2014; Ord. No. 18-11, § 1, 12-3-2018; Ord. No. 22-01, § 3, 6-6-2022)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 94-3. Changes in use.

For the purposes of this chapter, a "change in use" means any variation from the use characteristics of the respective districts as mandated in sections 30-51, 94-132 and 94-252. Any proposed variation which falls within the scope of such definition shall be referred only to the city council for consideration. A decision by the city council to reject a proposed change in use may not be appealed to any other official agency of the city. A favorable decision by the city council shall be subject to the following:

- (1) *Residential medium district I.* Such added provisions, over and above the provisions of this chapter, which, in the sole opinion of the city council, arise out of the proposal. The originator of the proposal shall agree to abide by such restrictions or the proposal shall be rejected.
- (2) *Residential low district II.* Such added provisions and the agreement as set forth in subsection (1) of this section. Additionally, the final agreement shall be submitted to a referendum as required by the Charter.

(Ord. No. 94-14, § 1(27-17), 9-7-1994)

Sec. 94-4. Conflict with flood regulations.

If any conflict between the provisions of chapter 74 and this chapter occurs, then the provisions of chapter 74, and any amendments thereto, shall prevail.

(Ord. No. 94-14, § 1(27-18), 9-7-1994)

Sec. 94-5. Conflicting provisions.

Unless specifically prohibited by state law, all regulations of this chapter which are more restrictive than the regulations of state statutes and Code provisions shall take precedence over such state statutes and Code provisions.

(Ord. No. 94-14, § 1(27-19), 9-7-1994)

Sec. 94-6. Landscaping requirements.

- (a) *Purpose.* The purpose of this section is to provide guidance for construction, alteration or repair of landscaping in a manner which reduces runoff and enhances the overall appearance of the city. For the purpose of this section, "landscaping" shall mean any combination of living plants (such as grass, ground cover, shrubs, vines, hedges, or trees) and nonliving landscape materials (such as rocks, pebbles, sand, mulch, walls, fences, or decorative paving materials).
- (b) *Implementation.* Implementation of landscaping requirements reduces water consumption, reduces stormwater runoff, reduces impervious surface areas, and enhances the aesthetic appearance and value of the city, thereby promoting the public health and general welfare. Water conservation shall be achieved by the selection of appropriate plant materials, the removal of nuisance and invasive vegetation, the use of water-efficient landscaping and irrigation systems, and appropriate maintenance.
- (c) *Single-family structures and multiple-family structures.* Required front yards and required side yards abutting public streets shall be maintained in a permeable landscaped design, with the exception of necessary driveways, walks, patios and similar paved areas, which shall not exceed 25 percent of the required yard area for corner lots and 45 percent of the required yard area for inside lots. Facilities constructed to achieve compliance with the Americans with Disabilities Act (ADA) requirements shall be exempt from this calculation.
- (d) *Land coverings.* All landscaping areas must be covered with shrubs, ground cover, turf, three inches of organic mulch or other permitted materials which permits percolation. Where mulch is used it must be protected from washing out of the planting bed. Except for semi-permeable landscape fabric, plastic sheet shall not be installed under mulch, stone or gravel.
- (e) *Trees.* Trees which are balled and burlapped must have the burlap removed or folded down at the time of planting. All twine or rope must be removed. If wire baskets are used, the upper rows must be cut before planting. If stakes or guy wires are used to support a tree, the wires must be covered with a protective material where it is in contact with the tree and the stakes or guy wires must be removed after one year.
- (f) *Signage and utilities.* Landscaping shall be installed in a manner which minimizes conflicts between the landscaping and signage and utilities.
- (g) *Parking.* No parking or display of vehicles is permitted in or over any required landscaping area, nor are vehicles permitted to overhang any required landscaped area in accordance with F.S. § 316.2045.
- (h) *Traffic hazards.* To minimize traffic hazards at street or driveway intersections, all landscaping installations must provide an unobstructed view to adjacent property owners or the motoring public in accordance with F.S. § 316.2045.
- (i) *Duty to maintain landscaping.* The owner and tenant, if any, are jointly and severally responsible for the regular and continuous maintenance and protection of all required landscaping, including the irrigation system, which shall be maintained in a healthy growing condition so as to present a neat and orderly appearance, free from refuse, debris and weeds. Dead, declining, and diseased plant material shall be removed or replaced, except that declining or diseased plants may instead be restored to health within 30

days. Maintenance of the landscaping is the responsibility of the property owner and tenant, and the property owner and tenant shall take all reasonable steps to prevent any landscaping, including hedges and trees, from encroaching on or otherwise affecting any neighboring properties.

- (j) *Unobstructed passage.* All landscaping near public sidewalks must be maintained to allow unobstructed passage of pedestrians.
- (k) *Ground cover, rights-of-way.* Permeable portions within the adjoining rights-of-way shall be maintained in accordance with this section. Where landscaping material is used in the right-of-way within four feet of the curb or road edge, the planting, excluding sod, shall not exceed 30 inches in height above the top of the adjacent curb, or if there is no curb, the road bed, provided that the landscaping material does not result in a hazard or impairment to public vehicular or pedestrian traffic, except as otherwise provided for in sections 22-34(b) and 50-1 of the City Code.
- (l) *Mulch.* The intention of these regulations is to allow mulch with a landscaping design while not allowing the entire yard to only be covered with mulch.
 - (1) *Installation standards.* When used in lieu of other landscaping materials, organic mulch shall be placed to a minimum depth of three inches. The top level of the mulch shall not exceed the height of the immediately adjacent ground surface.
 - (2) *Limits on installation in rights-of-way.* Organic mulch may be used in permeable areas of the right-of-way to keep moisture in the soil while other forms of approved ground cover plant material are maturing. Mulch is prohibited within four feet of the curb or road edge if there is no curb. Mulch in the right-of-way must be contained within borders sufficient to prevent flotation of mulch into the roadway.
- (m) *Irrigation, existing residential properties.* A permanent irrigation system is not required for existing residential properties; however, where one is installed, it shall be designed to avoid runoff, overspray or other similar conditions where water flows onto or over adjacent property, nonirrigation areas, walkways, roadways or structures. Irrigation systems shall be maintained so there are no broken irrigation heads or leaks.
- (n) *Artificial turf/synthetic grass.*
 - (1) *Minimum material standards.* All artificial turf, also referred to as synthetic grass, shall comply with the following minimum standards:
 - a. Artificial turf shall consist of green lifelike individual blades of grass that emulate natural turf in look and color, as approved by the building official, and shall have a minimum pile height of one and one-half (1.5) inches, unless otherwise approved by the building official, and shall have a minimum tufted weight of 56 ounces per square yard.
 - b. Artificial turf installations shall have a minimum permeability of 30 inches per hour per square yard.
 - c. All artificial turf shall have a minimum eight-year manufacturer's warranty that protects against color fading and a decrease in pile height.
 - d. Artificial turf shall be lead free.
 - e. All materials must include test documentation which declares that the artificial turf yarn and backing materials are disposable under normal conditions, at any U.S. landfill station (Total Content Leach Protocol (TCLP) test).
 - f. The use of indoor or outdoor plastic or nylon carpeting as a replacement for artificial turf or natural turf shall be prohibited.

(2) *Installation, maintenance and repair.*

- a. All artificial turf shall, at a minimum, be installed according to the manufacturer's specifications.
- b. All artificial turf installations shall be anchored to ensure that the turf will withstand the effects of wind.
- c. All seams shall be nailed and glued, not sewn, and edges shall be trimmed to fit against all regular and irregular edges to resemble a natural look.
- d. If artificial turf is planned to be installed immediately adjacent to a seawall, the artificial turf shall be pinned or staked behind the seawall. No artificial turf or installation mechanism shall be attached directly to or placed on a seawall or seawall cap.
- e. Proper drainage shall be provided for all artificial turf installations to prevent excess runoff or pooling of water.
- f. Artificial turf shall be visually level, with the grain pointing in a single direction.
- g. An appropriate barrier device (e.g., concrete mow strip, bender board, brick pavers, river rock, landscaping) is required to separate artificial turf from soil and live vegetation.
- h. Precautions for installation around existing trees shall be monitored and may be restricted to ensure tree roots are not damaged with the installation of the base material and that the overall health of the tree will not be compromised.
- i. All artificial turf shall be maintained in a green fadeless condition and shall be maintained free of dirt, mud, stains, weeds, debris, tears, holes, and impressions. Maintenance shall include, but not be limited to cleaning, brushing, debris removal; repairing of depressions and ruts to maintain a visually-level surface; elimination of any odors, flat or matted areas, weeds, and evasive roots; and all edges of the artificial turf shall not be loose and must be maintained with appropriate edging or stakes.
- j. All artificial turf must be replaced if it falls into disrepair with fading or holes or loose areas. Replacement and/or repairs shall be done with like for like materials from the same manufacturer, if possible, and done so in a manner that results in a repair that blends in with the existing artificial turf.
- k. An owner or applicant shall obtain a duly authorized building permit from the building department prior to the installation of any artificial turf.
- l. The city or other public entity or utility company may remove artificial turf at any time and for any reason, including, but not limited to, in order to provide underground access for utility work. The property owner shall bear and pay any and all costs to replace or reinstall the artificial turf.

(3) *Locations allowed.* Artificial turf/synthetic grass shall be allowed in front, rear and side yards, but not to exceed 50 percent of the total lot area (this area is defined as the total parcel area defined as a side or rear yard minus the area of the primary structure) of the front, rear and side yards. Artificial turf/synthetic grass shall not be allowed in any front yard areas or in any area visible from the public right-of-way (regardless of whether it is in the rear or side yard), unless it is placed in between paver blocks or similar items in a manner where the area for the artificial turf does not exceed four inches in width, provided that the synthetic turf area does not exceed 50 percent of the total area using the paver blocks. Screening, as approved by the building official, may be used in order to comply with the visibility requirement, further any turf/synthetic grass placed in between paver blocks shall not count toward the 50 percent maximum amount allowed. No artificial turf shall be installed in the public right-of-way.

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- (4) *Existing artificial turf.* For those properties where artificial turf is currently installed that is not in compliance with this section, when the existing artificial turf is replaced or repaired, in an amount exceeding 50 percent, then compliance with this section shall be required. Further, all existing artificial turf, not in compliance with this section, must be replaced within ten years of the adoption of this section.

- (5) *Pervious area.* Artificial turf shall be considered as 100% pervious area.

(Ord. No. 14-09, § 2, 9-8-2014; Ord. No. 18-11, § 2, 12-3-2018; Ord. No. 22-01, § 4, 6-6-2022)

Sec. 94-7. Landscaping permits; exception.

- (a) The construction, alteration or repair of landscaping shall not be commenced within the city before a landscape permit has been obtained from the city and in accordance with article III of chapter 62.
- (b) A permit shall not be required to be obtained for the following types of building activities:
- (1) The construction of landscaping does not alter lot grade, construct mounds, obstruction of stormwater flow or cause adverse impact of stormwater flow to adjacent properties.
 - (2) Exterior landscaping modifications, provided precautions are taken to avoid storm drain system contamination.
 - (3) Permits shall be required for all other activities which are otherwise required by the appropriate codes.
- (c) A violation of subsection (a) and (b) shall be enforced by the person designated by the city manager, communities services department and city engineer who is authorized to issue a "stop work order" until the property owner or contractor obtains proper permits from the city or county, or to cite the violator for a code violation.

(Ord. No. 14-09, § 3, 9-8-2014)

Sec. 94-8. Enforcement, violation and penalty.

- (a) *Stop-work order; revocation of permit.* In the event that any person holding a landscaping permit pursuant to this article violates the terms of the permit or implements landscaping in such manner as to cause erosion, sediment or runoff that adversely or materially affects the stormwater drainage system or the waters or tributaries in or around the city, the person designated by the city manager, communities services department and city engineer may suspend or revoke the landscaping permit.
- (b) *Violation and penalties.* Any person who violates the provisions of this article or any order issued by the community services department suspending or revoking a landscaping permit shall be guilty of a civil infraction punishable in accordance with the provisions section 2-262 of the City Code. Any continued violation of the provisions of this article shall constitute a criminal violation punishable in accordance with the provisions of section 1-15 of the City Code. In addition, a court of competent jurisdiction may order the violator to pay restitution for or to repair any damage caused by a violation of this article.

(Ord. No. 14-09, § 4, 9-8-2014; Ord. No. 22-01, § 5, 6-6-2022)

Secs. 94-9—94-40. Reserved.

ARTICLE II. ADMINISTRATION²

DIVISION 1. GENERALLY

Secs. 94-41—94-60. Reserved.

DIVISION 2. BOARD OF ADJUSTMENT³

Sec. 94-61. Established.

The Charter establishes a board of adjustment to be appointed by the city council. Such board of adjustment shall consist of seven members to be appointed from among the qualified voters of the city for terms of three years. Members of the board of adjustment shall hold no other city office.

(Ord. No. 98-16, § 5(27-20(a)), 2-1-1999)

Sec. 94-62. Powers and duties.

- (a) The board of adjustment shall adopt rules of procedure for the conduct of its meetings. The board of adjustment may grant allowable variances to the provisions of this chapter and any other construction or building ordinances in harmony with the board of adjustment's general purposes and intent. A variance granted by the board of adjustment shall be consistent with the public interest, when owing to a special condition and literal enforcement of the provisions of this chapter will not result in an unnecessary and undue hardship to the applicant, and the special condition or unique circumstance will not result from the intentional act of the applicant or the applicant's agent. In order to authorize any variance from the provisions of this chapter, the board of adjustment shall find that the applicant:
- (1) Demonstrated that special conditions or unique circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other similar structures or buildings in the same zoning district.
 - (2) Demonstrated that the variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure.
 - (3) Demonstrated that granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter.
 - (4) Demonstrated that the variance requested does not change the use of the property from the use characteristics mandated for districts I and II in sections 30-51 and 94-252 and article IV, division 3 of this chapter.

²Cross reference(s)—Administration, ch. 2.

³Cross reference(s)—Boards, committees and commissions, § 2-101 et seq.

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- (5) Will comply fully with additional conditions and safeguards, which the board of adjustment may prescribe, including, but not limited to, reasonable time limits within which the action for which a variance is required shall commence and/or be completed.
 - (6) Demonstrated that the variance requested does not violate any provision and requirements set forth in chapter 62 and chapter 74 of the city code.
 - (7) Such variance is not in conflict with the City of Belleair Beach Strategic Plan.
- (b) To hear and decide an appeal from an administrative decision or order made by a city official where there is alleged to be an error in the order or decision in the enforcement of this article.
 - (c) The city manager shall receive and process each appeal to the board from an administrative decision of the city official. During the processing and hearing of the appeal, all work being performed on the premises shall be suspended until final disposition of the appeal, unless the property owner upon whom the decision or order is being enforced certifies in writing to the board that, based on the facts and circumstances of the decision or order, imminent peril or damage to life or property would result from a suspension of the decision or order. In such case, the work being performed shall not be suspended, pending review by the board; provided, however, if the board upholds the decision or order of the city official, all work performed on the premises may be subject to removal at the expense of the property owner. The burden of proof shall be on the applicant to establish by the preponderance of the evidence that the decision or order of the official was wrong as a matter of law and circumstance.
 - (d) A fee in the amount of \$500.00 shall be charged for each variance application filed with the city, and a fee of \$500.00 shall be charged for each appeal application. In addition to the administrative fee to be charged, each variance applicant shall deposit the sum of \$500.00 with the city for the special magistrate's hearing fees. A maximum of three variance requests for one property from the regulations for this chapter or other construction ordinances may be included in a single application at such fee. Fifty percent of the fee paid for a variance or appeal application may be refunded if written notice signed by the property owner withdrawing the request is received no later than the Thursday following the application deadline at 12:00 noon. The city manager shall approve all withdrawals as valid before the refund may be issued.
 - (e) The city council may amend or change fees associated with filing an application for a variance or an appeal of an administrative decision of the city staff to the board by resolution.
 - (f) The board shall comply with those standards and procedures as may be established by the city council to hear and determine special exceptions, appeals from administrative decisions, petitions for variances in the case of peculiar and unusual circumstances which would prevent the reasonable use of land, and such other matters as may be required by the council or by law.
 - (g) The orders, decrees and findings of the board of adjustment shall be enforced only by the city building official or the city code enforcement officer, as appropriate.
- (Ord. No. 94-14, § 1(27-20(b)), 9-7-1994; Ord. No. 94-20, § 1(27-20), 1-3-1995; Ord. No. 03-05, § 1, 5-5-2003; Ord. No. 05-01, § 23, 4-12-2005; Ord. No. 05-03, § 1, 5-2-2005; Ord. No. 05-17, § 1, 1-9-2006; Ord. No. 11-07, § 1, 10-3-2011; Ord. No. 14-09, § 5, 9-8-2014; Res. No. 2018-14, § 1, 2, 8-6-2018; Ord. No. 22-01, § 6, 6-6-2022)

Sec. 94-63. Routing.

Variance requests shall be routed to the board of adjustment through the building inspector and the city clerk who shall certify to the board of adjustment that the fee has been paid for such variance request.

(Ord. No. 94-14, § 1(27-20(c)), 9-7-1994)

Sec. 94-64. Public hearing required.

All variances shall be considered by the board of adjustment only at a duly called public hearing convened in accordance with rules adopted by the board of adjustment for naming a time and place for its meeting. A public hearing notice shall be published in a local daily newspaper at least 15 days prior to the scheduled hearing, and shall be posted in a conspicuous place on or around such lot, parcel or tract of land as may be involved in, or directly affected by, the hearing. The board of adjustment shall post notice to the public, as well as to the parties of interest, of its meetings at least 48 hours in advance of such meetings.

(Ord. No. 94-14, § 1(27-20(d)), 9-7-1994)

Sec. 94-65. Time limits.

- (a) Any variance on which construction has not begun within six months of the granting date of such variance shall be invalid. Any variance on which construction has begun, but has not been completed, shall be extended to the extent that the completion date is extended by the building inspector pursuant to section 10-33(a).
- (b) A request for a new variance shall be made if no constructions has been started within the time limit prior to the issuance of a new permit as provided in section 10-33(b).
- (c) Any variance granted for a nonstructure shall not expire.

(Ord. No. 94-14, § 1(27-20(e)), 9-7-1994)

Sec. 94-66. Optional reference.

The board of adjustment may refer any variance requests to the city planning board for its recommendations, but, shall not be bound to honor such recommendations.

(Ord. No. 94-14, § 1(27-20(f)), 9-7-1994)

Sec. 94-67. Reserved.

Editor's note(s)—Section 24 of Ord. No. 05-01, adopted April 12, 2005, repealed § 94-67, which pertained to review by city council of affirmative vote of the board of adjustment actions, and derived from Ord. No. 94-14, adopted Sept. 7, 1994.

Sec. 94-68. Adjustment from FAR and ISR standards.

An adjustment from the FAR and ISR standards of this chapter may be granted in accordance with the provisions of this section. An adjustment under this section shall only be allowed or granted by the board of adjustment when substantial competent evidence in the official record of the hearing supports all of the following findings:

- (1) A literal interpretation of the provisions of the FAR and ISR standards of this chapter will deprive the applicant of rights commonly enjoyed by other properties in the same future land use category, and will work unnecessary and undue hardship on the applicant.
- (2) The alleged hardship is unique and singular with regard to the property for which the variance is sought, and is not that suffered in common with other property similarly located.

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- (3) The alleged hardship is not self-imposed by the applicant, and the situation sought to be relieved by the adjustment does not result from an illegal act or the actions of the applicant, resulting in a self-imposed hardship.
 - (4) The adjustment, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by the allowance of the adjustment.
 - (5) The adjustment, if allowed, will be in harmony with, serves the general intent and purpose of, and is consistent with the countywide future land use plan and rules, the city's comprehensive plan and this chapter.
 - (6) The adjustment, if allowed, will be the minimum adjustment that will make possible the reasonable use of the land, building or structure.
 - (7) The adjustment, if allowed, will not confer on the applicant any special privilege that is denied by the countywide future land use plan and rules, the city's comprehensive plan or this chapter, to other lands, buildings or structures in the same land use classification.
 - (8) The adjustment, if allowed, shall not constitute an amendment to the city's comprehensive plan, land development regulations or the countywide comprehensive plan.
 - (9) An amendment to another land use category under the city and countywide future land use plan has been considered by the applicant and the city, and it has been determined that such an amendment would not meet the objective of the adjustment and would not be appropriate.

(Ord. No. 94-14, § 1(27-20(h)), 9-7-1994)

Sec. 94-69. Green yard landscaping requirements for yard abutting public.

- (a) *Purpose.* The purpose of this section is to improve the appearance, environment, character and value of the total residential area within the city by protecting, promoting, maintaining landscaping on private property in a manner which reduces runoff and enhances the overall appearance of the city. For the purpose of this section, "landscaping" shall mean any combination of living plants (such as grass, ground cover, shrubs, vines, hedges, or trees) and nonliving landscape materials (such as rocks, pebbles, sand, mulch, walls, fences, or decorative paving materials).
- (b) *Implementation.* Implementation of landscaping requirements reduces water consumption, reduces stormwater runoff, reduces impervious surface areas, and enhances the aesthetic appearance and value of the city, thereby promoting the public health and general welfare. Water conservation shall be achieved by the selection of appropriate plant materials, the removal of nuisance and invasive vegetation, the use of water-efficient landscaping and irrigation systems, and appropriate maintenance. For purposes of determining plant species to remove, refer to the most current edition of the Department of Agriculture and Consumer Services "Noxious Weeds" rule, Chapter 5B-57, FAC.
- (c) *Single-family structures and multiple-family structures.* Required front yards and required side yards abutting public streets shall be maintained in a permeable landscaped design, with the exception of necessary driveways, walks, patios and similar paved areas, which shall not exceed 25 percent of the required yard area for corner lots and 45 percent of the required yard area for inside lots. Facilities constructed to achieve compliance with the Americans with Disabilities Act (ADA) requirements shall be exempt from this calculation. Artificial turf shall not be permitted on any front or side yards abutting any public street.
- (d) *Land coverings.* All landscaping areas must be covered with shrubs, ground cover, turf, three inches of organic mulch or other permitted materials which permits percolation. Where mulch is used it must be protected from washing out of the planting bed. Except for semi-permeable landscape fabric plastic sheet shall not be installed under mulch, stone or gravel.

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- (e) *Trees.* Trees which are balled and burlapped must have the burlap removed or folded down at the time of planting. All twine or rope must be removed. If wire baskets are used, the upper rows must be cut before planting. If stakes or guy wires are used to support a tree, the wires must be covered with a protective material where it is in contact with the tree and the stakes or guy wires must be removed after one year.
 - (f) *Signage and utilities.* Landscaping shall be installed in a manner which minimizes conflicts between the landscaping and signage and utilities.
 - (g) *Parking.* No parking or display of vehicles is permitted in or over any required landscaping area, nor are vehicles permitted to overhang any required landscaped area.
 - (h) *Traffic hazards.* To minimize traffic hazards at street or driveway intersections, all landscaping installations must provide an unobstructed view to adjacent property owners or the motoring public.
 - (i) *Duty to maintain landscaping.* The owner and tenant, if any, are jointly and severally responsible for the regular and continuous maintenance and protection of all required landscaping, including the irrigation system, which shall be maintained in a healthy growing condition so as to present a neat and orderly appearance, free from refuse, debris and weeds. Dead, declining, and diseased plant material shall be removed or replaced except that declining or diseased plants may instead be restored to health within 30 days. Maintenance of the landscaping is the responsibility of the property owner and tenant, and the property owner and tenant shall take all reasonable steps to prevent any landscaping, including hedges and trees, from encroaching on or otherwise affecting any neighboring properties.
 - (j) *Unobstructed passage.* All landscaping near public sidewalks must be maintained to allow unobstructed passage of pedestrians.
 - (k) *Ground cover, rights-of-way.* Permeable portions within the adjoining rights-of-way shall be maintained in accordance with this section. Where landscaping material is used in the right-of-way within four feet of the curb or road edge, the planting, excluding sod, shall not exceed 30 inches in height above the top of the adjacent curb, or if there is no curb, the road bed, provided that the landscaping material does not result in a hazard or impairment to public vehicular or pedestrian traffic, except as otherwise provided for in sections 22-34(b) and 50-1 of the City Code.
 - (l) *Mulch.* The intention of these regulations is to allow mulch with a landscaping design while not allowing the entire yard to only be covered with mulch.
 - (1) *Installation standards.* When used in lieu of other landscaping materials, organic mulch shall be placed to a minimum depth of three inches. The top level of the mulch shall not exceed the height of the immediately adjacent ground surface.
 - (2) *Limits on installation in rights-of-way.* Organic mulch may be used in permeable areas of the right-of-way to keep moisture in the soil while other forms of approved ground cover plant material are maturing. Mulch is prohibited within four feet of the curb or road edge if there is no curb. Mulch in the right-of-way must be contained within borders sufficient to prevent flotation of mulch into the roadway.
 - (m) *Irrigation, existing residential properties.* A permanent irrigation system is not required for existing residential properties; however, where one is installed, it shall be designed to avoid runoff, overspray or other similar conditions where water flows onto or over adjacent property, nonirrigation areas, walkways, roadways or structures. Irrigation systems shall be maintained so there are no broken irrigation heads or leaks.

(Ord. No. 02-09, § 1, 7-29-2002; Ord. No. 12-01, § 1, 5-7-2012; Ord. No. 18-11, § 3, 12-3-2018; Ord. No. 22-01, § 7, 6-6-2022)

Secs. 94-70—94-100. Reserved.

ARTICLE III. NONCONFORMITIES

Sec. 94-101. Continuation.

The lawful use of any structure or land existing at the time of the adoption of the ordinance from which this article is derived, or any amendment thereof, may be continued although such use, structure or land does not conform with the requirements of this article, subject to the following provisions:

- (1) *Unsafe structures.* Any structure, or portion thereof, declared to be unsafe may be restored to a safe condition.
- (2) *Construction approved prior to regulations.* Nothing in this section shall require any change in the plans, construction or designated use of a structure for which a building permit has been issued and the construction of which has been diligently carried on since the issuance of such building permit.
- (3) *Existing structures and premises; extensions; repairs and maintenance.*
 - a. An existing structure devoted to a use not permitted by this article in the district in which it is located shall not be enlarged, extended, constructed, moved or structurally altered. Except as provided in this article, a nonconforming structure, or a structure on a parcel of land that is nonconforming, shall not be enlarged, extended, constructed, moved or structurally altered, notwithstanding whether or not such proposed enlargement, extension or alteration conforms to the provisions of this article.
 - b. A nonconforming use of a structure shall not be extended to other parts of the structure, and no such use shall be extended to occupy any land outside of such structure.
 - c. Only ordinary repairs and maintenance and interior alterations not involving structural changes of structures that are nonconforming for any reason shall be permitted under this section.
- (4) *Restoration.* A nonconforming structure which is damaged or destroyed in excess of 50 percent or more of its then fair market value, by deterioration, flood, fire, explosion, earthquake, war, riot or act of God, may not be reconstructed or restored for use, except in compliance with the requirements of this article.
- (5) *Structural conversions.* Subsections (3) and (4) of this section shall not apply to any construction, structural alteration, extension, addition or repair where such construction, structural alteration, extension, addition or repair, as proposed, would convert a nonconforming use into a use which conforms with all of the pertinent requirements of this article.
- (6) *Discontinuance.* When a nonconforming use of land or a structure has been discontinued, such land or structure shall then be utilized only for a use permitted within the district in which the land or structure is located.
- (7) *Replacement.*
 - a. *Dwelling units.*
 1. Notwithstanding any other provision of this article to the contrary, any structure which contains dwelling units for permanent residence, including apartments and condominiums, may be structurally repaired, reconstructed, improved or altered on or within the original foundation plan, provided such structure retains its character of containing dwelling units

to be used for permanent residence and, provided, the cost of such repairs is less than 50 percent of the fair market value of the structure either:

- i. Before the improvement is started; or
- ii. If the structure has been damaged and is being restored, before the damage occurred.

For purposes of this subsection, the improvement is considered to occur when the first alteration in any wall, ceiling, floor or other structural part of the building commences.

2. Notwithstanding any other provision of this article to the contrary, any structure which contains dwelling units for permanent residence, including apartments and condominiums, may be replaced, repaired, reconstructed or altered, the cost of which equals or exceeds 50 percent of the fair market value as provided in subsection (7)a.1.i. of this section with similarly sized dwelling units, which comply with the minimum floor area requirements within a structure which complies with the minimum floor area, maximum land coverage and yard relations of the particular zoning district in which the structure is located.
3. Where existing dwelling units are located in the coastal high hazard area, zone V, and are required to build the lowest habitable floor at an elevation greater than that which previously existed, such units and/or structures may exceed the maximum height requirements of the zoning district by an amount not to exceed the positive difference between the required first floor elevation and the first floor elevation that had previously existed.

b. *Other permitted uses.*

1. Notwithstanding any other provision of this article to the contrary, any structure which contains permitted uses as provided in the particular zoning district in which it is located may be structurally repaired, reconstructed, improved or altered on or within the original foundation plan, provided such structure retains its character of containing permitted uses and, provided, the cost of such repairs is less than 50 percent of the fair market value of the structure either:
 - i. Before the improvement is started; or
 - ii. If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this subsection, the improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences.

2. Notwithstanding any other provision of this article to the contrary, any structure which contains permitted uses as provided in the particular zoning district in which it is located may be replaced, repaired, reconstructed or altered, the cost of which equals or exceeds 50 percent of the fair market value, as provided in subsection (7)b.1.i. of this section, with similarly sized occupancies or units which comply with the minimum floor area, maximum land coverage and yard regulations of the particular zoning district within which the structure is located.

(Ord. No. 94-08, § 1(27-23), 6-6-1994)

Sec. 94-102. Rebuilding after a catastrophic loss.

- (a) "Declaration of disaster area" is defined to mean a declared disaster or emergency within the corporate limits of the city, as declared by the city council, board of county commissioners or the governor of the state, resulting in substantial damage or total destruction to real property within the city.
- (b) Notwithstanding any provision of this Code to the contrary, a multi-family structure, hotel, motel or motor lodge located in zoning district RMI may be rebuilt to the same density, height, rear and side setbacks of the existing structure, except that front setbacks, the coastal construction control line, floodplain regulations, fire codes and parking requirements shall conform the current code regulations.

(Ord. No. 02-10, § 1, 7-29-2002; Ord. No. 04-13, § 1, 12-6-2004)

Secs. 94-103—94-130. Reserved.***ARTICLE IV. DISTRICTS******DIVISION 1. GENERALLY*****Sec. 94-131. Intent.**

The intent of this article is to eliminate separate zoning district designations; adopt the land use designations as outlined in the state approved comprehensive plan; and supplant the existing zoning classifications. All land uses within the city shall be governed by the definitions, descriptions and categories described in this article effective on and after the date of enactment of the ordinance from which this article is derived.

(Ord. No. 94-14, § 1(27-3), 9-7-1994)

Sec. 94-132. Established.

- (a) For the purposes of this article, the city is divided into land use categories as provided in this article.
- (b) The boundaries of such land use categories are established as shown on a map entitled, "Future Land Use Plan of Belleair Beach, Florida," which is on file in the office of the city clerk. Such plan, with all explanatory matter, shall be deemed to accompany, be and is a part of this article. There shall be no changes of any nature made on the official future land use plan map, except changes made under the provisions of law governing changes in land use.
- (c) There shall be no structure or land located, extended, converted or structurally altered without full compliance with the terms of this article and other applicable regulations.

(Ord. No. 94-14, § 1(27-3), 9-7-1994)

Sec. 94-133. Designation of land use categories.

The city is divided into five land use categories which are designated as follows:

- (1) Residential low (RL) district II, 4.0 units per acre.
- (2) Residential medium (RM) district I, 15.0 units per acre.

- (3) Recreation/open space.
- (4) Institutional.
- (5) Preservation.

CITY OF BELLEAIR BEACH CONSISTENCY MATRIX

	Consistent Zoning				
Future Land Use Plan Categories	RL	RM	Preservation	Recreation/Open Space	Institutional
Residential Low (RL)	X				
Residential Medium (RM)		X			
Preservation (P)			X		
Recreation/Open Space (R/OS)				X	
Institutional (I)					X

X = Consistent with comprehensive plan

Blank = Not consistent with comprehensive plan

(Ord. No. 94-14, § 1(27-3), 9-7-1994; Ord. No. 07-14, § 2, 12-3-2007)

Sec. 94-134. Interpretation of district boundaries.

The following shall apply where uncertainty exists with respect to the boundaries of any of the zoning districts of the city as shown on the future land use plan map:

- (1) Where district boundaries are indicated as approximately following the centerline or street line of streets, the centerline or alley line of alleys or the centerline or right-of-way of highways, such lines shall be construed to be the district boundaries.
- (2) Where district boundaries are indicated so that they are approximately parallel to the centerlines or street lines of streets, the centerlines or alley lines of alleys or the centerlines or right-of-way lines of highways, such district boundaries shall be construed as being parallel to such lines and at such distance from such lines as indicated on the land use map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the land use map.
- (3) Where district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be the boundaries.
- (4) Where the boundary of a district follows a body of water, such boundary line shall be construed to be at the limit of the jurisdiction of the city, unless otherwise indicated.
- (5) Any area within the corporate limits of the city which is underwater and is not shown as being included within any district shall be subject to all of the regulations of the district which immediately joins the

water area. If the water area adjoins two or more districts, the boundaries of each district shall be construed to extend into the water area in a straight line until they meet the other district.

- (6) Any area shown on the land use maps as water, street or right-of-way shall be subject to the land use regulations of the district in which it is located. However, submerged land shall not be used to calculate the permitted density or intensity of the site. In case of doubt, the land use regulations of the most restrictive adjoining district shall govern.
- (7) Where property has not been specifically included within a district, or where territory has become a part of the city by annexation, such property or territory shall automatically be classified as lying and being in the residential low district II until such classification shall be changed by an amendment to this article, as provided by law.
- (8) Whenever a street, alley or other public way is vacated in the manner authorized by law, the land use district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation, and all area included in the vacation shall be subject to all regulations of the extended districts.

(Ord. No. 94-14, § 1(27-3), 9-7-1994)

Sec. 94-135. Uses.

- (a) *Residential medium (RM) district I.* District I is zoned for multifamily use, and the use of buildings shall be for residences with a density of not more than 15 individual family units per acre. One group home residence consisting of a family unit not to exceed eight persons may be constructed for developmentally disabled persons, dependent children and the elderly. There shall be no more than one group home residence per one-half square mile within such district. The maximum floor area ratio (FAR) permitted within this district shall be 0.50, and the maximum impervious surface ratio (ISR) permitted shall be 0.75. This district shall include the areas designated as residential medium (RM) on the future land use map.
- (b) *Residential low (RL) district II.* Except for city-owned real property, district II shall be designated for residential use only, and the use of all buildings shall be for single-family dwellings. The maximum floor area ratio (FAR) permitted within this district shall be 0.40, and the maximum impervious surface ratio (ISR) permitted shall be 0.65. This district shall include the areas designated as residential low (RL) on the future land use map.
- (c) *Institutional land use district.* The institutional land use district is created to depict the areas of the city that are used, or appropriate to be used, for public/semipublic institutional purposes. Permitted uses within this district shall include government offices and facilities, public parking, schools, parks and utility substations. Development within such district shall meet all code requirements, and be consistent with the comprehensive plan. The maximum floor area ratio (FAR) permitted within this district shall be 0.65, and the maximum impervious surface ratio (ISR) permitted shall be 0.85. The setbacks permitted within this district shall be 15 feet measured from the front lot line to the building line; five feet measured from the side lot line to the building line; and five feet measured from the rear lot line to the building line. This district shall include the areas designated as institutional on the future land use map.
- (d) *Recreation/open space land use district.* The recreation/open space district is created to depict the areas of the city that are used, or appropriate to be used, for recreation/open space uses. Permitted uses within this district shall include parks, beaches and beach accesses, and public recreation facilities. The maximum floor area ratio (FAR) permitted within this district shall be 0.25, and the maximum impervious surface ratio (ISR) permitted shall be 0.60. This district shall include the areas designated as recreation/open space on the future land use map.

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- (e) *Preservation land use district.* The preservation district is created to depict the areas of the city that are characterized, or appropriate to be characterized, as a natural resource feature worthy of preservation, and the significance of preserving such major environmental features and their ecological functions is recognized. Any structure placed on property within a preservation district by the city shall have a maximum floor area ratio (FAR) of 0.10, and a maximum impervious surface ratio (ISR) of 0.20.

(Ord. No. 94-14, § 1(27-3), 9-7-1994; Ord. No. 07-14, § 3, 12-3-2007; Ord. No. 08-08, § 1, 11-3-2008; Ord. No. 18-11, § 4, 12-3-2018)

Secs. 94-136—94-160. Reserved.

DIVISION 2. RESIDENTIAL MEDIUM (RM) DISTRICT I

Sec. 94-161. Building specifications and limitations.

The residential medium (RM) district I is zoned for multifamily use, and the use of buildings shall be for residences with a density of not more than 15 individual family units per acre. One group home residence consisting of a family unit not to exceed eight persons may be constructed for levels or an uninhabitable story beneath no more than two living levels. The first floor of the building shall be elevated a minimum of 18 inches above the grade line. The height of the freeboard shall be consistent with the applicable Florida Building Code. The building height shall not exceed 35 feet above the base flood elevation at the highest point of the roof, excluding vent pipes, roof ventilators, elevator shaft extensions limited to eight feet in height, air conditioning units and such decorations as chimneys, cupolas, etc., provided no height extension (i.e., cupola) shall be used as a habitable space and provided, no plumbing or electric shall be allowed after the 35-foot height restriction. Collateral structures, such as swimming pools, pump houses or gate houses, shall also be permitted, provided such structures conform with the design of the main building and do not violate any of the other provisions of this chapter. Buildings shall not exceed 180 feet in length and shall not approach closer than 20 feet to another building on the same plot.

(Ord. No. 94-14, § 1(27-4(a)), 9-7-1994; Ord. No. 01-09, § 1(27-4), 8-6-2001; Ord. No. 22-01, § 8, 6-6-2022)

Sec. 94-162. Square footage.

Condominium units within the RM district I shall contain a minimum of 800 square feet of living area per unit.

(Ord. No. 94-14, § 1(27-4(b)), 9-7-1994)

Sec. 94-163. Standpipes, fire pumps, fire sprinkler systems and fire hydrants.

- (a) Any building or other structure within the RM district I shall, at the time of construction and thereafter, be in compliance with the provisions of the Florida Fire Prevention Code and the Florida Building Code provisions pertaining to fire standpipes, fire pumps, fire sprinkler systems, fire hydrants and other fire safety devices required by law.
- (b) The district fire marshal shall be responsible for strict compliance with the provisions of the Florida Fire Prevention Code and Chapter 26 of this Code, including modification of existing fire prevention, fire suppression and fire safety systems of all buildings and structures in RM district I. The city's building official

shall be responsible for compliance with the provisions of the Florida Building Code pertaining to fire safety issues on new or modified construction of all buildings and structures in RM district I.

(Ord. No. 94-14, § 1(27-4(c)), 9-7-1994; Ord. No. 09-11, § 1, 2-1-2010)

Sec. 94-164. Density.

Condominiums or groups of such buildings within the RM district I shall be designed so that construction of such buildings shall not exceed 15 individual family units per acre. For the purposes of this section, the total square footage of the property (measured from sideline to sideline and front line to the seawalls) shall be used to determine its ratio to the permitted maximum of 15 units per acre. Decimal results shall be rounded to the next lower whole number.

(Ord. No. 94-14, § 1(27-4(d)), 9-7-1994)

Sec. 94-165. Side setbacks.

In the RM district I, the minimum width of a lot shall be 80 feet. Side setbacks on individual lots and on combined lots shall be in accordance with the schedule set forth in the table in this section. Setbacks for intermediate width sizes not shown in such schedule shall be determined by interpolation, and for combined lots in excess of a 320-foot lot by 0.094 of a foot for each foot of excess width. (Example: For a two-story building on a 360-foot lot: $0.094 (360-320) + 37.5 = 41.26$ -foot setback each side.)

SCHEDULE OF SIDE SETBACKS—RM DISTRICT I

Width of Lot (feet)	Setback for One Residential Story (feet each side)	Setback for Two or Three Residential Stories (feet each side)
82	10.00	15.00
160	17.50	22.50
240	25.00	30.00
320	32.50	37.50

(Ord. No. 94-14, § 1(27-4(e)), 9-7-1994)

Sec. 94-166. West boundary setbacks.

Within the RM district I, west boundary setbacks shall be a minimum of 30 feet from the innermost point of the seawall cap.

(Ord. No. 94-14, § 1(27-4(f)), 9-7-1994)

Sec. 94-167. East boundary setbacks.

Within the RM district I, east boundary setbacks shall be a minimum of 40 feet from the west line of the Gulf Boulevard right-of-way.

(Ord. No. 94-14, § 1(27-4(g)), 9-7-1994)

Sec. 94-168. Grading.

- (a) Within the RM district I, all lots shall be graded to the street and the top of the seawall at minimum grades of one percent. Three-fourths of the drainage area shall drain to or through the seawall by the use of underground piping. Open culverts or gratings at ground level at the top of the seawall shall not be permitted.
- (b) Grading within the last three feet along the side lot lines shall be limited to a maximum of a two percent grade, provided, the adjacent lot lines are not in excess of a two percent grade, in which case, the grading of the adjacent lot line may be matched.
- (c) When normal grading along a lot line may cause a drainage difficulty to adjacent lots because of existing topographical features, the community services department and the city engineer shall be empowered to work out a reasonable compromise and enforce such compromise on the builder.
- (d) Grading shall be from the rear to front, front to rear, or, the middle to front and rear, and not to the sides.

(Ord. No. 94-14, § 1(27-4(h)), 9-7-1994; Ord. No. 14-09, § 6, 9-8-2014)

Sec. 94-169. Parking.

- (a) *In general.* Within the RM district I:
 - (1) The parking of cars, boats, boat trailers, etc., shall be limited to off-street parking areas.
 - (2) Condominium units shall be responsible for policing their own parking areas. The city shall not assume responsibility for the displacement of automobiles by boats, etc., which are occupying spaces originally reserved for automobiles.
 - (3) All off-street parking areas shall be paved. The use of permeable materials (i.e., geoweb, turfblock, etc.) may be utilized.
 - (4) Boats and boat trailers may be parked on private property so as not to interfere with access for fire equipment and in accordance with rules established by management, if appropriate. Boats and boat trailers shall not be parked on the right-of-way adjoining Gulf Boulevard.
- (b) *Condominiums.* Parking for condominiums within the RM district I shall be as follows:
 - (1) A minimum of one parking space for residents shall be provided for each condominium unit.
 - (2) A minimum of one parking space shall be provided for each two condominium units for visitors or residents.
 - (3) A minimum of one parking space shall be provided for service and maintenance vehicles for each condominium building within each condominium complex.
 - (4) Each parking space shall be marked and shall be a minimum of nine feet in width and 20 feet in length.

These areas shall be considered as part of the area specified for off-street parking spaces. However, the 180 square feet of parking space contained within the nine-foot by 20-foot parking area specified in subsection (b)(4) of this section shall be considered as a portion of the 280 square feet specified for off-street parking spaces.

(Ord. No. 94-14, § 1(27-4(i), (j)), 9-7-1994)

Sec. 94-170. Sales offices and models.

Within the RM district I, one living unit of a condominium or apartment building may be used as a combination sales office and model unit until such time as all living units within the condominium or apartment building are sold or rented.

(Ord. No. 94-14, § 1(27-4(k)), 9-7-1994)

Sec. 94-171. Utility lines.

Within the RM district I, power, telephone and other wiring shall be located underground.

(Ord. No. 94-14, § 1(27-4(l)), 9-7-1994)

Cross reference(s)—Utilities, ch. 62.

Sec. 94-172. Fences.

- (a) Within the RM district I, fences shall be permitted along the street and side lot lines to a maximum height of six feet. Manmade fences shall be permitted to incorporate ornamental entrance posts or pillars and ornamental structural posts or pillars between sections of the fence. Such posts or pillars shall be permitted to rise a maximum of 18 inches above the top level of the fence proper; however, such posts or pillars shall not be closer than six feet apart, except for gate posts or pillars, if necessary.
- (b) Living fences shall be permitted within the RM district I to incorporate plants commonly known as "ornamentals" or "specimen plants" and such plantings shall be permitted to grow to their normal heights; however, a grouping of such plants constituting a fence above the maximum allowed heights shall be permitted. Ornamentals and specimen plants are commonly plants that are considered more decorative due to their flowers, foliage, bark or form. A fence shall also be permitted inside, but not on or overgrowing, the seawall, to a height of 48 inches. Living fences shall be maintained so as to not exceed the specified heights by more than six inches. Heights of fences shall be measured from the existing grade at the fence location.

(Ord. No. 94-14, § 1(27-4(m)), 9-7-1994; Ord. No. 18-11, § 6, 12-3-2018)

Sec. 94-173. Compressor units.

Within the RM district I, compressor units for central heating or air conditioning units may be placed where desired, including the roof, but shall be concealed from view at eye level on Gulf Boulevard.

(Ord. No. 94-14, § 1(27-4(n)), 9-7-1994)

Sec. 94-174. Access to property.

Within the RM district I, access to the property over the Gulf Boulevard and Causeway Boulevard rights-of-way refer to the county code for county requirements.

(Ord. No. 94-14, § 1(27-4(o)), 9-7-1994)

Sec. 94-175. Reserved.

Editor's note(s)—Section 4 of Ord. No. 07-14, adopted Dec. 3, 2007, repealed § 94-175, floor area ratios and impervious surface ratios, which derived from Ord. No. 94-14, adopted Sept. 7, 1994; Ord. No. 00-09, adopted Jan. 8, 2001; and Ord. No. 01-06, adopted June 18, 2001.

Secs. 94-176—94-200. Reserved.

DIVISION 3. RESIDENTIAL LOW (RL) DISTRICT II

Sec. 94-201. Building specifications and limitations.

- (a) Within the residential low (RL) district II, premises or buildings shall not be used or occupied, and no buildings shall be erected or structurally altered, except as set forth in this division.
- (b) Mobile homes as defined by F.S. § 553.36(14) shall not be permitted to be erected within the corporate limits of the city.
- (c) Modular housing may be erected within the corporate limits of the city provided any such housing meets all of the requirements of the Belleair Beach City Code and the Florida Building Code.

(Ord. No. 94-14, § 1(27-5(intro. ¶)), 9-7-1994; Ord. No. 13-03, § 1, 6-3-2013)

Sec. 94-202. Named subdivisions.

Table I, which is attached to this article, contains a list of all of the various named subdivisions in RL district II, areas designated residential low (RL), and indicates data for building one-story and two-story single-family dwellings on individual lots, including minimum living square foot area and building setback requirements. Lots in areas designated as residential low shall not be reduced in size from that currently platted. If lots are combined for building on larger lots, no building is permitted on any residual partial lot.

(Ord. No. 94-14, § 1(27-5(a)), 9-7-1994)

Sec. 94-203. Unnamed subdivisions.

The following lots, located in the RL district II, but not located in named subdivisions, shall be subject to the same zoning regulations as set forth in table I, attached to this article, for Belleair Beach Subdivision, unit A:

- (1) The three lots west of lot 1, block 2 on First Street;
- (2) The two lots west of lot 2, block 2 on Second Street;
- (3) The last lot west of lot 3, block 6 on Sixth Street;
- (4) The lot west of lot 3, block 7 on Seventh Street.

(Ord. No. 94-14, § 1(27-5(b)), 9-7-1994)

Sec. 94-204. Unnumbered waterfront lots.

The unnumbered waterfront lot located north of Belleair Beach Subdivision, unit E, plot C, between Morgan Drive and Howard Drive on Hibiscus Drive, is listed in table I, attached to this article, as "water lot A," and is subject to the zoning regulations of set forth in this division for RL district II. The unnumbered strips of land on the east side of Hibiscus Drive West between Morgan Drive and Belle Isle Avenue (formerly Pine Valley Avenue) are each permitted to have one dock, but no other construction shall be permitted.

(Ord. No. 94-14, § 1(27-5(c)), 9-7-1994)

Sec. 94-205. Masonry construction.

Within the RL district II, buildings may be of masonry construction, except as otherwise provided in section 94-206. When masonry construction is used, all tie beams shall be formed and poured, and any exception to such requirement shall be approved by a registered construction or structural engineer licensed by the state. Such masonry construction limitation shall not apply to masonry fences, screens or decorative elements which are not a part of the main construction.

(Ord. No. 94-14, § 1(27-5(d)), 9-7-1994)

Sec. 94-206. Wood frame construction.

Within the RL district II, any story below the base flood elevation established by the federal flood program shall be considered the first story, and shall be required to comply with the provisions of chapter 74 of this Code. Any story constructed totally above the base flood elevation may be constructed with acceptable types of construction as designed by a registered structural engineer or architect licensed by the state. In such cases where the first story is constructed of frame, the certificate of occupancy shall designate the house as a frame house. Inside entrances shall be built to comply with standard building codes and to meet required fire ratings. Inside entrances below the first living level are not part of the habitable area; therefor, such entrances are not in conflict with flood height restrictions.

(Ord. No. 94-14, § 1(27-5(e)), 9-7-1994)

Sec. 94-207. Solar hot water heating.

Within the RL district II, a single-family residence shall not be constructed unless the plumbing in such residence is designed to facilitate the future installation of solar water heating equipment in accordance with F.S. § 553.065.

(Ord. No. 94-14, § 1(27-5(f)), 9-7-1994)

Sec. 94-208. Setbacks.

Within the RL district II, the setbacks as shown in table I, as set forth in this division, are subject to the following modifications:

- (1) When more than one adjacent lot, or portions of lots, are combined, the minimum side setbacks shall be equal to the ratio of the existing setback proportional to the frontage footage of the existing lot:

New combined		Existing setback		
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lot frontage	×	existing lot frontage	=	New setback
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In no case shall the side setbacks for any lot be less than the setbacks as set forth in table I, of this division.

- (2) On all corner lots, the front setback footage shown in table I, as set forth in this division, shall apply to both streets which abut the property.
- (3) For corner lots, the side and rear setback lines shall be the smaller of the two as set forth in table I, of this division, for both the side and rear.
- (4) To qualify for the modifications of the setback provisions as set forth in table I, of this division, the multiple lots shall be assigned one parcel number by the Pinellas County Property Appraiser.
- (5) Only one single-family dwelling shall be permitted to be erected on combined adjacent lots or combined portions of a lot within RL district II; provided, that the lots are platted in the subdivisions identified in table I, of this division.

(Ord. No. 94-14, § 1(27-5(g)), 9-7-1994; Ord. No. 97-13, § 1, 8-4-1997; Ord. No. 04-12, § 1, 12-6-2004)

Sec. 94-209. Heights.

Within the RL district II, all residences shall comply with the base flood elevation (BFE) requirements as set forth in chapter 74 of this Code. Two habitable stories may be constructed alongside a garage or storage area or over a garage or storage area. The garage floor shall be a minimum of 24 inches above the crown of the road. All residences shall not exceed a height of 35 feet, as measured from the BFE to the highest point of the roof. Permitted exceptions to the height regulations set forth in this section are chimneys, cupolas and similar decorations, provided no height extension (i.e., cupola) shall be used as a habitable space, and, provided, no plumbing or electric service shall be allowed after the 35-foot height restriction. Variances to the provisions of this section shall not be requested or granted.

(Ord. No. 94-14, § 1(27-5(h)), 9-7-1994; Ord. No. 99-13, § 1(27-5(h)), 10-4-1999)

Sec. 94-210. Detached buildings.

- (a) Within the RL district II, a separate building or buildings designed to be separate, as defined in section 94-2 of the Code, shall not be erected on any lot or plot. This prohibition shall not be evaded or avoided by joining a separate building through an extension of the main roof or any main wall by a use of trellis or other such devices. Additions or improvements shall be compatible in style, architecture and materials with the existing building, and shall conform to all of the provisions of this chapter and the Florida Building Code as amended for a dwelling structure.
- (b) Notwithstanding the definition and limitations set forth in section 94-2 of the Code pertaining to separate buildings, a utility or storage shed may be erected in RL district II, provided it is constructed, erected or installed with a concrete base of not more than 100 square feet and not more than eight feet eight inches in height; and further provided that the utility or storage shed is anchored to the base in such fashion as to sustain wind velocity of 135 miles per hour.
- (c) No shed shall be erected within the city unless the property owner first obtains a construction permit from the building official.
- (d) In no event shall there be more than one utility or storage shed with a base area of 100 square feet or less constructed, erected or installed on any residential property in RL district II.

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- (e) A utility or storage shed shall conform to all setback requirements for buildings permitted to be constructed on the property, and shall not be erected in the front of any property or building or within any easement or right-of-way.
 - (f) A utility or storage shed erected pursuant to this section shall not be visible from the front of a dwelling.
 - (g) The provisions of this section shall not apply to a small dock box erected on any dock within the city or a small pool box installed to store pool supplies with a base of no more than ten square feet and a height of no more than three feet; provided, however, that the dock box or pool box is anchored to its base with lag bolts or similar fasteners.
 - (h) Any utility or storage shed erected prior to the enactment of section 94-210(b) through (f) and without a permit in violation of the City Code shall come into conformity or be removed within six months of the effective date of this section.

(Ord. No. 94-14, § 1(27-5(i)), 9-7-1994; Ord. No. 03-09, § 1, 1-5-2004; Ord. No. 04-02, § 1, 10-27-2004; Ord. No. 18-01, § 1, 3-5-2018; Ord. No. 18-11, § 7, 12-3-2018; Ord. No. 18-11A, § 1, 1-7-2019)

Sec. 94-211. Reserved.

Ord. No. 18-11, § 8, adopted December 3, 2018, repealed § 94-211, which pertained to housekeeping facilities and derived from Ord. No. 94-14, adopted September 7, 1994.

Sec. 94-212. Garages.

Within the RL district II, all dwellings shall incorporate a provision for an integral enclosed automobile storage space. The garage area shall be a two-car garage, no less than 440 square feet in size for a residence with 2,500 square feet or less of living area, and a three-car garage, no less than 620 square feet in size for a residence exceeding 2,500 square feet of living area. The garage shall have either two doors, no less than eight feet in width or one door, no less than 16 feet in width, which shall have direct access to a street or road. The provisions of this section shall not apply to existing homes where the interior garage walls are not altered, and shall only be applicable when the total cost of remodeling exceeds 50 percent of the current market value of the existing structure.

(Ord. No. 94-14, § 1(27-5(k)), 9-7-1994; Ord. No. 98-01, § 1, 3-2-1998; Ord. No. 98-02, § 1, 6-1-1998; Ord. No. 99-09, § 1, 8-16-1999)

Sec. 94-213. Rentals.

- (a) Within RL district II, residential homes may be rented, leased or otherwise occupied through a rental agreement with the registered owner(s) on a periodic basis from time to time for not less than a three-month occupancy period. An individual portion of a single-family home shall not be rented, leased, or otherwise occupied by a rental agreement with the registered owner(s) on a periodic basis as a separate part of the family unit.
- (b) When owner(s) of residential property enters into a rental agreement, whether once or on a continuing basis, the owner(s) shall register the home at city hall. Each new tenant shall be registered at the start of the rental term and termination thereof. Not more than one family unit shall occupy one dwelling unit at a time.
- (c) For the purpose of this section, the definition of rental agreement shall mean any agreement whereby a person is entitled to occupy a residential property for a specified period of time. Without limiting the foregoing, such agreements may take the form of an oral or written lease between an owner and another party, or among multiple owners. Any person(s) engaged by a property owner for the purpose of house

sitting or pet sitting shall not constitute a rental agreement. Consideration is not a requisite for an agreement to constitute a rental occupancy.

(Ord. No. 94-14, § 1(27-5(m)), 9-7-1994; Ord. No. 08-03, § 1, 5-5-2008)

Sec. 94-214. Docks.

- (a) Within the RL district II, residential waterfront property shall be limited to the construction and maintenance of one dock or pier. If two lots are combined, either in whole or in part, the resulting property shall be limited to one dock. Where the same property owner owns two or more adjacent lots, the combined properties shall be limited to the construction and maintenance of one dock. If a property owner owns two or more adjacent properties and maintains each property as a completely separate residence, then each property shall be allowed one dock or pier.
- (b) Tie poles, boatlifts, docks and catwalks on a dock shall be placed no closer than 12 feet from the projection to any side property lines of the property.
- (c) Any vessel moored at a residential dock shall be no less than 12 feet from the projection to any side property line of the property.
- (d) All docks constructed in the city shall be perpendicular to the rear property line of the property. A dock or tie poles constructed or erected on a corner lot shall be erected in the following manner: From the intersection point of the subject property's rear lot line and the adjacent property rear lot line, a line shall be drawn which bisects the deflection angle formed by the two rear lot lines. This line shall be extended out into the water to either the point of intersection with the line extended from the subject property's other rear corner or to a point beyond the proposed structure (dock or tie poles). Required setbacks shall be measured from such extended lot line. Any hardship created by the provision of this subsection may be considered by the board of adjustment upon petition by a property owner, but in no event shall a dock or tie poles be erected so as to encroach upon or cross the extended side property lines.
- (e) Any property owner desiring to construct a dock or tie poles shall obtain the required permits and approval from the county or other regulatory agencies with jurisdiction over the construction of docks and tie poles in the navigable waters in the county.
- (f) Docks shall not be designed or constructed to accommodate more than two boats in or above the water by any means (e.g. slips, davits, lifts, tie poles) exclusive of water skis, jet skis, kayaks and other personal watercraft.
- (g) The renting of docks, dock space, or moorings, and the rental of boats or any portion thereof, for any purpose whatsoever shall be specifically prohibited in RL district II except as part of a contract or lease to rent an entire residential property.

(Ord. No. 94-14, § 1(27-5(m)), 9-7-1994; Ord. No. 00-09, § 3, 1-8-2001; Ord. No. 18-11, § 9, 12-3-2018)

Sec. 94-215. Grading.

- (a) Within the RL district II, lots shall be graded at a minimum rate of one percent; however, the owner shall be required to construct a masonry retaining wall at the property line of the property when and to the extent grading causes the adjoining property to be higher or lower and may cause drainage problems. The height of any such retaining wall shall comply with fence restrictions otherwise set forth in this Code.
- (b) When modifications are made to a structure which adversely affects drainage from the land, the city may require a retaining wall to be built to prevent drainage problems to an adjoining property.

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- (c) Landlocked lots shall be graded from the rear to the front. Waterfront lots shall be graded from front to rear, rear to front or to both the rear and front from the middle.
 - (d) A drainage plan, prepared by a registered civil engineer or architect, shall be required for all property in this zoning district prior to construction of any building thereon.

(Ord. No. 94-14, § 1(27-5(o)), 9-7-1994; Ord. No. 02-08, § 1, 7-29-2002)

Sec. 94-216. Reserved.

Ord. No. 18-11 , § 10, adopted December 3, 2018, repealed § 94-216, which pertained to fences and derived from Ord. No. 94-14, adopted September 7, 1994.

Sec. 94-217. Parking.

- (a) *Mobile homes.* Within the RL district II, outdoor parking of a mobile home, camp car, house car, house trailer, mobile trailer, recreational vehicle or any vehicle which contains or is modified to include equipment commonly used for living or sleeping purposes shall be permitted, but shall be subject to the following restrictions:
 - (1) Such vehicle shall be parked in the resident's driveway.
 - (2) Such vehicle shall not be used for living or sleeping purposes by humans.
 - (3) Such vehicle shall not be used for the housing of animals or other living creatures.
 - (4) Such vehicle shall not be in use as a commercial use.
 - (5) Such vehicle shall be removed before 24 hours have elapsed since the time such vehicle was initially parked and shall not be permitted to park again in the same or another resident's driveway until seven calendar days have elapsed from the time of the initial parking of such vehicle. For example, if a person initially parks a mobile home at 8:00 a.m. on the tenth day of the month, any person may remove the mobile home and return at any time during the next 24 hours but must remove such mobile home by 8:00 a.m. on the 11th day of the month and shall not repark the mobile home in the same or another resident's driveway until 8:00 a.m. on the 18th day of the month. An exception shall be granted to the provisions of this subsection for residents of the city to allow such residents a maximum of 72 hours for preparation and loading of their mobile homes prior to departing on a trip. A similar exception shall be granted for residents of the city to allow such residents a maximum of 72 hours upon returning from a trip within which to unload and prepare their mobile home for storage, provided, either of such exceptions shall be granted only upon the resident informing the city staff in advance of their intention to park the mobile home for more than 24 hours in the resident's driveway for either of the purposes stated in this subsection. No more than three exceptions shall be granted for the preparation for departure on a trip, nor more than three exceptions for unloading and storage procedures upon return from a trip shall be granted in any one calendar year to any city resident. Bona fide house guests of city residents shall be allowed to park their mobile homes in the driveway of the resident beyond the 24 consecutive hour limit only if the resident of the property obtains a special parking permit to park up to a total of five consecutive days, except during the Christmas and Easter holidays when a maximum of seven consecutive days may be authorized. During the time the mobile home is temporarily parked upon the residential property, it shall not be used for living or sleeping purposes by any human being or other living creature. Parking permits shall be obtained during normal operating hours of the city; therefor, if a guest arrives during the weekend, the permit shall be obtained during the first working day following such weekend. Expiration of the permit will be based on the date of arrival of the guest. A resident may be authorized no more than three such permits in any one calendar year.

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- (b) *Boats and trailers.* Parking of boats and trailers within the RL district II shall be as follows:
- (1) Outside parking of one registered and tagged boat and boat trailer or noncommercial utility trailer owned by the property owner or tenant shall be authorized along the side of a house and in the rear for landlocked lots, provided the boat, boat trailer or utility trailer is obscured from view by an adjacent property owner by the use of a fence or a living fence in a manner consistent with this Code. Parking of a boat and boat trailer or utility trailer is prohibited in the front of a house, except for cleaning or temporary loading and unloading.
 - (2) The temporary parking of a boat in a residential driveway shall be permitted for a period of two nonconsecutive nights in any calendar month not to exceed 12 times per calendar year for the purpose of washing, cleaning, preparing for sailing or detailing the vessel, provided that
 - a. The owner or custodian of the boat must first obtain a permit from the city manager, which shall be clearly displayed so as to be seen from the street.
 - b. Making repairs to any boat or boat engine while parked in a driveway is prohibited.
 - c. The person performing washing, cleaning, preparing for sailing or detailing of the boat shall take reasonable precautions to reduce or eliminate any chemicals used for cleaning purposes from being flushed into the city's storm water system.
 - d. Any boat parked in a driveway pursuant to this subsection shall not impede a sidewalk or roadway.
 - (3) Outside parking of commercial utility trailers shall be prohibited.
 - (4) No boat, owned by the property owner or tenant, may be parked in a residential driveway during the time the boat is being offered for sale.
- (c) *Exceptions.* An exception to the parking regulations set forth in subsection (b) of this section shall be granted to any trailer or similar vehicle actually used in conjunction with construction. The exempt trailer or similar vehicle shall be promptly removed when its use is no longer required in such construction.

(Ord. No. 94-14, § 1(27-5(q), (r)), 9-7-1994; Ord. No. 97-18, § 1(27-5), 12-1-1997; Ord. No. 00-09, § 3, 1-8-2001; Ord. No. 13-01, § 1, 3-4-2013; Ord. No. 18-11, § 11, 12-3-2018; Ord. No. 22-01, § 9, 6-6-2022)

Sec. 94-218. Air conditioners and condensers.

- (a) Within the RL district II, all new and replacement air conditioner and condenser unit installations may encroach up to a maximum of four feet within the required setback limits. Provisions shall be made to reduce the noise generated by an air conditioner or condenser unit to a level not to exceed 60 dB(A), when measured from the nearest property line or the nearest bedroom window of an adjacent property structure, by means of unit selection, baffling or interior installation. Further, all new or replacement air conditioner units shall be concealed from public view by vegetation or decorative structure, but may not be located in the front of a structure.
 - (b) The provisions of subsection (a) of this section shall apply to all outside, fixed mechanical equipment to include swimming, spa or jacuzzi water pumps and heaters.
- (Ord. No. 94-14, § 1(27-5(s)), 9-7-1994; Ord. No. 95-11, § 1, 11-6-1995; Ord. No. 97-07, § 1, 6-2-1997; Ord. No. 01-13, § 2(27-5(r)), 1-7-2002)

Sec. 94-219. Decks and balconies.

Within the RL district II, regardless of composition, decks and balconies shall be erected as follows:

- (1) For single-story dwellings, decks and balconies shall be erected at a maximum height equal to the ceiling level of the highest habitable level of such dwelling; and
- (2) For two-story dwellings, decks and balconies shall be erected at a maximum height equal to the floor level of the highest habitable level of such dwelling.

(Ord. No. 94-14, § 1(27-5(t)), 9-7-1994)

Sec. 94-220. Minimum living areas and setbacks.

Within the residential low (RL) district II, the following minimum living areas and minimum house setbacks are established to be:

TABLE I

SUBDIVISION TITLE	MINIMUM LIVING AREA* (square feet)		MINIMUM HOUSE SETBACK** (feet)				
	1st Floor	2nd Floor	Front	Side	Rear	Water	
BELLEAIR BEACH 1st Addition:							
Lots 1, 2, and 3	1,000	200	25	15	—	30	
Lot 4	1,000	200	25	10	25	30	
Units A, C, E and D	1,000	200	25	7	7	30	
MCLAUGHLIN	1,000	200	25	7	7	30	
BB YACHT CLUB ESTATES:							
Units A and B	1,500	250	25	7	7	30	
Unit C	1,250	500	25	7	7	30	
Units D, F and G	1,000	200	25	7	7	—	
BELLEVUE ESTATES:							
Lots 1 and 2	1,200	200	25	10	15	—	
1st Addition:							
Lots 13—24	1,200	200	25	10	15	—	
Lots 25 and 27	1,500	200	25	10	—	30	
(Lot 26 is a public park)							
2nd Addition:							
Lot 29	1,500	200	25	10	—	30	
Lots 30 and 31	1,200	200	25	10	15	—	
3rd Addition:							
Lots 32, 33 and 34	1,500	250	25	7	—	30	

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4th Addition:							
Lots 35—40 and 44—49	1,200	200	25	10	15	—	
Lots 41, 42 and 43	1,500	200	25	10	—	30	
5th Addition:							
Lots 50—63	1,200	200	25	10	15	—	
Lots 64 and 65	1,500	200	25	7	—	25	
6th Addition:							
Lots 66—72, 76—89 and 93—99	1,200	200	25	10	15	—	
Lots 73—75 and 90—92	1,500	200	25	10	—	30	
7th Addition:							
Lots 100—106 and 128—131	1,200	200	25	10	15	—	
Lot 107	1,500	200	25	10	—	30	
(Lot 108 is a park)							
Lots 109—118 and 132	1,350	200	25	10	—	30	
Lots 120—127	1,100	200	25	10	15	—	
BELLEVUE ESTATES ISLAND							
1st, 2nd and 3rd Additions	1,350	200	25	10	—	25	
Except the following lots of Bellevue Estates Island when used only as single lots;			Lots 3, 4, 9—13, 20, 21, 32—34, 41—47, 50, 51, 72—75, 83-87, 97 plus 0.50 of 98, 109, 112, 113, 114, 116; and Madison Replat; lots 0.50 of 98, plus 99 and 100 which shall be 7.5 feet for side setbacks				
WINSTON ESTATES							
Lots 1—46	1,200	200	25	7	15	—	
Lots 47—50	1,200	200	25	7	—	30	
WINSTON ESTATES ADDITION							
Lots 1—4	1,200	200	25	7	15	30	
HOWARD ESTATES, UNIT 1							
Lots 1—18	1,000	200	25	7	7	—	
Lots 19—53	1,500	200	25	7.5	—	30	
Water Lot A	1,000	200	25	7	—	25	
BILTMORE ISLES							
Single-story	1,350	—	25	7.5	—	30	

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Two-story	1,100	250	25	7.5	—	30	
BELLE ISLE							
Single-story	1,500	—	25	10	—	25	
Two-story	1,500	—	25	10	—	25	
Except the following lots in Belle Isle which may have 7.5 foot side setbacks			Lots 1, 2, 6, 7, 8, 11—15, 37, 38, 42—44, 46—48, 51-53, 55, 59, 61—63				

* The term "living area" is defined as all enclosed areas of a dwelling, except garages, porches, facades and patios.

** House setback may be subject to modifications under certain circumstances (see division 3 of this article).

Exception: The rear and interior side setbacks for certain corner lots of the same size or smaller than interior lots of a subdivision as hereinafter below listed are reduced to five feet from the side and rear setbacks set forth above for the lots enumerated hereinafter, to wit:

BELLEAIR BEACH SUBDIVISION UNIT A

Block	Lot
3	9
4	9
5	1
5	13
4	2
6	1
8	1
8	2
9	1
9	2

BELLEAIR BEACH SUBDIVISION UNIT C, BLOCK 2, LOT C, BELLEAIR BEACH SUBDIVISION UNIT D

Block	Lot
14	A
14	U
15	A

BELLEAIR BEACH SUBDIVISION UNIT D

Block	Lot
16	A
17	P
18	A
18	P

BELLEAIR BEACH SUBDIVISION UNIT E

Block	Lot
A	12
B	1
B	2
D	1

BELLEAIR BEACH YACHT CLUB ESTATES UNIT C

Block	Lot
—	1
—	11
—	12

BELLEVUE ESTATES

Block	Lot
—	1
—	12

BELLEVUE ESTATES, SECOND ADDITION

Block	Lot
—	30
—	66
—	72
—	76
—	82
—	83
—	89
—	93
—	99

BELLE ISLE SUBDIVISION

Block	Lot
—	94

HOWARD ESTATES

Block	Lot
—	4
—	5
—	14
—	15
—	19
—	53

Southeast corner of Gulf Boulevard and Seventh Street, metes and bounds.

The term "interior-side setbacks" shall be deemed to mean a setback for a side yard that abuts another lot.

The above exemptions shall not permit a structure to be placed in a platted or deeded public easement.

A variance shall not be allowed for the lots subject to this exception to reduce the setback.

(Ord. No. 94-14, § 1(27-5(u)), 9-7-1994; Ord. No. 00-09, § 3, 1-8-2001; Ord. No. 01-06, § 2(27-5), 6-18-2001; Ord. No. 07-14, § 5, 12-3-2007; Ord. No. 08-02, § 1, 4-7-2008; Ord. No. 23-01, § 1, 3-6-2023)

Secs. 94-221—94-250. Reserved.

ARTICLE V. SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 94-251. Fences, walls and hedges.

The following regulations shall apply to all fences, walls and hedges within the city:

- (1) All hedges on residential property not bounded, in whole or part, by any waterway shall not exceed a height of eight feet in the required side or rear setback area. A fence or wall is not permitted in the required front setback area. A hedge may be grown in the front setback area of residential property but shall not exceed three feet in height. Fences and walls on residential property not bounded, in whole or part, by any waterway shall not exceed six feet in height.
- (2) On property bounded in whole or part by any body of water, a hedge shall not exceed a height of eight feet in the required side setback area. A hedge or fence shall not exceed a height of four feet in the required rear (water) setback area within twelve feet of the sea wall, but a fence may rise to a height of six feet and a hedge may rise to a height eight feet otherwise. A hedge may be grown in the front setback area of residential property but shall not exceed three feet in height. Fences and walls on residential property bounded, in whole or part, by any waterway shall not exceed six feet in height, except along the seawall which shall not exceed four feet. Fences and walls on residential project adjacent to public property (i.e., a city-owned park), in whole or part, by any waterway shall not exceed six feet in height.
- (3) Height shall be measured from the grade as measured at any point along either side of the fence, wall or hedge.
- (4) Hedges shall, at all times, be maintained and trimmed to a height not to exceed the maximum limits set forth in subsections (1) and (2) of this section. Maintenance of the hedge is the sole responsibility of the owner of the property on which the hedge is planted, and such owner shall take all reasonable steps to prevent the hedge from encroaching on or otherwise affecting any neighboring properties.
- (5) Setback areas adjacent to county roads (Causeway and Gulf Boulevards) right-of-way and the side of the properties adjacent to a city park or the city access ("back bay trail") easements may have fences and walls not to exceed six feet, or a hedge without a limit on its height. This subsection shall be applicable to adjacent setback areas on the side, rear or front of residential properties.

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- (6) All fences and walls shall be constructed so that the finished surface faces the street and adjacent property. Post heights shall not exceed the fence heights by more than 18 inches and posts exceeding fence height limitations will be no closer than six feet apart, except when gate posts are required.
 - (7) Except for completely screened enclosures commonly referred to as "bird cages," all swimming pools constructed within the city limits shall be enclosed by a fence or wall with a minimum height of four feet and shall be attached on one or more sides to a structure. On waterfront lots, the seawall side of a swimming pool may be left unprotected, but the other three sides shall be enclosed by a wall or fence with a minimum height of four feet running from the house to the sideline and then to the water's edge. All fences or walls shall have an accessible gate to the swimming pool area. [See exhibits E and F at the end of this chapter.]
 - (8) A fence, wall or hedge may not be constructed in any recorded easement unless verification that all utility users have no objection to its construction and that the fence, wall or hedge will not impede the function of any drainage system. A fence, wall or hedge shall not be allowed in any easement or right-of-way recorded for ingress/egress access purposes. Maintenance of easements and replacement of any fence, wall or hedge removed by any utility shall be the responsibility of the property owner.
 - (9) A construction permit is required before erecting a fence or wall.
 - (10) Fence made with barbed wire, corrugated metal, or sheet aluminum or similar materials shall not be permitted on any residential property within the city.
 - (11) All fences and walls shall comply with the provisions of the Florida Building Code.
 - (12) Wooden fence posts shall be pressure treated or otherwise preserved to resist decay, corrosion and termite infestation.
 - (13) Walls may be constructed of concrete, concrete block, stone, brick or similar masonry material commonly used in wall construction in Pinellas County. All exposed surfaces of masonry walls must be of finished materials, including brick, stone, tile, or painted or tinted stucco. Except for split block, concrete and concrete block walls shall be finished with a painted or tinted stucco finish on both sides. These finishes must be applied so as to completely conceal coursework.

If a wall is to be placed on a shared property line, consent for access must be obtained from the adjoining property owner(s) prior to finishing the opposite side of the wall. If such consent cannot be obtained, the property owner erecting the wall must present proof that a request for access approval was mailed to every adjacent property owner, by certified mail, return receipt requested, to the mailing addresses as listed in the most current county tax roll, and the mailing was returned undeliverable or the adjacent property owner(s) failed to respond to the request within 30 days after receipt. Upon such a showing, the property owner erecting the wall shall not be required to finish the opposite side of the wall.

- (14) It is the legislative intent of this section that a fence or wall shall not be erected, constructed or maintained in the required front setback area.
- (15) Views on waterfront property. It is the policy of the city council, for purposes of this section, that the vista of the water area from a waterfront property is perpendicular to the property line along the water from grade to a plane of six feet.
- (16) Hedges and other planting material shall be maintained so as not to overhang into an abutting property. Trees shall be maintained so as to not overhang into an abutting property between ground level and eight feet.
- (17) All fences or walls shall have at least one gate or opening so as to provide access from the front yard.

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- (18) Maintenance. All fences, walls and hedges shall be maintained in a safe, nonhazardous condition and good appearance; specifically:
- a. A fence or wall shall be maintained in a vertical position, and shall not be allowed to sag or lean at more than ten degrees from vertical, unless the fence or wall is specifically designed and permitted to be maintained at such an angle.
 - b. Rotten or missing boards in a fence shall be replaced.
 - c. Each support post or footer shall be solidly attached to the ground.
 - d. Each fence stringer shall be securely fastened to the support posts and face of the fence.
 - e. Each fence shall be securely fastened to the support post and fence stringers.
 - f. Walls and fences, unless of natural materials or galvanized, shall be properly painted, stained, treated or otherwise maintained so as to present a uniform appearance; however, this section is not intended to prohibit the maintenance of fences in which a deteriorated section of the fence is replaced with new material which will take some time to "age" or "weather" to replicate the appearance of the original fence.
 - g. Fence boards may be replaced on any nonconforming fence provided the posts are not replaced.
 - h. Dead hedge material shall be removed.
- (19) All temporary fences used at a construction site for the purpose of security or protection may, at the discretion of the city manager, be exempt from the provisions of this section provided they do not obstruct the vision of motor vehicle operators or create other hazards to public safety.
- (20) Retaining wall. When a retaining wall is combined with a wall, fence, or hedge, the height of the fence, wall or hedge shall include the height of the retaining wall.
- (21) Earth berms. Earth berms are not permitted under the city code. The creation of new earth berms on any property within the corporate limits of the city shall constitute a violation of the city's NPDES permit and chapter 62 of this Code and must be removed by the property owner.
- (22) Double frontage lots. For the purposes of fence, wall or hedge placement on double frontage lots, the front yard shall be the side of the property from which the property is addressed. The placement of any fence, wall or hedge on this side of the property shall adhere to the front setback provisions in subsections (1) and (6). The opposite side of the property shall be considered a rear yard and adhere to the provisions applicable to the rear yard.
- (23) Required setback areas. For purposes of this section, exhibits A—D illustrate the required setback areas and the maximum height of a fence, wall, or hedge on waterfront and nonwaterfront lots.

(Ord. No. 94-14, § 1(27-6), 9-7-1994; Ord. No. 01-01, § 1, 6-18-2001; Ord. No. 06-10, § 1, 6-5-2006; Ord. No. 14-09, § 7, 9-8-2014; Ord. No. 18-11, § 12, 12-3-2018; Ord. No. 18-11B, § 1, 6-3-2019; Ord. No. 22-01, § 10, 6-6-2022)

Editor's note(s)—Exhibits A—F can be found at the end of this chapter.

Sec. 94-252. Commercial activities.

- (a) Businesses, offices, bars, manufacturing, professional services, restaurants, trades, warehouses, call centers or other business activities shall not be permitted in condominiums, dwellings, garages, collateral structures or anywhere on property within the city.

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- (b) Notwithstanding the prohibitions set forth in subsection (a) of this section, the owner or permanent occupant of any dwelling unit in residential low (RL) district I or residential medium (RM) district II may conduct a home occupation subject to the following requirements:
- (1) Home occupations are those occupations carried on by a member of the family residing in the dwelling unit.
 - (2) Home occupations are those occupations clearly incidental and secondary to the use of the dwelling unit for residential purposes.
 - (3) Home occupations are subject to the following limitations:
 - a. The occupation or profession shall be carried on wholly within a building or other structure accessory thereto;
 - b. No person outside of the immediate family of the owner or occupant shall be employed in the home occupation;
 - c. There shall be no sign, exterior display or exterior storage of any materials and no other exterior indication of the home occupation or variation from the residential character of the dwelling;
 - d. No offensive noise, light, vibration, smoke, dust, odors, heat or glare shall be produced on or emanate from the property;
 - e. No marked vehicles used in the conduct of a home occupation may be parked or stored in view of any street, neighborhood or other residential lot;
 - f. No portion of the dwelling unit, including any garage or accessory structure, may be used to manufacture or assemble any item or product associated with the home occupation;
 - g. The dwelling unit or accessory structure where a home occupation exists shall not entertain or provide services to any customers or clients at the home occupation location;
 - h. The location and nature of the business of the home occupation shall not be advertised in any publication or other media;
 - i. No corrosive, combustibles or other flammable liquids may be stored on any residential property maintaining a home occupation.

(Ord. No. 94-14, § 1(27-7), 9-7-1994; Ord. No. 13-08, § 1, 12-2-2013; Ord. No. 18-11, § 14, 12-3-2018)

Sec. 94-253. City real property.

Regulations and restrictions for the use of real property owned by the city shall be as set forth in chapter 38 of this Code, or any chapter that may replace such chapter, except for parking restrictions on street rights-of-way as set forth in section 58-32.

(Ord. No. 94-14, § 1(27-8), 9-7-1994)

Sec. 94-254. Moving buildings.

Buildings shall not be moved into a place within the city limits, except such buildings that conform to the standards and qualifications for new construction.

(Ord. No. 94-14, § 1(27-9), 9-7-1994)

Cross reference(s)—Buildings and building regulations, ch. 10; environment, ch. 22; streets, sidewalks and other public ways, ch. 50.

Sec. 94-255. Alterations, improvements and repairs.

- (a) *Generally.* The city shall be empowered to order the owner of an existing structure within the city to repair such existing structure which, through deterioration, damage or other cause is a threat to the health and well-being of the occupants or nearby residents. Failure by the owner to honor such order shall result in the city seeking a court order to evict the occupants of such structure and, in extreme cases, to raze, or have razed, the structure.
- (b) *Conforming structures.* If the owner of a structure desires to make structural alterations to, or substantial improvement of, an existing structure, all work shall be done in conformity with the provisions of this chapter.
- (c) *Nonconforming structures.* If the owner of a structure desires to make structural alterations to, or substantial improvement of, an existing nonconforming structure, any such changes which are in conformity with the provisions of this chapter shall be permitted; however, changes which perpetuate the nonconformity shall not be permitted.
- (d) *Remodeling.* Permits for remodeling shall require certification of the total value of all labor and materials, including out-of-pocket costs as well as the contractor's contract price, in compliance with the Federal Emergency Management Agency's flood insurance requirements. Any permit application for which the total value exceeds \$20,000.00 shall be required to have a certified appraisal of the value of the structure to be remodeled or added to. The person designated as building official by the city or the building inspector shall reserve the right to obtain an independent appraisal of such structure at the applicant's expense, and shall have the right to deny any such permit.

(Ord. No. 94-14, § 1(27-10), 9-7-1994)

Sec. 94-256. Temporary structures.

- (a) A temporary or portable structure shall not be erected for any dwelling or business purposes within the city.
- (b) Portable storage units, are permitted for temporary use within the corporate limits of the city, provided, however, that the use of portable storage units shall be limited to a period not to exceed seven days from the time of delivery to the time of removal. The time limit imposed on the use of any such storage units within the city may be extended an additional 24 hours under special circumstances if such extension is approved in writing by the city manager:
 - (1) Any property owner in the city who desires to temporarily install a portable storage unit, on his property shall first obtain a permit from the city and shall notify the police department advising as to the approximate time of delivery and the planned time of removal of the portable storage unit. The fee for the permit shall be \$10.00. A property owner shall only be entitled to obtain one such permit within a 90-day period.
 - (2) A portable storage unit shall only be used for noncommercial purposes.
 - (3) It shall be unlawful for any person to place a portable storage unit on any street or public right-of-way within the corporate limits of the city.
 - (4) A portable storage unit shall be placed only in the driveway of the property upon which such portable storage unit is located.

(Ord. No. 94-14, § 1(27-11), 9-7-1994; Ord. No. 98-16, § 2(27-11), 2-1-1999; Ord. No. 00-09, § 5, 1-8-2001; Ord. No. 05-01, § 25, 4-12-2005; Ord. No. 18-11, § 15, 12-3-2018; Ord. No. 22-01, § 11, 6-6-2022)

Sec. 94-257. Awnings.

The installation of awnings on residential structures within the city shall be permitted, provided the awning installed is designed to be retractable; does not increase the overall footprint of the structure on the building lot; and does not extend beyond or into the applicable front or side building setbacks designated for the property. An awning shall be permitted on the rear of any residential structure without regard to the setback limitations, as long as the structure is not situated on or adjacent to any body of water.

(Ord. No. 98-16, § 3, 2-1-1999)

Sec. 94-258. Eaves; front entry roof/porches; bay windows.

- (a) Eaves, not including gutters, may be extended a maximum of 30 inches into all setback and building separation areas within the city.
- (b) Front entry roofs or porches may be constructed on residential structures; provided, however, that the construction of a front entry roof or porch does not encroach into the front property line setback as set forth in article IV, division 3 of this chapter.
- (c) Bay windows, not exceeding eight feet in width, may be extended into the front or rear setback of a structure to a maximum distance of 30 inches, as long as the footprint of the residence is not altered. The bay window extension shall not encroach into the prescribed setback for an existing swimming pool.

(Ord. No. 94-14, § 1(27-13), 9-7-1994; Ord. No. 98-03, § 1, 6-1-1998; Ord. No. 98-16, § 4(27-13), 2-1-1999)

DIVISION 2. PARKING INTENT OF COMMERCIAL DISTRICTS

Sec. 94-259. Intent.

It is the intent of this ordinance to prohibit the storage, parking or maintenance of commercial vehicles in residential zoning districts in order to prevent traffic and safety problems, and to prevent unsightly appearances in residential areas.

(Ord. No. 03-02, § 2, 2-3-2003)

Sec. 94-260. Prohibitions.

No person or persons, firm, corporation or agent thereof shall cause or permit a commercial vehicle to be stored, maintained, or parked in a residential zoning district, unless said vehicle is parked on private property in an enclosed garage structure thereby eliminating its visibility from public roads and adjacent parcels of land and is owned or used by a permanent resident of the property.

(Ord. No. 03-02, § 3, 2-3-2003)

Sec. 94-261. Exemptions.

The provisions of this ordinance shall not apply to the temporary parking of commercial vehicles in residential zoning districts for the sole purpose of delivery or receipt of goods or services at a specific residence.

(Ord. No. 03-02, § 4, 2-3-2003)

Sec. 94-262. Penalties.

Any person, firm, corporation, association or agent thereof who shall violate the provisions of section 94-260 of this Code shall be guilty of a civil infraction and shall be fined as set forth in section 58-38 of this Code if committed by someone other than the property owner or section 2-317 if committed by the property owner for each day the offense is committed, which shall constitute a separate offense.

(Ord. No. 03-02, § 5, 2-3-2003; Ord. No. 03-19, § 1, 1-5-2004)

Secs. 94-263—94-290. Reserved.

ARTICLE VI. TELECOMMUNICATION TOWERS AND ANTENNAS⁴

Sec. 94-291. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandonment means any tower where a Federal Communications Commission (FCC) licensed station or antenna no longer exists.

Antenna means any exterior apparatus designed for telephonic, radio or television communications, through the sending or receiving of electromagnetic waves.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Height means the distance measured from ground level to the highest point on a tower or other structure, even if the highest point on the tower or structure is an antenna.

Satellite dish antenna means a device used to receive satellite broadcast signals, usually a parabolic dish shaped antenna.

Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers. This term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, etc.

User means any independent entity which is marketing a service to retail customers in the city. For the purpose of determining the number of users of a collocator, no two users shall have any common ownership ties.

⁴Cross reference(s)—Communications facilities in the right-of-way, § 50-81 et seq.; telecommunications use of right-of-way, § 50-131 et seq.; satellite antennas, ch. 82.

(Ord. No. 99-01, § 1(27-24(A)), 3-1-1999)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 94-292. Purpose.

The purpose of this article is to establish general guidelines for the siting of telecommunication towers and antennas within the city. The goals of this article are to encourage the location of towers in nonresidential areas; minimize the total number of towers in the city; encourage the use of existing structures as an alternative to new tower construction; encourage the joint use of new towers; encourage the design and construction of towers and antennas which minimize the adverse visual impacts; and enhance the ability of providers of telecommunications services to provide such services within the city quickly, effectively and efficiently.

(Ord. No. 99-01, § 1(27-24(B)), 3-1-1999)

Sec. 94-293. Applicability; exemptions.

Telecommunication towers and antennas installed and maintained in accordance with this article shall be exempt from the height limitations for buildings and structures otherwise set forth in this chapter. The requirements set forth in this article shall govern the height of telecommunication towers and antennas. The installation of an antenna on a building which is nonconforming in terms of current height limitations shall not be deemed to constitute the expansion of a nonconforming use. Amateur radio antennas operated by a federally licensed amateur radio station operator shall be exempt from the provisions of this article. Telecommunication towers and antennas located on city property shall be exempt from the height limitations otherwise set forth in this chapter, and are exempt from the requirements of this article, provided a lease or franchise agreement authorizing such tower or antenna has been approved by the city, or the tower or antenna is owned by the city. Satellite dish antennas, considered generally as a residential accessory use, shall be exempt from the requirements of this article.

(Ord. No. 99-01, § 1(27-24(C)), 3-1-1999)

Sec. 94-294. Antennas.

Antennas may be installed within the city in the designated land use and zoning area on existing structures such as a building, light pole or other freestanding structure, provided the antenna does not add more than six feet to the height of the existing structure, and the antenna and supporting electrical and mechanical equipment shall be of neutral color which is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible. Lighting shall not be permitted unless required by the Federal Aviation Administration (FAA).

(Ord. No. 99-01, § 1(27-24(D)), 3-1-1999)

Sec. 94-295. Towers.

- (a) To be eligible to obtain a permit to construct a tower within the city, the proposed location must have an institutional zoning classification. In addition, the applicant must demonstrate to the reasonable satisfaction of the person designated as building official that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing structure or tower can accommodate the applicant's proposed antenna may consist of any of the following:

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- (1) There are no existing towers or structures located within the geographical area required to meet the applicant's engineering requirements.
 - (2) Existing towers or structures are not of a sufficient height to meet the applicant's engineering requirements.
 - (3) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
 - (4) The applicant's proposed antenna would cause electromagnetic interference with, or would be interfered with, by other antennas if placed on an existing tower or structure.
 - (5) The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure for a time period of 25 years exceed the cost of development of a new tower.
 - (6) It is not financially feasible to modify or replace an existing tower to accommodate the proposed antenna.
 - (7) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (b) The applicant shall post a surety bond in an amount equal to one-third of the total cost of the erection of the tower or antenna, payable to the city. Such surety bond for the faithful performance of the provisions of this article shall be maintained as long as the tower or antenna is in existence.

(Ord. No. 99-01, § 1(27-24(E)), 3-1-1999)

Sec. 94-296. Tower height restrictions and design criteria.

Upon receipt of a complete application for a tower permit, the county building official shall render a written decision regarding the applicant's need. When the building official has recognized the need for a tower, the plans for the tower and tower site shall comply with the following:

- (1) Single use towers shall not exceed 90 feet in height; towers designed for two users shall not exceed 110 feet in height; and towers designed for three or more users shall not exceed 130 feet in height.
- (2) Towers and supporting structures shall be a neutral, nonglare color or finish so as to reduce visual obtrusiveness, and shall meet applicable standards of the FAA.
- (3) Towers shall be set back from existing residential or commercial uses a distance equal to 1.3 times the height of the tower. The distance shall be measured from the base of the tower to the residential or commercial property line.
- (4) Tower guys and accessory facilities shall satisfy the minimum setback requirements as set forth in this chapter for the institutional zoning district.
- (5) Towers shall be enclosed by security fencing not less than six feet in height, and shall also be equipped with an appropriate anticlimbing device.
- (6) A tower shall not be used for advertising of any type, and the placement of signs, other than warning signs, shall be strictly prohibited.
- (7) All applicants shall provide proof that the proposed tower and associated antennas do not exceed radiation standards of the Federal Communications Commission (FCC).
- (8) All applicants shall include a description of the geographic service area of each antenna on the tower.
- (9) A fence shall not be erected around a tower site unless it is less than 30 feet from the base of the tower, excluding a tower site erected on a bridge which shall not require a fence.

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- (10) Any structure required by an applicant for the purpose of housing electronic equipment shall not exceed 750 square feet, and shall be subject to appropriate building codes.

(Ord. No. 99-01, § 1(27-24(F)), 3-1-1999)

Sec. 94-297. Federal requirements and safety standards.

- (a) All telecommunication towers and antennas within the city shall meet or exceed current standards and regulations of the FAA and FCC, and any other agency of the federal government with authority to regulate towers and antennas. If such standards are changed, the owners of the towers and antennas governed by this article shall bring such towers and antennas into compliance with the revised standards and regulations within six months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring such towers and antennas into compliance with such revised standards and regulations shall constitute grounds for removal of such towers or antennas at the owners' expense.
- (b) Telecommunication towers and antennas shall be constructed, installed and maintained in accordance with the Building Code and, in addition, must meet the standards set forth by the Electronic Industries Association.

(Ord. No. 99-01, § 1(27-24(G)), 3-1-1999)

Sec. 94-298. Landscaping.

Landscaping of telecommunication towers within the city shall be required pursuant to the provisions of the county code and this Code. The perimeter of a tower site shall be buffered with shrubs selected and placed to screen the base of the tower and, to the extent possible, with trees selected and placed to minimize the vertical scale of the tower. Shrubs shall be a minimum of three feet at the time of planting, placed three feet on center. A minimum ten-foot landscaping buffer shall be provided around the outside of the required fencing if the area fronts upon residential properties or a public street. Within the landscape buffer, one six-foot tree shall be planted for every 40 feet of frontage. An irrigation system and routine maintenance shall be provided to ensure the survival of landscaped areas. The provisions of this section shall not apply to towers erected on existing structures, including bridges.

(Ord. No. 99-01, § 1(27-24(H)), 3-1-1999)

Sec. 94-299. Abandonment.

- (a) Any telecommunication antenna or tower which is not operated for a period of six months shall be considered to be abandoned. Upon written demand by the city, the owner of an abandoned antenna or tower shall remove the antenna or tower within 90 days of such notice. Failure to do so shall constitute a violation of this section. Upon notification to remove an antenna or tower, any previously granted variances shall terminate.
- (b) In addition to any other penalty imposed by this article, failure on the part of a tower owner to remove an abandoned tower or antenna, as set forth in this section, may result in an action in the county circuit court to enforce the provisions of this section, to include attorney's fees and costs.

(Ord. No. 99-01, § 1(27-24(I)), 3-1-1999)

Sec. 94-300. Maintenance and inspection.

All telecommunication towers and antennas erected within the corporate limits of the city shall be inspected by a qualified inspector no less than every ten years for monopoles, and every three years for all other structures. If a tower or antenna is subject to a class 1-5 hurricane, as defined by the U.S. Weather Service, or a major tropical storm with winds in excess of 75 miles per hour, each tower or antenna so affected shall be inspected for structural damage and a report shall be filed with the city.

(Ord. No. 99-01, § 1(27-24(J)), 3-1-1999)

Sec. 94-301. Variance procedures.

If an applicant for a telecommunication tower is required to apply for a variance regarding the application of any provision of this article or another related section of this Code, in addition to the variance criteria set forth in this Code, the variance, if granted, will result in an opportunity for collocation of other users, and thereby ultimately reduce the number of towers necessary to provide telecommunications service within the city.

(Ord. No. 99-01, § 1(27-24(K)), 3-1-1999)

Sec. 94-302. Appeals.

Notwithstanding any provision, procedure or requirement of this article to the contrary, an applicant under this article may appeal a decision by the board of adjustment directly to the city council that a telecommunication tower is not necessary or a variance from the provisions of this article is unwarranted. The applicant shall notify the city clerk in writing of the appeal, and a hearing by the city council shall be held on such appeal within 30 days after the notice of appeal has been filed with the city clerk. The city council shall conduct a quasi-judicial de novo hearing, and base its decision upon competent and substantial evidence. The criteria for the decision shall be the criteria set forth in section 94-295(a).

(Ord. No. 99-01, § 1(27-24(L)), 3-1-1999)

Required Setback—Nonwaterfront Lots

Required Setback—Waterfront Lots

Nonwaterfront Fence, Wall and Hedge Height

Waterfront Fence, Wall and Hedge Height

Nonwaterfront Lot Pool Fence Requirement

Waterfront Lot Pool Fence Requirement

(Ord. No. 06-10, § 1, 6-5-2006)