

INTRODUCED BY:

MAYOR BROWN



ORDINANCE NO. 2023-09

**A BILL TO BE ENTITLED**

**AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING AND REVISING CHAPTER 27 UNIFIED LAND DEVELOPMENT REGULATIONS; REVISING THE FOLLOWING ARTICLES: ARTICLE IV LAND USE, ARTICLE V ACCESSORY STRUCTURES AND USES; PROVIDING SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, pursuant to Section 2(b), Article VIII of the Florida Constitution and Chapter 166 of the Florida Statutes, the City of Neptune Beach possesses the powers to enact ordinances in order to protect the health, safety, and welfare of the City's citizens and residents; and

**WHEREAS**, the City Council of the City of Neptune Beach, Florida determines that it is in the best interest of its residents, businesses and visitors to enact sufficient land use regulations and land use plans to ensure their health, safety and welfare; and

**WHEREAS**, the City of Neptune Beach, Florida previously enacted Chapter 27 Unified Land Development Regulations and Code of Ordinances, of the City of Neptune Beach and;

**WHEREAS**, the City has received feedback from residents and stakeholders that it should be a priority to preserve the unique character of Neptune Beach through this process; and

**WHEREAS**, development contrary to the desires of residents, stakeholders, and the City Council would undermine the planning efforts undertaken and create irreparable harm to the scheme of development sought within the City; and

**WHEREAS**, prior efforts inconsistent with such desires, including costly litigation, could have been mitigated had the City of Neptune Beach Unified Land Development Code and/or Code of Ordinances contained provisions designed to clarify matters and protect the interests of the City and its residents; and

**WHEREAS**, the City Council previously adopted a new comprehensive plan; and

**WHEREAS**, the City Council subsequently undertook a process to analyze, revise, and refine the land development regulations contained in Chapter 27 of the City's Code to meet the goals set forth above and to ensure compliance with the comprehensive plan; and

**WHEREAS**, the City Council has hired the services of Dover, Kohl & Partners, an award-winning planning firm, to assist with the comprehensive plan and land development regulation revision process; and

**WHEREAS**, the information received from such efforts was used to develop proposed revisions to the City of Neptune Beach Unified Land Development Code and/or Code of Ordinances; and

**WHEREAS**, proper notice has been given of the public hearings of this proposed ordinance and of the public hearings in the City Council Chambers; and

**WHEREAS**, the public hearings were held pursuant to the published notice described at which hearings the parties in interest and all others had an opportunity to be and were, in fact, heard; and

**WHEREAS**, the City Council for the City of Neptune Beach, Florida finds and declares that this ordinance is in the best interest of the public health, safety and welfare of the citizens and residents of the City of Neptune Beach, Florida and that it advances a significant and important governmental interest; and

**WHEREAS**, in particular, the City Council of the City of Neptune Beach, Florida has determined that it is necessary and in the interest of the public welfare to amend the language contained in the attached **"EXHIBIT A"**.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA:**

**SECTION 1.** Chapter 27 Unified Land Development Regulations and the additional aforementioned chapters of the Code of Ordinances of the City of Neptune Beach is hereby revised as provided on **"EXHIBIT A"**.

**SECTION 2.** Severability. If any section, sentence, clause, phrase, or word of this Ordinance or **"EXHIBIT A"** is, for any reason, held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Ordinance or **"EXHIBIT A"**, and it shall be construed to be the legislative intent to pass this Ordinance or **"EXHIBIT A"** without such unconstitutional, invalid or inoperative part therein.

**SECTION 3.** Repeal of Laws in Conflict. All local laws and ordinances in conflict with any provision of this Ordinance are hereby repealed to the extent of any conflict.

**SECTION 4.** Effective Date. This Ordinance shall become effective immediately upon its passage by the City Council.

**VOTE RESULTS OF FIRST READING:**

Mayor Elaine Brown	YES
Vice Mayor Kerry Chin	YES
Councilor Josh Messinger	ABSENT
Councilor Lauren Key	YES
Councilor Nia Livingston	YES

Passed on First Reading this 5<sup>th</sup> day of September, 2023.

**VOTE RESULTS OF SECOND AND FINAL PUBLIC HEARING AND READING:**

Mayor Elaine Brown	YES
Vice Mayor Kerry Chin	YES
Councilor Josh Messinger	YES
Councilor Lauren Key	YES
Councilor Nia Livingston	YES

Passed on Second and Final Reading this 18<sup>th</sup> day of September, 2023.

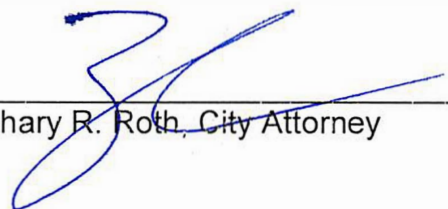
  
Elaine Brown, Mayor

ATTEST:

  
Catherine Ponson, CMC  
City Clerk



Approved as to form and contents

  
Zachary R. Roth, City Attorney

# Exhibit A

Table 27-239

	R-1	R-2	R-3	R-4 <sup>1</sup>	R-5 <sup>2</sup>	C-1	C-2	C-3	CBD <sup>2</sup>	NC Overlay	RC Overlay
	Single-Family Residential			Single/ Two-Family Res.	Multi-Family <sup>14</sup>	Commercial					Single/ Two-Family Res.
Building Height											
Max. Height <sup>3</sup>	28'	28'	28'	28'	28'	35'	35'	35'	35'	35'	28'
Max. Stories	2	2	2	2	2	3	3	3	3	3	2
Density (dwelling units divided by gross site area in acres - du/a)											
Max. Density (du/a)	5	5	5	10	17	-	-	-	10	-	10
Setbacks											
Front Yard <sup>4</sup>	25' min.	20' min.	15' min.	Flexible <sup>5</sup>	30' min.	10' min. 25' max.	25' min.	15' min. 30' max.	0' min. <sup>6</sup> 10' max.	5' min. 15' max.	10' min. 25' max.
Rear Yard	30' min.	25' min.	25' min.	Flexible <sup>5</sup>	30' min.	10' min.	15' min.	20' min.	5' min.	10' min.	15' min.
Side Yard (Internal)	10' min.	10% of lot width (7' min.)	10% of lot width (7' min.)	7' min. <sup>7</sup>	25' min.	5' min.	15' min.	5' min.	0' min	0' min.	7' min. <sup>7</sup>
Side Yard (Street)	15' min.	10' min.	10' min.	8' min.	25' min.	10' min. 25' max.	20' min.	10' min. 25' max.	5' min. 15' max.	10' min. 25' max.	8' min. 25' max.
Frontage Buildout											
Primary Street	-	-	-	-	-	70% min. <sup>8</sup>		70% min.	70% min.		-
Lot Dimensions/Size											
Min. Lot Area (SF.)	12,000	10,000	5,000	4,356	-	7,500	10,000	15,000	-	7,500	4,356 <sup>10</sup>

Max. Lot Area (SF)	-	-	-	15,000	-	-	-	-	-	-	15,000
Min. Lot Width (FT)	100'	85'	50'	50'	200'	60'	80'	100'	-	50'	50' <sup>11</sup>
Max. Lot Coverage	50%	50%	50%	50%	35%	70%	70%	75%	85%	70%	50% <sup>9</sup>
<b>Additional</b>											
Max. Building Floor Area (sq. ft.) <sup>12</sup>	-	-	-	-	-	30,000	60,000	60,000	25,000	20,000	-

**EXHIBIT A**

- <sup>1</sup> The minimum R-4 and RC Overlay lot dimensions in this table are superseded by the actual dimensions of smaller lots if those lots were lawfully platted and recorded prior to December 2, 2019, in the Office of the Clerk of the Circuit Court of Duval County, Florida.
- <sup>2</sup> Any single/two-family homes or multifamily structures in CBD shall comply with the development standards for the RC overlay.
- <sup>3</sup> For lots in the R-1 zoning district that have a minimum lot size of twelve thousand (12,000) square feet and one hundred (100) feet lot width as measured at the building line parallel to the front face of the house and perpendicular to the primary side yard, thirty-five (35) feet of maximum building height will be permitted, so long as the primary roof structure is built at a minimum five-twelfths roof pitch, and not to exceed two (2) stories of living area.
- <sup>4</sup> More specific front yard setbacks shall apply in locating new structures around the following road segments: Penman Road, Seagate Avenue, and Florida Boulevard (See subsection 27-231(b).)
- <sup>5</sup> The front and rear yard setbacks may be flexible in that both measurements must total thirty-five (35) feet; however, neither can measure less than the fifteen (15) feet.
- <sup>6</sup> New developments built to the front lot line will need to be cleared by public works first to ensure there are no infrastructure conflicts. <sup>7</sup> Duplexes comprised of two attached homes shall be exempt from the interior side setback where the units meet.
- <sup>8</sup> Lots less than 120' wide may have a reduced minimum frontage buildout of 60% in order to accommodate side yard parking.
- <sup>9</sup> Additionally, 25% of the overall site, or half of the required pervious area, must be comprised of greenspace.
- <sup>10</sup> Min. lot area for duplexes shall be 8,500 square feet, or 4,356 square feet for each unit if divided into two fee simple lots. Existing two-family (duplex) residences on lots 5,000 square feet or greater shall be deemed conforming as to density provided, they comply with impervious surface reductions and other retrofit requirements set forth in section 27-243 or they are reconstructed or replaced with a new duplex that meets all requirement in this code other than minimum lot size and density.
- <sup>11</sup> Min. lot width for duplexes that have been divided into two fee simple lots of 40' each prior to December 2, 2019 shall be deemed conforming.
- <sup>12</sup> No standalone building shall exceed the maximum floor area shown. Additional information can be found in Section 27-237.
- <sup>13</sup> Lots bounded by more than two streets may elect no more than two primary streets. All other streets shall meet the setback and frontage requirements for secondary streets. In these unique cases there may not be a rear yard.
- <sup>14</sup> Multifamily residences on lots less than one-half acre shall only utilize a maximum of 70% lot coverage.

**Sec. 27-241. - Buffer areas adjacent to residential districts.**

When a R-5, C-1, C-2, C-3 or CBD district abuts a R-1, R-2, R-3 or R-4 district without an intervening street or alley, a landscape buffer constructed in accordance with section ~~27-459~~ 27-456 Landscaping Buffers of this Code, shall be provided on the R-5, C-1, C-2, C-3 or CBD parcel.

## Sec. 27-332. Home-based businesses.

This section acknowledges the ability of residents to conduct small-scale home-based businesses that are secondary to the primary use of their residence, in accordance with F.S. § 559.955. This section also provides regulations to preserve the character of residential neighborhoods.

- (1) As an accessory use, the activities of the home-based business must remain secondary to the property's legal use as a residence. The home must remain consistent with the surrounding residential area as viewed from the street, without additional client or consumer entrances for the home-based business. External modifications to a home to accommodate a home-based business must conform with the residential character and architectural aesthetics of the neighborhood.
- (2) An employee or proprietor of the business must live in the home. Up to two (2) non-resident employees or independent contractors may also work at the business. The business may also have remote employees that neither live in the home nor work on-site.
- (3) The business may not conduct retail transactions from a structure other than the home; however, incidental business uses, and activities may be conducted at the residential property.
- (4) Additional parking spaces are not required for the business, but any on-site parking spaces that serve the business must comply with requirements of this Code. Any vehicles or trailers parked at or near the business must be parked in legal parking spaces that comply with all restrictions in this Code that apply to the home, and they may not be parked over a sidewalk or on any unimproved surfaces at the residence . Heavy equipment (commercial, industrial, or agricultural vehicles, equipment, or machinery) shall not be parked or stored where it would be visible from the street or neighboring property in any residential district ~~except as may be required for normal loading or unloading of such vehicles and during the time normally required for service at dwellings, or except for~~ at structures or activities permitted in such residential districts by the terms of this chapter.
- (5) No signs are allowed for the business; signs are regulated by article XV of chapter 27.
- (6) The business must comply with all local, state, and federal regulations with respect to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids, including the requirements in section 23-60 of this Code regarding prohibited substances.
- (7) Home-based businesses may be restricted further on land that is subject to deed restrictions when such documents are valid and recorded in the public records of Duval County.

**Sec. 27-335. - Parking, storage or use of major recreational equipment.**

No major recreational equipment, as defined herein, shall be used for living, sleeping or housekeeping purposes when parked or stored in a residentially zoned lot or in any other location not approved for such use. Major recreational equipment may be parked or stored in a required rear or side yard but not in the front or corner side yard and not within three (3) feet of any property line; provided, however, that such equipment may be parked anywhere on residential premises for a period not to exceed twenty-four (24) hours during loading and unloading. For purposes of this section, the term major recreational equipment shall be as listed in article I, to include sand dune buggies, cases or boxes on wheels for transporting recreational equipment and other similar trucks or equipment.

Major recreational equipment shall also be limited to two (2) total on a property. Each piece of equipment shall not exceed twenty-eight (28) feet in length.

**Sec. 27-336. - Parking of commercial vehicles in residential districts.**

Commercial vehicles shall not be parked in any residential district except as permitted for home-based business according to the restrictions in Sec. 27-332 or as may be required for normal loading or unloading of such vehicles and during the time normally required for service at dwellings, or at structures or activities permitted in such residential districts by the terms of this chapter. The term "commercial vehicle" shall refer to any motor vehicle more than 5,500 pounds curb weight, unless excepted in this section, used primarily for a business or commercial purpose and not used primarily for personal, non-business transportation. The term "commercial vehicle" shall not be deemed to include law enforcement vehicles or recreational or utility vehicles or vehicles such as pick-up trucks, vans, or cars, even if they include decals for the business, if they are used by the property occupant on a daily basis for normal transportation and are not used at the property for commercial purposes.

Commercial vehicles do not include those for which their parking at a residential property is ancillary to the residential use of the property. Examples of indications that the commercial purpose is primary, rather than ancillary, include, but are not limited to, more than one vehicle displaying the information of a commercial business being parked at the same property, the loading of employees or equipment on the residential property or adjacent right of way other than the residents of such property, and the parking of the vehicle with displays of information of a commercial business associated with a home-based business as described in Chapter 559, Florida Statutes on the right of way adjacent to a residential property or on unimproved surfaces at the property.

Any vehicle with more than two axles and four regular-sized tires shall be considered a commercial vehicle. Any vehicle that utilizes anything other than tires for locomotion (e.g., skids, belts, or similar items) shall be deemed commercial equipment and be prohibited.