

**CITY OF BELLEAIR BEACH  
ORDINANCE NO. 24-04**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLEAIR BEACH, FLORIDA, AMENDING THE BELLEAIR BEACH CODE OF ORDINANCES, SUBPART B – “LAND DEVELOPMENT CODE”, CHAPTER 94 - “ZONING”, SECTION 94-172 - “FENCES,” AND SECTION 94-251 “FENCES, WALLS AND HEDGES” TO ALLOW FOR FENCES, WALLS, OR HEDGES ON SEAWALL CAPS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR RESOLUTION OF CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Legislature of the State of Florida has, in Chapter 166 – Municipalities, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

**WHEREAS**, the City of Belleair Beach is authorized by the Florida Constitution, Florida Statutes, and the City Charter to regulate the use of lands within its corporate boundaries; and

**WHEREAS**, the Planning and Zoning Board has held a hearing on this matter and has made a recommendation to the City Council; and

**WHEREAS**, the City Council has determined that the amendments to the land development code are in the best interest of the public health, safety and welfare; and

**WHEREAS**, the City Council has determined that this proposed amendment to the City’s land development regulations is not more restrictive or burdensome in nature; and

**WHEREAS**, the City Council of the City of Belleair Beach hereby determines that this ordinance is consistent with and in accordance with the Comprehensive Plan of the City of Belleair Beach.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLEAIR BEACH, FLORIDA, THAT THE CODE OF ORDINANCES IS AMENDED AS FOLLOWS:**

**Section 1 - Findings of Fact.** The above recitals are true and correct and are incorporated herein by reference.

**Section 2 – Amending 94-172.** Chapter 94 – “Zoning”, Article IV – “Districts”, Division 2 – “Residential Medium (RM) District I”, Section 94-172 – “Fences,” is hereby amended to read as follows:

**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 on, but not on or overgrowing beyond,~~ the waterfront facing side of the seawall cap, 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.

**Section 3 – Amending 94--251.** Chapter 94 – “Zoning”, Article V – “Supplementary District Regulations”, Division 1 – “Generally”, Section 94-251 – “Fences, walls and hedges,” is hereby amended to read as follows:

**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. Fences, walls, and hedges shall be permitted on but not placed beyond or overgrowing the waterfront facing side of the seawall cap.

(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.

(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.

(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.

**Section 4 – Implementing Administrative Actions.** The City Manager is hereby authorized and directed to take such actions he deems necessary and appropriate to implement the provisions of this Ordinance. The City Manager may, in his discretion, delegate the powers of implementation as herein set forth to such City employees as the City Manager may deem necessary, appropriate, convenience, or prudent.

**Section 5 – Severability.** If any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unlawful, or unconstitutional, said determination shall not be held to invalidate or impair the validity, force, or effect of any other section, sentence, phrase,

word, or portion of this Ordinance not otherwise determined to be invalid, unlawful, or unconstitutional.

**Section 6 – Conflicts.** Any and all ordinances and regulations in conflict herewith are hereby repealed to the extent of any conflict.

**Section 7 – Effective Date.** This Ordinance shall become effective immediately upon full and final adoption by the City Council.

**ADOPTED ON FIRST READING** on the \_\_\_ day of \_\_\_\_\_, 2024, by the City Council of the City of Belleair Beach, Florida.

**ADOPTED ON SECOND AND FINAL READING** on the \_\_\_ day of \_\_\_\_\_, 2024, by the City Council of the City of Belleair Beach, Florida.

**ATTEST**

\_\_\_\_\_  
Renee Rose, City Clerk

\_\_\_\_\_  
Dave Gattis  
Mayor, City of Belleair Beach

**APPROVED AS TO FORM**

\_\_\_\_\_  
Randy Mora, City Attorney

# Business Impact Estimate

Proposed ordinance's title/reference: **Ordinance No. 2024-04**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLEAIR BEACH, FLORIDA, AMENDING THE BELLEAIR BEACH CODE OF ORDINANCES, SUBPART B – “LAND DEVELOPMENT CODE”, CHAPTER 94 - “ZONING”, SECTION 94-172 - “FENCES,” AND SECTION 94-251 “FENCES, WALLS AND HEDGES” TO ALLOW FOR FENCES, WALLS, OR HEDGES ON SEAWALL CAPS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR RESOLUTION OF CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the City is of the view that a business impact estimate is not required by state law<sup>1</sup> for the proposed ordinance, but the City is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- The proposed ordinance is required for compliance with Federal or State law or regulation;
- The proposed ordinance relates to the issuance or refinancing of debt;
- The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- The proposed ordinance is an emergency ordinance;
- The ordinance relates to procurement; or
- The proposed ordinance is enacted to implement the following:
  - a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
  - b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
  - c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
  - d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the City hereby publishes the following information:

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<sup>1</sup> See Section 166.041(4)(c), Florida Statutes.

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

**The proposed ordinance amends the City's ordinance governing fences, walls and hedges to allow for fences, walls, or hedges on seawall caps.**

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the City, if any:

(a) An estimate of direct compliance costs that businesses may reasonably incur;

(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and

(c) An estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

**None.**

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

**None.**

4. Additional information the governing body deems useful (if any):

**The proposed ordinance would not result in more restrictive development standards that would adversely affect private businesses.**