

ORDINANCE NO. O-26-22

AN ORDINANCE OF THE CITY OF SEBASTIAN, FLORIDA, AMENDING LAND DEVELOPMENT REGULATIONS ARTICLE 5, ZONING DISTRICT REGULATIONS, SECTION 54-2-5.10, SIZE AND DIMENSION CRITERIA, ADDING A DEFINITION FOR HEIGHT IN THE COMMERCIAL WATERFRONT RESIDENTIAL DISTRICT; PROVIDING FOR SEVERABILITY AND REPEAL OF LAWS IN CONFLICT HERewith; PROVIDING FOR CODIFICATION; PROVIDING FOR SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Sebastian, Florida, has the authority to adopt amendments to its Land Development Code pursuant to applicable provisions of Florida law;

WHEREAS, the City has determined that the CWR (Commercial Waterfront Residential) zoning district would benefit from the incorporation of a specific definition addressing building height to provide greater clarity and consistency in the administration of the City's development regulations;

WHEREAS, establishing a clear definition of height within the CWR zoning district will assist property owners, applicants, staff, and decision-making bodies in consistently interpreting and applying the City's dimensional requirements;

WHEREAS, the proposed definition is intended to provide clarity regarding the manner in which building height is measured and to ensure that development within the CWR zoning district is evaluated consistently with the City's adopted land development regulations; and

WHEREAS, the City Council finds that incorporating the proposed height definition into the CWR zoning district is in the best interest of the health, safety, and general welfare of the citizens of the City of Sebastian.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEBASTIAN, INDIAN RIVER COUNTY, FLORIDA, AS FOLLOWS:

Section 1. **Adoption of Recitals/Advertising.** The above recitals are hereby adopted as true, correct and found to be the legislative intent of the City Council of the City of Sebastian. Further, all advertising and public notice requirements have been timely made.

Section 2. **Textual Amendment.**

That the *Land Development Code*, City of Sebastian, Florida, is hereby amended as follows:

Sec. 54-2-5.10. Size and dimension criteria.

(a) *Minimum lot or site requirements for all uses.*

- (1) Table of size and dimensional regulations. Table 54-2-5.10 incorporates required size and dimension regulations, which shall be applicable within each respective zoning district, and these standards shall be maintained in perpetuity. All developments shall have a total land area sufficient to satisfy all standards stipulated within the Land Development Code.
- (2) Height regulations and exceptions thereto. The term "building height" as used in the land development regulations shall mean the vertical distance from the highest elevation of either:
 - a. The minimum finished floor elevation as required in the Code of Ordinances section 26-1; or
 - b. The average construction grade of a site where fill is required by another governmental agency; or
 - c. The base flood elevation plus one foot as required by the Florida Building Code; or
 - d. The base flood elevation plus 18 inches if located within a Coastal High Hazard Area (V Zone),

measured to the highest point of the building, not including those structures specifically permitted to the extend beyond the height of the building.

For properties in the Commercial Waterfront Residential (CWR) district that are also subject to the Riverfront Overlay District pitched-roof design criteria, building height shall be measured to the mean height between the eaves and the ridge.

Chimneys and radio and television antennas may exceed height limitations upon the prior approval of the community development department staff and the city engineer based on the compliance with all other applicable technical codes. Steeples, silos, windmills, ventilators, water tanks, cupolas and other appurtenances usually required to be placed above the roof level and not intended for human occupancy or use may exceed height limitations for the respective zoning district by no more than 20% upon the prior approval of the city staff. All apparatus exceeding height limitations by more than 20% for the applicable zoning district height restrictions shall require variance approval by the board of adjustment. In no event, however, shall any permitted heights be in conflict with the height regulations established by flight angles of state-approved airports in the city. All permitted heights shall comply with all requirements of the Federal Aviation Authority and the Federal Communications Commission.

- (3) Lots of record less than minimum size (grandfather clause). Any legally platted lot of record (which conformed with the regulations and procedures governing subdivision of lots) at the time of the adoption of this ordinance which contains less lot area, width or depth than required in the district in which it is located may be used for a use permitted in such district. The provision shall not be construed to permit more than one dwelling unit on a lot with less area per family than required for the district in which such lot is located. However, if the substandard lot adjoins other land under the same ownership which if used could correct the nonconforming lot area or width, then:
 - a. The substandard lot shall not be permitted a vested development right unless the nonconformity is remedied; and, furthermore,
 - b. Any subsequent sale or ownership transfer of the substandard lot, adjoining lot, or portion thereof, shall not result in a vested development right in the subject substandard lot(s) unless the transaction corrects deficiencies in the substandard lot(s).

*This regulation shall not apply to lots of record within the C-512 District, where contiguous lots under the same ownership shall carry grandfather rights so long as the development lot width is a minimum of 80 feet.

- (4) Distance between principal buildings. More than one multiple-family dwelling may be located upon a lot, provided that the horizontal open space between such buildings measured at the closest point shall be as specified for the district in which it is located, and the distance shall be not less than twice the side yard required in the respective district. Such distance shall not be less than 20 feet.

Section 3. Severability. In the event a court of competent jurisdiction shall determine that any part of this Ordinance is invalid, the remainder of the Ordinance shall not be affected and it shall be presumed that the City Council of the City of Sebastian did not intend to enact such invalid provision. It shall further be assumed that the City Council would have enacted the remainder of this Ordinance without said invalid provision, thereby causing said remainder to remain in full force and effect.

Section 4. Conflicts. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. Codification. The sections of the Ordinance shall be codified within part of the City of Sebastian's Land Development Code and may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "division," or any other appropriate word.

Section 6. Scrivener's Errors. Sections of this Ordinance may be renumbered or re-lettered and corrections of typographical errors which do not affect the intent may be authorized by the City Manager, or the City Manager's designee, without need of public hearing, by filing a corrected or re-codified copy of same with the City Clerk.

Section 7. Effective Date. This Ordinance shall become effective immediately upon its adoption by the City Council.

The foregoing Ordinance was moved for adoption by Councilmember _____ . The motion was seconded by Councilmember _____ and, upon being put to a vote, the vote was as follows:

Mayor Fred Jones	_____
Vice-Mayor Bob McPartlan	_____
Councilmember Sherrie Matthews	_____
Councilmember Ed Dodd	_____
Councilmember Christopher Nunn	_____

The Mayor thereupon declared this Ordinance duly passed and adopted this ____ day of September, 2026.

CITY OF SEBASTIAN, FLORIDA

By: _____
FRED JONES, MAYOR

ATTEST:

JANE GARCIA
CITY CLERK

Approved as to form and legality for
reliance by the City of Sebastian only:

JAMES STOKES, ESQ.,
CITY ATTORNEY