


# MEMORANDUM

**TO:** Mayor England  
Vice Mayor Kostka  
Commissioner George  
Commissioner Samora  
Commissioner Rumrell

**FROM:** Max Royle, City Manager 

**DATE:** October 22, 2020

**SUBJECT:** Land Development Regulations: Review of Proposed Changes Regarding Occupancy Permits, Impervious Surface Coverage, Unsafe Buildings, and Number of Code Enforcement Board Members

## INTRODUCTION

As part of his continuous review of possible changes to the Land Development Regulations, Mr. Law proposes four. His explanation and the language for each proposed change are attached as follows:

- a. Pages 1-3, the removal of obsolete language from the Regulations concerning occupancy permits.
- b. Pages 4-5, to include medium-low density residential land use districts as subject to the same impervious surface ratio that applies to medium density residential land use districts.
- c. Page 6, to adopt by reference the currently adopted Florida Building Code concerning unsafe buildings.
- d. Pages 7-9, to change the Land Development Regulations to show that the number of regular members of the Code Enforcement Board is seven.

Mr. Law will explain these changes in more detail at your November 9<sup>th</sup> meeting.

## ACTION REQUESTED

It is that you discuss these changes with Mr. Law and that for those you approve, you ask the City Attorney to prepare ordinances for your December 7<sup>th</sup> meeting.



## **City of St. Augustine Beach Building and Zoning Department**

**TO: Max Royle**

**FROM: Brian Law**

**SUBJECT: 6.07.10 Occupancy Permits**

**DATE: 10-12-2020**

Section 6.07.10 reflects occupancy permits and the ability for city staff to inspect rentals prior to renting. This section does not affect section 3.09.00 transient lodging establishments within the medium density land use district. The city no longer issues occupancy permits nor does it inspect rentals other than the transient rental program and as such this section appears to be obsolete. It is the recommendation of the Building & Zoning Department that this section be removed from the Cities Land Development Regulations and the section be labeled as reserved.

### **Sec. 6.07.10. - ~~Occupancy permits.~~ Reserved**

- ~~A. It shall be unlawful for the owner of any dwelling unit to permit the occupation of the dwelling unit by a person who rents or leases the dwelling unit or a room therein unless such occupation has been authorized by an occupancy permit.~~
- ~~B. An occupancy permit shall be issued only when both of the following conditions have been met:
  - ~~1. The owner or his agent makes application for an occupancy permit on a form prescribed by the city City Manager or designee accompanied by a fee in the amount of twenty-five dollars (\$25.00) for each dwelling unit.~~
  - ~~2. The dwelling unit has been inspected and determined to be in compliance with all applicable provisions of the housing and residential property maintenance standards established by sections 6.07.00 through 6.07.08, inclusive.~~~~
- ~~C. The procedure for issuance of an occupancy permit is as follows:
  - ~~1. The owner of any dwelling unit or his agent shall apply to the city City Manager or designee for an occupancy permit and shall provide such information as required by the city City Manager or designee to render a decision. Such application shall be submitted at least five (5) working days prior to the proposed occupancy date. It shall be unlawful for any person knowingly to make any false statement in an application for an occupancy permit.~~
  - ~~2. After receipt of an application for an occupancy permit, but prior to the proposed occupancy date, the city City Manager or designee shall cause an inspection to be made of the dwelling unit specified in the application. After the inspection, the owner or his agent will be provided a list of violations, if any, that must be corrected before the dwelling unit can be occupied. If the owner or his agent fails to correct all of the violations within ninety (90) days after the original application was filed, said owner or agent shall file a new application and pay the fee prescribed by section 6.07.10B.~~
  - ~~3. Upon determination that the conditions of section 6.07.10B. have been met, an occupancy permit shall be issued to the applicant.~~~~
- ~~D. An occupancy permit for a long term rental dwelling unit shall remain valid for a period of two (2) years from the date of issuance. During the period of validity of the occupancy permit, the owner may permit a change in occupancy of the dwelling unit without further application to the City Manager or designee.~~



~~The occupancy permit shall remain valid past the two-year period for the duration of any occupancy which commences during the two-year period.~~

~~E. An occupancy permit for a short term rental dwelling unit shall remain valid for a period of three (3) years from the date of issuance. During the period of validity of the occupancy permit, the owner may permit a change in occupancy of the dwelling unit without further application to the City Manager or designee. The occupancy permit shall remain valid past the three-year period for the duration of any occupancy which commences during the three-year period.~~

~~F. The occupancy permit shall state:~~

- ~~1. The date of issuance;~~
- ~~2. The address of the dwelling unit; and~~
- ~~3. The name and address of the owner.~~

~~G. An occupancy permit shall terminate without any action on the part of the city upon expiration of the term of its validity as determined by section 6.07.10.D. or E. However, if a complaint is filed by an occupant or other person with the city City Manager or designee, and the city City Manager or designee finds any violation of the housing and residential property maintenance standards exists, the City Manager or designee may terminate the occupancy permit by issuance of a notice to the owner of such termination. The current occupant is not required to vacate a dwelling unit solely because of termination of any occupancy permit, but the owner shall not allow occupancy by a new tenant until the owner corrects the violation and is issued a new occupancy permit.~~

~~H. Prior to the consummation of the sale of any dwelling unit for which an occupancy permit has been in effect at any time within two (2) years preceding the sale, the owner, or his authorized agent, shall obtain from the city City Manager or designee a status of occupancy permit report. Such status of occupancy permit report shall be delivered by the owner or his authorized agent to the buyer of said property prior to the consummation of the sale thereof. Nothing in this section shall effect the validity of the title as between the grantor and grantee. The status of occupancy permit report shall contain the date of last occupancy permit inspection and results thereof.~~

~~I. Temporary occupancy permits may be issued by the city City Manager or designee when he determines that an existing violation poses no serious or immediate threat to the health or safety of an occupant and when all of the following conditions are determined to exist:~~

- ~~1. The owner has been delayed in correcting violations necessary to permit the issuance of an occupancy permit but has a valid contract in writing with a qualified person or firm for the performance of work and the furnishing of the materials to correct such violations and the contract specifies the dates for commencement and completion of the work; or the owner provides an affidavit stipulating that the work is to be accomplished by the owner, specifying the date by which the work is to be completed, and furnishes copies of all applicable permits required to enable the owner to make the necessary corrections.~~
- ~~2. The owner or his agent requests the City Manager or designee in writing for a temporary waiver of compliance with prescribed housing and residential property maintenance standards.~~
- ~~3. The city City Manager or designee finds that the delay in the correction of the violations and the plans for such correction are reasonable and the work can be undertaken and completed while the premises are occupied.~~

~~J. The temporary occupancy permit shall expire at the time set forth therein. On or before the expiration of the temporary occupancy permit, a reinspection shall be made.~~

~~K. The provisions of this section shall not effect any right or obligation imposed by law or by agreement between any owner and occupant, but no agreement shall relieve any person of a duty or obligation imposed by this section.~~

~~L. This section shall not apply to motels and hotels.~~

~~M. An occupancy permit shall not be required for occupancy of any dwelling unit by a tenant in possession of such dwelling unit on the effective date of this section. Any dwelling unit vacant or vacated after the effective date of this section shall not be occupied pursuant to an oral or written rental agreement or lease until an occupancy permit has been issued by the city City Manager or designee.~~

~~N. The owner of an adversely affected person may appeal any final decision of the city City Manager or designee under this section by filing a notice of appeal with the building and zoning department within thirty (30) days of the decision. The comprehensive planning and zoning board shall hear the appeal. The notice of appeal shall be accompanied by a fee as provided in section 13.00.00 of this Code.~~

~~(Ord. No. 18-08, § 1(Exh. 1), 7-2-18)~~





## **City of St. Augustine Beach Building and Zoning Department**

**TO: Max Royle**

**FROM: Brian Law**

**SUBJECT: Section 6.01.02 Impervious Surface Coverage**

**DATE: 10-12-2020**

The table of allowable impervious surface ratio as listed in section 6.01.02 of the City Land Development Regulations does not include the zoning districts of medium low density or the mixed use district. As medium low district properties are to be regulated the same as medium density zoning district with the exception that multifamily residences are prohibited, the ISR shall be limited to 50%. The mixed use district which is referenced in the Cities Comprehensive Plan Policy L.1.7.1 allowing for a maximum site coverage of 70%. The Building & Zoning Department recommends the following modification to section 6.01.02 of the Cities Land Development Regulations:

Sec. 6.01.02. - Impervious surface coverage.

- A. *Generally.* Impervious surface on a development site shall not exceed the ratios provided in the table in paragraph D. of this section.
- B. *Ratio calculation.* The impervious surface ratio is calculated by dividing the total impervious surface area by the gross site area.
- C. *Alternative paving materials.* If porous paving materials are used, then the area covered with porous paving materials shall not be counted as impervious surface for high density residential and commercial only. Low and Medium density residential shall be allowed a 15% increase in impervious surface ratio if the materials used have a 10% or greater permeability.
- D. *Table of impervious surface ratios.*

Land Use District	Maximum Impervious Surface Ratio <sup>1</sup>
Low density residential	0.40*
Medium density residential	0.50
<u>Medium Low density residential</u>	<u>0.50</u>
High density residential	0.70

<u>Mixed Use District</u>	<u>0.70</u>
Commercial	0.70

<sup>1</sup> The maximum impervious surface ratio is given for each district, regardless of the type of use proposed and allowable pursuant to Article III.

\* In Low Density Residential land use district a 465 square feet allowance shall be provided for the construction and installation of a pool and pool decking only.

(Ord. No. 18-08, § 1(Exh. 1), 7-2-18; Ord. No. 20-02, § 6(Exh. 1), 3-2-20)



**City of St. Augustine Beach Building and Zoning Department**

**TO: Max Royle**

**FROM: Brian Law**

**SUBJECT: Section 6.07.07 Unsafe Buildings**

**DATE: 10-12-2020**

**Section 6.07.07 of the Cities Land Development Regulations references the 2017 Florida Building Code, as this code is changed every three years it is prudent to modify the code to the phrase "the currently adopted Florida Building Code". The Building and Zoning Department recommends the following code change:**

Sec. 6.07.07. - Unsafe buildings.

- A. There is adopted by reference the 2017 currently adopted Florida Building Code, with the exception of section 113 pertaining to the composition and procedures of the board of adjustments and appeals.
- B. The comprehensive planning and zoning board shall serve as the board of adjustments and appeals in accordance with the provisions of the 2017 currently adopted Florida Building Code.

(Ord. No. 18-08, § 1(Exh. 1), 7-2-18)



## **City of St. Augustine Beach Building and Zoning Department**

**TO: Max Royle**

**FROM: Brian Law**

**SUBJECT: Section 11.03 of the City Land Development Regulations**

**DATE: 10-12-2020**

1) The current section 11.03.02 of the Cities Land Development Regulations states the following:

"The municipal code enforcement board shall consist of five (5) members and two (2) alternates appointed by the city commission."

This is in direct conflict with Florida Statute 162.05 for a population greater than 5000 persons. The statute is provided for your convenience below:

### **162.05 Local government code enforcement boards; organization.—**

(1) The local governing body may appoint one or more code enforcement boards and legal counsel for the enforcement boards. The local governing body of a county or a municipality that has a population of less than 5,000 persons may appoint five-member or seven-member code enforcement boards. The local governing body of a county or a municipality that has a population equal to or greater than 5,000 persons must appoint seven-member code enforcement boards. The local governing body may appoint up to two alternate members for each code enforcement board to serve on the board in the absence of board members.

As the current Code Enforcement Board currently has 7 members with 2 alternates no action is needed other than to amend the code.

---

2) The current section 11.03.04 states that "The regular meetings of the board shall be the fourth Wednesday of each month at 3:00 p.m. in the City Hall of the City of St. Augustine Beach, Florida." Currently the meetings start at 2:00 p.m. on the fourth Wednesday of the month. As current operations are not in accordance with the code it is recommended to change the code to the following "The regular meetings of the board shall be held on the fourth Wednesday of each month, unless otherwise ordered by the board."

Proposed code modifications are on page 2.



Sec. 11.03.02. - Membership.

- A. The municipal code enforcement board shall consist of ~~five (5)~~ seven (7) members and two (2) alternates appointed by the city commission.
- B. Any person of voting age residing in the City of St. Augustine Beach shall be eligible for membership.
- C. Members of the board shall serve a term of three (3) years. Terms of office shall end on April 1 three (3) years following appointment to a full term. Existing members of the board shall serve until April 1 three (3) years following their respective appointments. Future vacancies created by death, resignation, or disqualification to serve of a member shall be filled for the unexpired term. Any member may be reappointed to successive terms at the discretion of the city commission.
- D. If any member fails to attend two (2) of three (3) successive meetings without cause and without prior approval of the chairman, the board shall declare that member's seat vacated and such vacancy shall be filled as for any other vacancy.
- E. Any member may be removed from office for cause by the city commission. Vacancies occurring due to death, resignation or other inability to serve resulting from change of residence or otherwise, shall be filled within thirty (30) days after the vacancy occurs by the city commission for the remainder of the term, in accordance with the City Code and F.S. § 162.01.
- F. The city commission shall review the applications of volunteers for appointment to the code enforcement board. All applicants to fill a vacancy shall be informed that a financial disclosure statement must be filed with the county supervisor of elections. If an applicant should have an objection to this procedure, he should reconsider the appointment.
- G. Each individual board member shall file financial disclosure statements with the office of the supervisor of elections no later than July 1 of each year or thirty (30) days after their appointment in accordance with Florida Statutes.

(Ord. No. 91-7, § 2; Ord. No. 92-7, § 11; Ord. No. 93-7, § 2; Ord. No. 04-06, § 1, 6-7-04; Ord. No. 06-29, § 1, 1-2-07)

Sec. 11.03.04. - Meetings.

- A. ~~The regular meetings of the board shall be the fourth Wednesday of each month at 3:00 p.m. in the City Hall of the City of St. Augustine Beach, Florida. The regular meetings of the board shall be held on the fourth Wednesday of each month, unless otherwise ordered by the board.~~
- B. Special meetings, committee meetings or workshops may be called by the chairman of the board.
- C. Emergency hearings may be called by the code inspector or chairman.
- D. All actions before the board shall be initiated by a code inspector filing a statement of violation and request for hearing with the secretary of the board. No member of the board shall initiate actions before the board.
- E. If any member fails to attend two (2) of three (3) consecutive meetings without cause and without prior approval of the chairman, the chairman shall notify the city commission in writing and request that the replacement process take place. A copy of this notification shall also be forwarded to the absent member.
- F. A quorum of the board shall consist of four (4) members. An affirmative vote of a majority of those members present and voting shall be necessary to pass any motion or adopt any order, except that at least four (4) members of the board must vote in order for the action to be official.
- G. Voting requirements.
  - 1. No member of the board present at any meeting at which an official decision, ruling or other official act is to be taken or adopted may abstain from voting in regard to any such decision, ruling or act; and a vote shall be recorded or counted for each such member present except when there may be a possible conflict of interest as outlined in F.S. § 286.012(8).

2. No board member shall vote in his official capacity upon any measure which inures to his special private gain. Such member shall, prior to the vote being taken, publicly state to the board the nature of his interest in the matter from which he is abstaining from voting and within fifteen (15) days after the vote occurs, disclose the nature of his interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes (F.S. § 112.3143).
3. Voting may be by voice vote and shall be recorded by individual "aye" or "nay" for each board member present.
4. Voting on applicants to fill a vacancy shall be by official written ballot stating the names and addresses of those candidates to be voted upon. The highest number of votes cast shall constitute a majority. All ballots must be signed by board member casting the vote and kept on file as a matter of public record.

(Ord. No. 91-7, § 2)