

**PLANNING AND ZONING BOARD**

**THURSDAY, FEBRUARY 21, 2019**

**@ 6:00 P.M.**



# City of Indian Rocks Beach

1507 Bay Palm Boulevard, Indian Rocks Beach, Florida 33785

[www.indian-rocks-beach.com](http://www.indian-rocks-beach.com)

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727/595-2517

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727/517-0404  
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Library  
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## AGENDA PLANNING AND ZONING BOARD/ LOCAL PLANNING AGENCY

City Commission Chamber  
1507 Bay Palm Boulevard  
Indian Rocks Beach, FL 33785

Tuesday, February 21, 2019  
6:00 p.m.

1. **ROLL CALL.**
2. **APPROVAL OF MINUTES OF:** December 4, 2018.
3. **ORDINANCE NO. 2019-04 — PUBLIC HEARING.** An ordinance of the City of Indian Rocks Beach, Florida, providing for amendments to the Code of Ordinances by amending Chapter 106, Vegetation, Article IV, Buffers, Section 106-142, General Standards; Chapter 110, Zoning, Article IV, Supplementary District Regulations, Division 3, Yard Requirements, Section 110-241, Yards to be open and unobstructed; Chapter 110, Zoning, Article IV, Supplementary District Regulations, Division 3, Yard Requirements, Section 110-245, Structures extending over setback lines; Chapter 110, Zoning, Article IV, Supplementary District Regulations, Division 7, Accessory Uses, Section 110-44, Swimming pools and spas; and Chapter 110, Zoning, Article VIII, Design Standards, Section 110-826, Prohibited features; generally providing for mechanical, air conditioning and electrical equipment to be located in the side yard setbacks; providing for enforceability of existing land development regulations; providing for repeal of ordinances or parts of ordinances in conflict herewith to the extent of such conflict; providing for severability; providing for renumbering; and providing for an effective date.
4. **ADJOURNMENT.**

**APPEAL:** If a person decides to appeal any decision made with respect to any matter discussed at such meeting or hearing, will need a record of the proceedings and for such purposes, they 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 to be based, per s. 286.0105, F.S. Verbatim transcripts are not furnished by the City of Indian Rocks Beach and should one be desired, arrangements should be made in advance by the interested party (i.e. court reporter).

In accordance with the Americans with Disability Act and s. 286.26, F.S., any person with a disability requiring reasonable accommodation in order to participate in this meeting should contact the City Clerk's office with your request telephone 727/595-2517 or [doreilly@irbcity.com](mailto:doreilly@irbcity.com) no later than five (5) business days prior to the proceeding for assistance.

POSTED: February 14, 2019

**AGENDA ITEM NO. 1**

**Roll Call**

**AGENDA ITEM NO. 2**

**Approval of Minutes**

**MINUTES  
CITY OF INDIAN ROCKS BEACH  
PLANNING AND ZONING BOARD AND  
LOCAL PLANNING AGENCY**

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The Regular Meeting of the Indian Rocks Beach Planning and Zoning Board and the Local Planning Agency was held on **TUESDAY, DECEMBER 4, 2018**, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

Chair Rick McFall called the meeting to order at 6:00 p.m.

**1. ROLL CALL:**

**Present:** Chair Rick McFall  
Vice Chair Patti Muneio  
Board Member Jude Bond  
Board Member Richard Antepenko  
Board Member Robert Clark  
Board Member Joe McCall  
Board Member Peter Sawchyn  
Planning Consultant Hetty C. Harmon, AICP  
City Attorney Randy D. Mora

**2A. ELECTION OF CHAIR:**

***CHAIR MC FALL NOMINATED VICE CHAIR MUNEIO TO SERVE AS CHAIR TO THE PLANNING AND ZONING BOARD.***

***THERE WERE NO OTHER NOMINATIONS.***

***UNANIMOUS APPROVAL BY ACCLAMATION.***

**2B. ELECTION OF VICE CHAIR.**

***MEMBER ANTEPENKI NOMINATED MEMBER MC CALL TO SERVE AS VICE CHAIR TO THE PLANNING AND ZONING BOARD.***

***THERE WERE NO OTHER NOMINATIONS.***

***UNANIMOUS APPROVAL BY ACCLAMATION.***

**3. APPROVAL OF MINUTES OF: October 23, 2018.**

**MOTION MADE BY MEMBER CLARK, SECONDED BY MEMBER ANTEPENKO, TO APPROVE THE OCTOBER 23, 2018 MINUTES AS SUBMITTED. UNANIMOUS APPROVAL BY ACCLAMATION.**

- 4. ORDINANCE NO. 2019-01. Providing for amendments to the Code of Ordinances by amending Chapter 110, Zoning; Article I. In General, Section 110-1 "Definitions" to define "paid parking lots;" amending Article III. District Designation and Regulations, Division I. Generally, Section 110-131 "Establishment of Zoning Districts," Subsection 6 "Business Zoning District-B" to provide for paid parking lots as a permitted use in the Business District Triangle Overlay Zone; amending Article III. District Designation and Regulations, Division 1. Generally, Section 110-135 "Business District Triangle Overlay Zone" to allow the operation of paid parking lots.**

City Attorney Mora read the title of Ordinance No. 2019-01 by title only and introduced the ordinance, stating this is an amendment to the City Code to allow for paid parking lots within the Business District Triangle Overlay Zone.

City Attorney Mora stated Todd Plumlee has appeared before the Planning and Zoning Board and the City Commission proposing the ability to use his property as a paid parking lot. The property is currently being used as a parking lot by beachgoers and employees of Crabby Bill's and is located within the Business District Triangle Overlay Zone.

City Attorney Mora stated the reason why Mr. Plumlee could not operate a paid parking lot thus far is because it is not explicitly permitted in the City Code, and items that are not explicitly permitted are assumed to be prohibited, so this amendment would allow for that property to be used in that manner. This is not specifically for that property, but rather for any property within that district.

Planning Consultant Harmon reviewed the amendments to the ordinances:

**Sec. 110-1. Definitions.**

*Paid parking lot* is for the general public to pay for use of parking vehicles and is designed to be consistent with the criteria in Division 8, Off-Street Parking and Loading Facilities, Section 110-371, General standards for parking facilities, and Chapter 106, Vegetation in the Land Development Code.

**Sec. 110-131. Establishment of zoning districts.**

(6) *Business zoning district — B.*

b. *Permitted uses.* The permitted uses in the B, business district are as follows:

(15) Paid parking lots shall be a permitted use solely in the Business District Triangle Overlay Zone.

**Sec. 110-135. Business district triangle overlay zone.**

(e) *Use regulations and development standards.*

(13) *Paid Parking Lots.* Paid parking lots shall be a permitted use in the Business District Triangle Overlay Zone.

Member Bond inquired if the proposal was only for the Business District Triangle Overlay Zone, with Planning Consultant Harmon responding in the affirmative and stated this Board did not recommend paid parking in any other business areas.

Member McFall inquired if a multi-level parking garage would be a permitted use within the Business District Triangle Overlay Zone.

City Attorney Mora stated potentially it could, but it would have to meet all the requirements of the City Code, but if it was a paid parking lot by definition that would be a yes.

Member Bond stated it seems to him that this might be a disincentive to promote business that is going to be in the long term best interest of the town more than short term financial gain, which essentially is what a parking lot is. He stated by having all these paid parking lots, the City would start looking like Clearwater Beach and then the random parking and traffic congestion comes.

Member Antepencko stated he also feels the same way; would paid parking lots stifle potential growth in that district. His biggest concern was how could this legally be extended into other districts, and he is totally against expansion into other districts.

City Attorney Mora stated this ordinance applies only to the Business District Triangle Overlay Zone as a permitted use.

Member McFall inquired if paid parking lots would have to go through the PUD process or receive approval from the City Commission.

City Attorney Mora responded paid parking lots would not go through the PUD process and would only need City Commission approval if a special exception

or a variance is required. However, paid parking lots would have to meet all the requirements of the City Code.

Member McFall inquired if the Board wanted to prohibit multi-level parking garages throughout the City.

Member Bond inquired why should the Board make this change; what value does paid parking bring to the community other than the commercial value for people who own property that qualify.

Member Clark stated at the last meeting, he stated what is the harm, but he is re-evaluating that now mostly based on what the City Attorney said. Reminding him that IRB is barrier island and a natural disaster could wipe out all of the buildings in the Triangle, and there would be a bunch of vacant lots that could potentially become large paid parking lots.

Member Sawchyn stated he supports this issue because Todd Plumlee made a pretty good case. People are parking there for free now, and he is incurring expenses. He wants to invest in making it a proper parking lot. He thinks there could be more paid parking in the Business District Triangle.

Member Bond inquired if there was anything in the City Code that would prevent a developer from building a massive parking garage.

Member Sawchyn stated it is the Planning and Zoning Board's job to think of the future, but this is limited in scope and there are enough safeguards in the Building Code to perhaps guard against Member Bond's concerns, and he does not think there is a market for high rise parking garages.

Member Sawchyn stated it is not wise for a Planning and Zoning Board to base their vote on the worst case scenerio.

Chair Muneio stated she visited Todd Plumlee's site and she does not know how Mr. Plumlee would be able to get 11 parking spaces at that location with the required landscaping.

Chair Muneio stated during the Taste of IRB, the Homeowners' Association used bus service to transport people from off-site locations to Chic-A-Si Park.

Chair Muneio stated paid parking limits people from coming because they do not want to pay for parking, i.e., City of Clearwater, City of St. Petersburg.

Chair Muneio stated her concern is the City has a height limit.



Chair Muneio stated the only two spots available for parking would be the Holiday Inn Harbourside surface parking lot, with Planning Consultant Harmon responding that is required parking based on the City Code.

Chair Muneio stated there is not enough space for new shops and the current shops have enough parking for their customers. She further stated the only time there is a problem with parking is when something is being held in the Triangle, i.e., a festival, and the City just expanded the parking at Keegan Clair Park and has the new boat docks at Keegan Clair Park also.

Chair Muneio stated she thinks IRB is the only City on the beach that has free beach parking at the present time and how much revenue is that going to bring into the City.

Member Sawchyn stated this is Mr. Plumlee's property, the City is restricting him as what he can do with his property. The City should respect the property owner's rights as well; and as far as revenue, he is not going to make that much and he does not think that he will be sharing it with the City either.

City Attorney Mora stated this is not a proposal for a special use for a single use for a single lot. This is a proposal for a district.

Chair Muneio stated Mr. Plumlee is proposing to fix up his lot and have a company operate the paid parking lot.

Member Sawchyn stated Mr. Plumlee would be sharing the profits with the company.

City Attorney Mora recapped last month's meeting at the request of Member Sawchyn.

Chair Muneio brought up about the Calvary Church having paid parking during the City events.

City Attorney Mora stated the City Code Enforcement Officers are aware of the situation.

Chair Muneio stated maybe the Board should look at this also.

City Attorney Mora stated it is not the charge of the Board; that is the charge of City Staff and the Code Enforcement Officers to enforce the City's Codes. This Board is charged with considering changes to the land use and their consistency with the comprehensive plan.

City Attorney Mora stated if Board Members, as private citizens, are aware of violations of the City Code and would like to see it investigated or pursued, they have the right as a private citizens of this community to make the City aware of that.

Member Bond inquired if anyone knows how many unallocated parking spaces there are in the Triangle, with Planning Consultant responding in the negative.

Member McFall stated this ordinance applies to the entire Business District Triangle Overlay Zone, and once it is adopted, anyone within the Triangle can have a paid parking lot. He feels that is important going forward from the standpoint of does the Board want this type of business within the limits of the City.

Member McFall called for the question.

City Attorney Mora noted there was no one in the audience to provide public comment.

**MOTION MADE BY MEMBER CLARK, SECONDED BY MEMBER ANTEPENKO, TO RECOMMEND TO THE CITY COMMISSION DENIAL OF ORDINANCE NO. 2019-01. PROVIDING FOR AMENDMENTS TO THE CODE OF ORDINANCES BY AMENDING CHAPTER 110, ZONING; ARTICLE I. IN GENERAL, SECTION 110-1 "DEFINITIONS" TO DEFINE "PAID PARKING LOTS;" AMENDING ARTICLE III. DISTRICT DESIGNATION AND REGULATIONS, DIVISION I. GENERALLY, SECTION 110-131 "ESTABLISHMENT OF ZONING DISTRICTS," SUBSECTION 6 "BUSINESS ZONING DISTRICT-B" TO PROVIDE FOR PAID PARKING LOTS AS A PERMITTED USE IN THE BUSINESS DISTRICT TRIANGLE OVERLAY ZONE; AMENDING ARTICLE III. DISTRICT DESIGNATION AND REGULATIONS, DIVISION 1. GENERALLY, SECTION 110-135 "BUSINESS DISTRICT TRIANGLE OVERLAY ZONE" TO ALLOW THE OPERATION OF PAID PARKING LOTS.**

<b>ROLL CALL VOTE:</b>	<b>ANTEPENKO</b>	<b>AYE</b>
	<b>BOND</b>	<b>AYE</b>
	<b>CLARK</b>	<b>AYE</b>
	<b>MC FALL</b>	<b>AYE</b>
	<b>SAWCHYN</b>	<b>NAY</b>
	<b>MC CALL</b>	<b>AYE</b>
	<b>MUNEIO</b>	<b>AYE</b>

**MOTION CARRIES 6 TO 1 TO RECOMMEND DENIAL TO THE CITY COMMISSION ON ORDINANCE NO. 2019-01.**

**5. ORDINANCE NO. 2019-02. Amending § 106-44 and § 106-45 of the Land Development Code concerning removal of dead or diseased trees; providing for enforcement; making related findings.**

City Attorney Mora read Ordinance No. 2019-02 by title only and introduced the ordinance, stating this ordinance was borne of a particular situation that arose. Two neighbors have a dispute relative to some Australian pines that are growing and there was a question as to whether, under the City Code, those trees needed to be removed.

City Attorney Mora stated as the City Code reads, it is the poorly phased in a way that leads to some ambiguity. Therefore, the following amendments were made:

**Sec. 106-44. Noxious trees prohibited; Rremoval of dead or diseased trees on private property.**

(a) No person shall sell or plant any tree in the City which has been designated by the State of Florida Department of Agriculture in Rule 5B-57.007, Florida Administrative Code, as may be amended from time to time, including but not limited to the following common invasive trees:

- (1) Australian pine (Casuarina spp.)
- (2) Brazilian pepper (Schinus spp.)
- (3) Chinese tallow (Sapium sebiferum)
- (4) Melaleuca (Melaleuca quinquenervia)
- (5) Chinaberry (Melia azedarach)
- (6) Carrotwood (Cupaniopsis anacardioides)
- (7) Lead tree (Leucaena leucocephala)
- (8) Catclaw mimosa (Mimosa pigra)

(b) Any person who owns land upon which a City-approved arborist determines any tree thereon to be dead or diseased shall, within 60 days of receipt of written notice by the City of such determination, cause the tree to be removed. In the event a City-approved arborist determines further that a dead or diseased tree poses an immediate threat to life or property, or that the tree harbors insects or disease which constitute an immediate threat of infestation

~~or infection of other healthy trees in the City, t~~ The City shall have the right to cause the immediate removal of such any dead or diseased trees if the owner fails to do so within the 60 day notice period on the private property within the city when such trees constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees within the City. ~~The City will notify in writing the owner of the such tree. Removal shall be done by the owners at their own expense within 60 days after the date of service of notice.~~ In the event the City must remove a dead or diseased tree at its expense, the actual documented costs of the removal shall be assessed against the owner of failure to owners to comply with such provisions , the City shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice. The City manager has the authority, where the owner is acting in good faith to comply with the requirements of this subsection and where good cause is shown, to extend the 60 day deadline set forth herein.

**Sec. 106-45. Exceptions; enforcement.**

(a) If any tree shall be determined to be in hazardous or dangerous condition as determined by the City so as to endanger health or safety and require immediate removal without delay, verbal authorization for removal may be given by the City.

(b) During the period of emergencies such as hurricane, windstorm, flood, freeze or other disasters, the requirements of this article may be waived by the City. The waiver must be for a time certain and may not be for an indefinite period.

(c) ~~Specifically exempt from the terms and provisions of this article are the following species of trees:~~

- ~~(1) Australian pine (Casuarina spp.).~~
- ~~(2) Brazilian pepper (Schinus spp.).~~
- ~~(3) Chinese tallow (Sapium sebiferum).~~
- ~~(4) Melaleuca (Melaleuca quinquenervia).~~
- ~~(5) Chinaberry (Melia azedarach).~~

In addition to any other remedies set forth in this Article as to enforcement, violations of any section of this article shall constitute an unlawful code violation punishable as provided for in § 1-14 of the City Code, enforced as provided for in Chapter 2, Article IV, Division 2 (code enforcement) of the City Code.

City Attorney Mora stated the City is trying to bring the City Code up-to-date with current regulatory scheme, clarify the issue about the exception element and take it out, not make it read so broadly, such that it causes into question the City's ability to enforce its own City Code, and make it more clear by what process the City is going through this which is now the injection of the element of the arborist.

City Attorney Mora stated the ordinance is not saying that those enumerated 8 species are going to retroactively be removed throughout the City wholesale; that is not how this works.

City Attorney Mora stated this ordinance addresses the City's ability to mandate the removal of dead or diseased trees and, most especially, those dead or diseased trees that are deemed by the City to pose an immediate threat to the public health, safety, and welfare of the community.

City Attorney Mora stated one of the parties in the dispute has suggested that the Code make reference to the American National Standards Institute, regarding pruning or other such elements.

Member McFall explained how this ordinance could cause a dispute between two neighbors.

City Attorney Mora stated he understood Member McFall's concern and he does think Member McFall is misapprehending the content of the ordinance relative to the approved arborists. The City would not tell somebody that their arborist is a City-approved arborist and perhaps if Member McFall wishes, language could be added by saying "independent City- approved arborist". The concept is the City goes with what the City-approved arborist advises.

City Attorney Mora addressed the City's liability and exposure and reviewed some case law with the Planning and Zoning Board.

Chair Muneio stated she had a concern about her neighbor's tree and Code Enforcement came out and advised her to take care of the part of the tree encroaching on her boundary line, i.e. trimming. She feels bringing in the arborist and using the American National Standards Institute would be a way of resolving any confusion and keep the City out of any court.

City Attorney Mora stated the ordinance is how does the City handle the process of mandating the removal of dead or diseased trees. It is also includes a provision of prohibiting the sale and planting of invasive trees.

City Attorney Mora explained the enforcement process for a dead or diseased tree under Ordinance No. 2019-01.

Member McCall stated the expense is borne by the property owner for the removal and inquired if the City is picking up the tab for the initial arborist, with City Attorney Mora responding in the affirmative.

Member McCall inquired if there would be any benefit to adding any verbiage for damaged trees (storm-related).

City Attorney Mora stated damaged storm trees are a more slippery slope and it is not objective or scientific; dead or diseased is scientific.

Member McFall recommended that the language concerning the American National Standards Institute should be added and it holds the arborist accountable to some objective criteria.

City Attorney Mora explained the current protocol as requested by Member Bond.

City Attorney Mora noted there was no one in the audience to provide public comment.

***MOTION MADE BY MEMBER CLARK, SECONDED BY MC FALL, TO RECOMMEND TO THE CITY COMMISSION APPROVAL OF ORDINANCE NO. 2019-02, AMENDING § 106-44 AND § 106-45 OF THE LAND DEVELOPMENT CODE CONCERNING REMOVAL OF DEAD OR DISEASED TREES; PROVIDING FOR ENFORCEMENT; MAKING RELATED FINDINGS WITH THE ADDITIONAL LANGUAGE CITING THE THIRD PARTY STANDARDS OF THE AMERICAN NATIONAL INSTITUTE STANDARDS.***

<b>ROLL CALL VOTE:</b>	<b>ANTEPENKO</b>	<b>AYE</b>
	<b>BOND</b>	<b>AYE</b>
	<b>CLARK</b>	<b>AYE</b>
	<b>MC FALL</b>	<b>AYE</b>
	<b>SAWCHYN</b>	<b>AYE</b>
	<b>MC CALL</b>	<b>AYE</b>
	<b>MUNEIO</b>	<b>AYE</b>

***MOTION CARRIED UNANIMOUSLY.***

## **6. ADJOURNMENT.**

**MOTION MADE BY MEMBER MC FALL, SECONDED BY MEMBER CLARK, TO  
ADJOURN THE MEETING AT 7:37 P.M. UNANIMOUS APPROVAL.**

February 21, 2019  
Date Approved

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Patti Muneio, Chair

/dor

**AGENDA ITEM NO. 3**

**ORDINANCE NO. 2019-04**

**Mechanical Equipment  
in Side Yards**



**AGENDA MEMO  
INDIAN ROCKS BEACH PLANNING AND ZONING BOARD**

**MEETING OF:** February 21, 2019

**AGENDA ITEM: 3A**

**SUBMITTED AND**

**RECOMMENDED BY:** Hetty C. Harmon, AICP, City Planner *HCH*

**APPROVED BY:** Brently Gregg Mims, City Manager

**SUBJECT:** **Ordinance No. 2019-04- Mechanical Equipment in the Side Yard Setback**

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**BACKGROUND:**

At the December 11, 2018 City Commission meeting there was discussion about mechanical equipment in the side yard setbacks and the Commission recommended to forward to the Planning & Zoning Board to discuss/consider amending the IRB Land Code to allow mechanical equipment in the side yard setbacks in Indian Rocks Beach.

**CITY OF INDIAN ROCKS BEACH  
ORDINANCE NO. 2019-04**

**AN ORDINANCE OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA, PROVIDING FOR AMENDMENTS TO THE CODE OF ORDINANCES BY AMENDING CHAPTER 106, VEGETATION; ARTICLE IV - BUFFERS, SECTION 106-142 GENERAL STANDARDS, CHAPTER 110, ZONING; ARTICLE IV- SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 3 - YARD REQUIREMENTS, SECTION 110-241, YARDS TO BE OPEN AND UNOBSTRUCTED, CHAPTER 110, ZONING; ARTICLE IV- SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 3 - YARD REQUIREMENTS, SECTION 110-245 STRUCTURES EXTENDING OVER SETBACK LINES, CHAPTER 110, ZONING; ARTICLE IV- SUPPLEMENTARY DISTRICT REGULATIONS DIVISION 7- ACCESSORY USES, SECTION 110-344 SWIMMING POOLS AND SPAS, AND CHAPTER 110, ZONING; ARTICLE VIII- DESIGN STANDARDS, SECTION 110-826 PROHIBITED FEATURES; GENERALLY PROVIDING FOR MECHANICAL, AIR CONDITIONING AND ELECTRICAL EQUIPMENT TO BE LOCATED IN THE SIDE YARD SETBACKS; PROVIDING FOR ENFORCEABILITY OF EXISTING LAND DEVELOPMENT REGULATIONS; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith TO THE EXTENT OF SUCH CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR RENUMBERING; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on February 21, 2019, the Local Planning Agency held a public hearing and found the proposed amendments consistent with the Comprehensive Plan; and

**WHEREAS**, Section 13.1 of the City's Charter empowers the City Commission to regulate and restrict, among other things, the location and use of buildings, structures, and land and water for trade, industry, residence or other purposes in the City; and

**WHEREAS**, the technological advancement of mechanical equipment has reduced the impacts to the surrounding properties.

**WHEREAS**, the City Commission for the City of Indian Rocks Beach finds the amendments set forth in this ordinance to be in the interest of promoting the health, safety and general welfare of the community.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA, THAT:**

**SECTION 1.** Chapter 106, Vegetation, Article IV, Buffers, section 106-142 General Standards; of The Code of Ordinances, City of Indian Rocks Beach, Florida, is hereby amended to read as follows:

Sec. 106-142. - General standards.

- (a) A buffer consists of a horizontal distance from a property line which may only be occupied by drainage areas, utilities, mechanical, air conditioning, and electrical equipment and landscaping materials. The required buffering distance between land uses on adjoining lots is set forth in the

buffer matrix in section 106-143. ~~Mechanical/air conditioning equipment~~, Outdoor storage areas, and parking areas shall not be located within the required buffers.

- (b) Compliance with this section is required in all cases of new construction, change of use or expansion of a use or structure.

**Section 2.** Chapter 110, Zoning, Article IV, Supplementary District Regulations, Division 3, Yard Requirements, Section 110-241, Yards to be open and unobstructed, is hereby amended to read as follows:

Sec. 110-241. - Yards to be open and unobstructed.

Every part of a required yard must be open to the sky, unobstructed, except for the ordinary projections of steps, mechanical, air conditioning and electrical equipment, sills, belt courses, cornices, bay windows, and vegetation. Ornamental features shall not project more than 18 inches beyond any setback line.

**Section 3.** Chapter 110, Zoning, Article IV, Supplementary District Regulations, Division 3, Yard Requirements, Section 110-245, Structures extending over setback lines, is hereby amended to read as follows:

Sec. 110-245. - Structures extending over setback lines.

- (a) The part of the space between the prescribed setback lines and the parallel property lines shall be free from fabricated structures, except for sills or roof overhangs. Roof overhangs shall not exceed 30 inches over the prescribed setback line. Mechanical, air conditioning and electrical equipment are allowed in the side yard setbacks, but shall not exceed four (4) feet over the prescribed setback line. All setback lines of the building shall be measured from the closest point of the building to the appropriate property line. If, as in the case of building built in flood zones, the first habitable floor is built above the regulatory flood elevation, and the first habitable floor protrudes, projects, or overhangs that portion below the regulatory flood elevation, the setback line shall be measured from a projected vertical line from the closest point of any building wall to the ground. The applicable setback line shall be measured from the property line to the point where the projected vertical line meets the ground.
- (b) The street-front setback line of all buildings shall be measured as shown in subsection (a) of this section, except that, in the case of commercial buildings, a fixed self-supported canopy may extend over the setback line a distance of five feet.
- (c) Open fire escapes, open stairways, and ordinary projections of chimneys and flues beyond the rear setback line are permitted for a distance not more than ten feet, but only when they are so placed as not to obstruct light and ventilation.

**Section 4.** Chapter 110, Zoning, Article IV, Supplementary District Regulations, Division 7, Accessory Uses, Section 110-344, Swimming pools and Spas, is hereby amended to read as follows:

Sec. 110-344. - Swimming pools and spas.

**ORDINANCE NO. 2019-**

The following standards shall apply to swimming pools and spas:

- (1) *Projection above grade.* Except for spas, as provided in subsection (7) of this section, no part of the pool structure shall protrude more than one foot above the adjacent finished grade.
- (2) *Location of pool equipment and pool decks.* When located on a nonwaterfront lot or lot abutting the Intracoastal Waterway, pool mechanical equipment, including pumps, filters, heaters and similar apparatus, and pool decks, shall not be permitted in front yards, and shall maintain a minimum five-foot setback from any side or rear property line. When located on a lot abutting the Gulf of Mexico, pool mechanical equipment and pool decks may be located in any yard, ~~and shall maintain a minimum five-foot setback from any property line.~~
- (3) *Setback from retaining walls and seawalls.* The building official shall be empowered to increase the minimum required setback of a pool from a retaining or seawall where it can be shown that the minimum setback as defined in this section would interfere with tie-backs or alter the structural integrity of the retaining wall or seawall.
- (4) *Location of pools on nonwaterfront lots.* The edge of water for a swimming pool shall be set back to comply with the side and rear yard setbacks for the zoning district in which the property is located. No pool shall be permitted in a front yard.
- (5) *Location of pools on lots abutting Intracoastal Waterway.* The edge of water for a swimming pool shall be set back a minimum of 12 feet from the centerline of the seawall cap, and comply with the side yard setbacks for the zoning district in which the property is located. No pool shall be permitted in a front yard.
  - a. A swimming pool located on lots abutting the Intracoastal Waterway may be located within the required rear yard setback of 12 feet provided that prior to the issuance of a permit, applicant provides a set of calculations and engineered drawings signed by a licensed professional engineer registered in Florida stating that the proposed swimming pool will not affect the integrity or functioning of the seawall under the most adverse conditions. Fence enclosures must comply with Chapter 110, Zoning, Article IV, Supplementary District Regulations, Division 5, Fences, Walls and Hedges.
- (6) *Location of pools on lots abutting Gulf of Mexico.* Pools shall be permitted in any yard where the following setback requirements can be met: The edge of water for a swimming pool shall be set back a minimum of 18 feet from the centerline of the seawall cap, and comply with the rear and side yard setbacks for the zoning district in which the property is located.
  - a. A swimming pool located on lots abutting the Gulf of Mexico may be located within the required front yard setback of 18 feet, but eastward of the coastal construction control line (CCCL), provided that prior to the issuance of a permit, applicant provides a set of calculations and engineered drawings signed by a licensed professional engineer registered in Florida stating that the proposed swimming pool will not affect the integrity or functioning of the seawall under the most adverse conditions. Fence enclosures must comply with Chapter 110, Zoning, Article IV, Supplementary District Regulations, Division 5, Fences, Walls and Hedges. In no case will a swimming pool be permitted westward of the coastal construction control line.
- (7) *Spas, jacuzzis, and hot tubs.* Spas, as defined in section 14-421, shall be permitted in accordance with the following standards:

- a. When located on nonwaterfront lots and lots abutting the Intracoastal Waterway, spas may be located in rear and side yards so long as a five-foot setback is maintained from the property line.
  - b. When located on lots abutting the Gulf of Mexico, spas may be located in any yard, so long as a five-foot setback is maintained from the property line.
  - c. The capacity of any spa permitted pursuant to this subsection shall not exceed 500 gallons. Larger spas shall be permitted in accordance with subsections (1) through (6) of this section.
  - d. Spas shall not exceed four feet in height above the adjacent finished grade, or four feet in height above a deck permitted in accordance with chapter 14.
  - e. The provisions of this subsection (7) shall also apply to spas which are constructed as part of and integrated into a swimming pool.
  - f. The provisions of this subsection (7) shall also apply to decorative waterfalls where they are constructed as part of or integrated into a spa or swimming pool, provided the length or diameter of the improvement does not exceed six feet.
  - g. A maximum of one spa per residential unit is permitted pursuant to this subsection.
- (8) *Protective barrier.* A four-foot-high protective barrier shall be provided for all pools and spas. This barrier shall comply with appendix E of the American National Standard for Residential Inground Swimming Pools (ANSI/NSPI-5 1995).

**Section 5.** Chapter 110, Zoning, Article VIII, Design Standard, section 110-826 Prohibited Features, is hereby amended to read as follows:

Sec. 110-826. - Prohibited features.

- (1) Windows that are arranged to create an uninterrupted or continuous band.
- (2) Balconies that are arranged to create an uninterrupted or continuous band, such as motel-style common linear balconies.
- (3) Non-prominent entrance features, such as the use of a narrow staircase to access multiple units.
- (4) Exposed painted concrete masonry units.
- (5) Metallic, neon or fluorescent colors for exterior walls.
- (6) Visible ~~mechanical, air conditioning and electrical equipment~~, antennas (except approved telecommunication antennas per sections 110-521 through 110-560), satellite dishes (except as allowed per Division 15, Satellite Dish Antennas, section 110-581 et seq.), and garbage containers (enclosures shall meet minimum primary structure setback requirements and all containers shall be kept in a landscaped enclosure constructed per section 50-64).
- (7) Structures or components of structures that are of symbolic design for reasons of advertising (e.g. "twisty" cone-shaped buildings).
- (8) Dirt, gravel or shell driveways (except single-family and duplex residences).
- (9) Asphalt sidewalks.

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(10) Chain link fencing in yards facing the Gulf of Mexico or a right-of-way (excluding alleys, where chain link fences must be coated).

**Section 6.** In all other respects, the provisions of the Land Development Regulations of the City of Indian Rocks Beach, Florida, not hereby amended or modified shall remain in full force and effect.

**Section 7.** Each provision hereof shall be considered separable, and the invalidity of any provision of this Ordinance shall not affect the validity of any other provision of this Ordinance or Subpart B of the City of Indian Rocks Beach Code of Ordinances.

**Section 7.** This Ordinance shall be included in the Land Development Regulations of the City of Indian Rocks Beach, Florida and the publisher of the Land Development Regulations may renumber or reclassify such other provisions of the Land Development Regulations to accomplish such intention.

**Section 8.** All ordinances or parts of ordinances, in conflict herewith are hereby repealed, to the extent of such conflicts.

**Section 9.** This Ordinance shall become effective immediately upon final passage as allowed by law.

**PUBLISHED** this \_\_\_ day of \_\_\_ 2019, in the Tampa Bay Times newspaper.

**PASSED ON FIRST READING** on the \_\_\_ day of \_\_\_ 2019, by the City Commission of the City of Indian Rocks Beach

**PUBLISHED** this \_\_\_ day of \_\_\_ 2019, in the Tampa Bay Times newspaper

**ADOPTED ON SECOND AND FINAL READING** on the \_\_\_ day of \_\_\_ 2019, by the City Commission of the City of Indian Rocks Beach, Florida.

\_\_\_\_\_  
Joanne "Cookie" Kennedy, Mayor

ATTEST:

\_\_\_\_\_  
Deanne B. O'Reilly, MMC, City Clerk

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Randy D. Mora, City Attorney

**AGENDA ITEM NO. 4**

**ADJOURNMENT**