

ORDINANCE NO. 90-19-238

AN ORDINANCE OF THE CITY OF ATLANTIC BEACH, COUNTY OF DUVAL, STATE OF FLORIDA, AMENDING VARIOUS PROVISIONS RELATED TO MAXIMUM IMPERVIOUS SURFACE LOT COVERAGE, STORMWATER AND DRAINAGE MANAGEMENT REQUIREMENTS AND APPROVAL PROCEDURES IN CHAPTER 24, LAND DEVELOPMENT REGULATIONS; AMENDING SECTIONS: 24-17, DEFINITIONS; 24-64, VARIANCES; 24-66, STORMWATER, DRAINAGE, STORAGE AND TREATMENT REQUIREMENTS; 24-104, RESIDENTIAL SINGLE-FAMILY-LARGE LOT; 24-105, RESIDENTIAL, SINGLE-FAMILY; 24-106, RESIDENTIAL, SINGLE-FAMILY; 24-107, RESIDENTIAL GENERAL, TWO-FAMILY; 24-108, RESIDENTIAL GENERAL, MULTI-FAMILY; 24-115, RESIDENTIAL, SELVA MARINA; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the Florida Constitution provides that municipalities shall have governmental, corporate and proprietary powers to enable municipalities to conduct municipal government, perform municipal functions and render municipal services; and

WHEREAS, pursuant to the referenced provision of the Florida Constitution, a city may exercise any power for municipal purposes except as otherwise provided by law; and

WHEREAS, Chapter 166, Florida Statutes, the “Municipal Home Rule Powers Act”, reinforces the authority granted under the Florida Constitution and authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by law and to enact ordinances in further thereof; and

WHEREAS, the 2018 update of the City’s Stormwater Master Plan recommended over \$18 million worth of capital improvement projects designed to reduce neighborhood level flooding resulting from a 25-year frequency storm event; and

WHEREAS, the 2018 update of the City’s Stormwater Master Plan included the technical memo, Impervious Surface Drainage Impact Analysis, where it was found that surface flooding will occur more frequently and at greater depths as impervious surface coverage increases; and

WHEREAS, the City Commission finds that this Ordinance shall provide for orderly growth; encourage the appropriate use of land; protect and conserve the value of property; prevent the overcrowding of land; promote, protect and improve the health, safety, comfort,

good order, appearance, convenience, and general welfare of the public; and implement the goals and objectives of the Comprehensive Plan; and

WHEREAS, the City Commission desires to develop and maintain Land Development Regulations that are free of conflict, and easily read and administered; and

WHEREAS, implementation of this Ordinance is in the best interest of the citizens of the City of Atlantic Beach; and

WHEREAS, public hearings were held by the Community Development Board and the City Commission after proper public notice in accordance with Section 24-51 of the City of Atlantic Beach Code of Ordinances; and

WHEREAS, the City Commission reviewed this Ordinance at two separate public hearings where it considered comments from staff and the public, and found the Ordinance to be consistent with the City's Comprehensive Plan and now desires to enact this Ordinance.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION ON BEHALF OF THE PEOPLE OF THE CITY OF ATLANTIC BEACH, FLORIDA:

SECTION 1. Regulation Amended. Section 24-17 of the Code of Ordinances of the City of Atlantic Beach, Florida, is hereby amended to read as follows:

Impervious surface shall mean those surfaces that prevent the entry of water into the soil. Common impervious surfaces include, but are not limited to, rooftops, sidewalks, patio areas, driveways, parking lots, swimming pools, and other surfaces made of concrete, asphalt, brick, plastic, or any surfacing material with a base or lining of an impervious material. Wood decking elevated two (2) or more inches above the ground shall not be considered impervious provided that the ground surface beneath the decking is not impervious. Pervious areas beneath roof or balcony overhangs that are subject to inundation by stormwater and which allow the percolation of that stormwater shall not be considered impervious areas. ~~Swimming pools shall not be considered as impervious surfaces because of their ability to retain additional rainwater, however, decking around a pool may be considered impervious depending upon materials used. Surfaces using pervious concrete or other similar open grid paving systems shall be calculated as fifty (50) percent impervious surface, provided that no barrier to natural percolation of water shall be installed beneath such material. Open grid pavers must be installed on a sand base, without liner, in order to be considered fifty (50) percent impervious. Solid surface pavers (e.g., brick or brick appearing pavers as opposed to open grid pavers) do not qualify for any reduction in impervious area, regardless of type of base material used. Unless otherwise and specifically provided for in these land development regulations, or within another ordinance, or by other official action establishing specific impervious surface limits for a particular lot or development project, the fifty (50) percent impervious surface limit shall be the maximum impervious surface limit for all new residential~~

~~development and redevelopment. In such cases where a previously and lawfully developed project exceeds the limit, redevelopment or additions to existing residential development shall not exceed the pre-construction impervious surface limit, provided the stormwater and drainage requirements of section 24-66 are met.~~

SECTION 2. Regulation Amended. Section 24-64 of the Code of Ordinances of the City of Atlantic Beach, Florida, is hereby amended to read as follows:

A variance may be sought in accordance with this section. Applications for a variance may be obtained from the community development department. A variance shall not reduce minimum lot area, minimum lot width or lot depth, and shall not increase maximum height of building ~~or impervious surface area~~ as established for the various zoning districts. Further, a variance shall not modify the permitted uses or any use terms of a property.

SECTION 3. Regulation Amended. Section 24-66 of the Code of Ordinances of the City of Atlantic Beach, Florida, is hereby amended to read as follows:

(a) *Topography and grading.* All lots and development sites shall be constructed and graded in such a manner so that the stormwater drains to the adjacent street, an existing natural element used to convey stormwater (see section 22-303, definitions: Stormwater management system), or a city drainage structure after meeting onsite storage requirements, as set forth within this section. The city shall be provided with a pre-construction topographical survey prior to the issuance of a development permit and a post-construction topographical survey prior to the issuance of a certificate of occupancy. Elevations in all topographic surveys will be referenced to NAVD 1988. Said surveys shall be signed and sealed ~~prepared~~ by a licensed Florida surveyor, ~~and the requirement for either or both surveys may be waived by the director of public works if determined to be unnecessary.~~

Except as required to meet coastal construction codes as set forth within a valid permit from the Florida Department of Environmental Protection; or as required to meet applicable flood zone or stormwater regulations as set forth herein, the elevation or topography of a development or redevelopment site shall not be altered.

(b) *Onsite storage.* ~~The~~ Except as provided herein, an applicant shall be required to provide onsite storage of stormwater, such that there is no increase in the rate or volume of flow to offsite, from for all development and redevelopment projects every developed or redeveloped parcel, and for any addition or modification that increases the impervious surface area on a developed lot by more than ten (10) percent or four hundred one hundred fifty (400150) SF square feet. whichever is smaller and Any modification or replacement of driveway and sidewalk areas only on a developed lot shall not require onsite storage improvements provided the modification or replacement does not alter

the footprint of the existing driveway or sidewalk area. Applicants shall provide documentations and calculations to demonstrate compliance with submittal of applications for construction. Development projects previously permitted by the St. Johns River Water Management District (SJRWMD), which have an in-compliance existing retention or detention system that collects and controls runoff, stormwater as of [insert effective date of ordinance here] are exempt from further onsite storage requirements; provided, however, a copy of the Engineer's Certification of As-Built Construction to the SJRWMD must be submitted to the city before issuing building permits for individual lot construction may begin be issued. The requirement for onsite storage may be waived by the director of public works if storage is determined to be unnecessary or unattainable. If When onsite storage is required for any new development or redevelopment, or any addition or modification, an as-built survey, signed and sealed by a licensed Florida surveyor engineer, documenting proper construction and required volume of the storage system, must be submitted to and approved by the director of public works prior to permit closeout or issuance of a certificate of occupancy. For an under-ground system, a notarized letter from the general contractor, along with red-lined as-built plans and construction photographs, will be sufficient to document proper construction. In addition, a declaration of restrictive covenant, in recordable form and approved by the city, identifying and describing the required on-site storage improvements to be maintained, shall be executed and recorded in the public records of Duval County, Florida, by the owner of the subject parcel and shall be binding on successors and assigns, prior to permit closeout or issuance of a certificate of occupancy.

Volume calculations for lots any projects that require onsite storage should shall be based on the difference in runoff volume generated by the new impervious area (“delta volume”) and would be calculated by: following calculation:

$V = CAR/12$, where

V = volume of storage in cubic feet,

A = ~~area of the lot in square feet~~ total impervious area,

R = 25-year and 24-hour rainfall depth (9.3 inches) over the lot area, and

C = runoff coefficient, which is ~~0.6 for the fifty (50) percent maximum imperviousness, 0.4 for twenty five (25) percent imperviousness, and 0.2 for zero (0) percent imperviousness~~ 0.92 which is the difference between impervious area (C=1.0) and undeveloped conditions (C=0.08).

This ~~delta-volume (post V minus per V in cubic feet)~~ must be stored at least one (1) foot above the wet season water table and below the overflow point to offsite (in many cases this may be the adjacent road elevation). As an option,

and as approved by the director of public works, ~~the owner of the parcel to be developed or redeveloped~~ an applicant may implement, at the applicant's cost, offsite storage and necessary conveyance to control existing flood stages offsite, provided documentation showing appropriate authorization for the off-site use and meeting the requests of this section is submitted and approved by the city.

- (c) *Floodplain storage.* There shall be no net loss of storage for areas in ~~the a~~ Special Flood Hazard Area (100-year floodplain), where a ~~floodplain~~ base flood elevation has been defined by ~~either~~ the Federal Emergency Management Agency (FEMA) on flood insurance rate maps (FIRMs), ~~the 1995 Stormwater Master Plan, the Core City project, or the 2002 Stormwater Master Plan Update (e.g., Hopkins Creek).~~ Site grading shall create storage onsite to mitigate for filling of volume onsite. This storage is in addition to the storage required for the increase in impervious surface area. The applicant shall provide signed and sealed engineering plans and calculations documenting that this "no net loss" requirement is met.
- (d) *Stormwater treatment.* For all new development or redevelopment of existing properties, excluding single- and two-family uses, where construction meets limits for requiring building code upgrades, stormwater treatment shall be provided for a volume equivalent to either retention or detention with filtration, of the runoff from the first one (1) inch of rainfall; or as an option, for facilities with a drainage area of less than one hundred (100) acres, the first one-half (½) inch of runoff pursuant to Chapter 62-25330, Florida Administrative Code (FAC). No discharge from any stormwater facility shall cause or contribute to a violation of water quality standards as provided in Section 62.302 of the Florida Administrative Code. This treatment volume can be included as part of the onsite storage requirement in item d(2) [subsection (b)] of this section.
- (e) *NPDES requirements.* All construction activities shall be in conformance with the city's National Pollutant Discharge Elimination Systems (NPDES) permit, in addition to the requirements of the St. Johns River Water Management District and the Florida Department of Environmental Protection. NPDES requirements include use of best management practices (BMPs) prior to discharge into natural or artificial drainage systems. All construction projects of one (1) acre or more require a stand-alone NPDES permit. Site clearing, demolition and construction on any size site may not commence until site inspection and approval of the proper installation of a required best management practices erosion and sediment control plan is completed.
- (f) *Enforcement.* Subsequent to approval of a property owner's final grading, including onsite and/or floodplain storage and stormwater treatment and closeout of the applicable permit or issuance of certificates of occupancy, the improvements shall be maintained by the property owner. In order to ensure

compliance with the provisions of this section and the requirements to maintain onsite stormwater improvements over time, the City is authorized to conduct inspections of property, upon reasonable notice and at reasonable times, for the purpose of inspecting said property and/or onsite storage improvements for compliance with this section and with any applicable conditions of previously issued permits. Failure to maintain the improvements will require restoration upon notification by the director of public works, within a stipulated time frame. If restoration is not timely completed, the city shall have the right to complete the restoration, and the city's actual cost incurred, together with a charge of one hundred (100) percent of said costs to cover the city's administrative expenses, shall be charged to the then owner of the property.

- (g) ~~Minor waivers~~Variances to impervious surface area limits. ~~The director of public works shall have the authority to waive the impervious surface area up to five (5) percent of the established limit upon demonstration by the property owner or applicant that preceding stormwater standards shall be maintained and upon showing of good cause and need for the increased impervious surface area which shall be based upon the inability to meet limits due to site constraints or pre-existing conditions. Any reduction shall be calculated based upon the total square footage of lot area and the square footage of the allowed impervious surface area. For example, on a seven thousand five hundred (7,500) square foot lot, the allowed impervious surface area is three thousand seven hundred fifty (3,750) square feet, and the maximum impervious surface area permitted to be waived in accordance with this provision is one hundred eighty seven and one half (187.5) square feet.~~ Variances to impervious surface limits shall be subject to the provisions in Section 24-64. Impervious surface requirements shall not be eligible for relief via waivers from the city commission.

SECTION 4. Regulation Amended. Section 24-104 of the Code of Ordinances of the City of Atlantic Beach, Florida, is hereby amended to read as follows:

- (f) *Building restrictions.* Additional building restrictions within the RS-L zoning district shall be:
- (1) Maximum impervious surface: ~~Fifty~~ Forty-five (45) percent; provided, however, where lawfully existing structures and improvements on a parcel exceed this applicable percentage, redevelopment of such parcels or additions/modifications to such structures and improvements shall not exceed the pre-existing impervious surface percentage, provided the requirements of section 24-66 are met.
 - (2) Maximum building height: Thirty-five (35) feet.

SECTION 5. Regulation Amended. Section 24-105 of the Code of Ordinances of the City of Atlantic Beach, Florida, is hereby amended to read as follows:

- (f) *Building restrictions.* Building restrictions within the RS-1 zoning district shall be:

- (1) Maximum impervious surface: ~~Fifty-Forty-five (50-45)~~ percent; provided, however, where lawfully existing structures and improvements on a parcel exceed this applicable percentage, redevelopment of such parcels or additions/modifications to such structures and improvements shall not exceed the pre-existing impervious surface percentage, provided the requirements of section 24-66 are met.
- (2) Maximum building height: Thirty-five (35) feet.

SECTION 6. Regulation Amended. Section 24-106 of the Code of Ordinances of the City of Atlantic Beach, Florida, is hereby amended to read as follows:

- (f) *Building restrictions.* Building restrictions within the RS-2 zoning district shall be:
 - (1) Maximum impervious surface: ~~Fifty-Forty-five (50-45)~~ percent; provided, however, where lawfully existing structures and improvements on a parcel exceed this applicable percentage, redevelopment of such parcels or additions/modifications to such structures and improvements shall not exceed the pre-existing impervious surface percentage, provided the requirements of section 24-66 are met.
 - (2) Maximum building height: Thirty-five (35) feet.

SECTION 7. Regulation Amended. Section 24-107 of the Code of Ordinances of the City of Atlantic Beach, Florida, is hereby amended to read as follows:

- (f) *Building restrictions.* The building restrictions for the RG zoning district shall be:
 - (1) Maximum impervious surface: ~~Fifty-Forty-five (50-45)~~ percent; provided, however, where lawfully existing structures and improvements on a parcel exceed this applicable percentage, redevelopment of such parcels or additions/modifications to such structures and improvements shall not exceed the pre-existing impervious surface percentage, provided the requirements of section 24-66 are met.
 - (2) Maximum building height: Thirty-five (35) feet.

SECTION 8. Regulation Amended. Section 24-108 of the Code of Ordinances of the City of Atlantic Beach, Florida, is hereby amended to read as follows:

- (f) *Building restrictions.* The building restrictions for the RG-M zoning district shall be as follows:
 - (1) Maximum impervious surface: ~~Fifty-Forty-five (50-45)~~ percent; provided, however, where lawfully existing structures and improvements on a parcel exceed this applicable percentage, redevelopment of such parcels or additions/modifications to such structures and improvements shall not exceed the pre-existing impervious surface percentage, provided the requirements of section 24-66 are met.
 - (2) Maximum building height: Thirty-five (35) feet.

SECTION 9. Regulation Amended. Section 24-115 of the Code of Ordinances of the City of Atlantic Beach, Florida, is hereby amended to read as follows:

(g) *Building restrictions.* The following building restrictions shall apply within the R- SM zoning district:

- (1) Maximum impervious surface: ~~Fifty-Forty-five (50-45)~~ percent; provided, however, where lawfully existing structures and improvements on a parcel exceed this applicable percentage, redevelopment of such parcels or additions/modifications to such structures and improvements shall not exceed the pre-existing impervious surface percentage, provided the requirements of section 24-66 are met.
- (2) Maximum building height: Thirty-five (35) feet.

SECTION 10. Conflict. All ordinances, resolutions, official determinations or parts thereof previously adopted or entered by the City or any of its officials and in conflict with this Ordinance are repealed to the extent inconsistent herewith.

SECTION 11. Severability. If a Court of competent jurisdiction at any time finds any provision of this Ordinance to be unlawful, illegal, or unenforceable, the offending provision shall be deemed severable and removed from the remaining provisions of this Ordinance which shall remain in full force and intact.

SECTION 12. Effective Date. This ordinance shall take effect upon final reading and approval.

PASSED by the City Commission on first reading this ____ day of _____, 2019.

PASSED by the City Commission on second and final reading this ____ day of _____, 2019.

CITY OF ATLANTIC BEACH

Ellen Glasser, Mayor

Attest:

Donna L. Bartle, City Clerk

Approved as to form and correctness:

Brenna M. Durden, City Attorney