

ORDINANCE 2016-06

AN ORDINANCE OF THE CITY OF MADEIRA BEACH, FLORIDA, CREATING SECTION 86-29 OF THE CODE OF ORDINANCES TO PROVIDE FOR ADMINISTRATIVE WAIVERS; PROVIDING FOR PURPOSE, APPLICABILITY, AUTHORITY, APPLICATION PROCESS, REVIEW, FINDINGS AND DECISION, CONDITIONS OF APPROVAL, AND APPEAL PROCEDURES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, under certain circumstances City staff has found that the strict application of the City's Land Development Regulations has denied a property owner privileges enjoyed by other property owners in the same vicinity and zoning district; and

WHEREAS, City staff has reviewed Subpart B – Land Development Regulations of the Madeira Beach Code of Ordinances and found it necessary to create a process for administratively waiving standards of the Land Development Regulations; and

WHEREAS, the granting of certain administrative waivers may only occur when special circumstances apply and specific findings have been made; and

WHEREAS, it is necessary to exclude administrative waivers for permitted land uses, density, floor area ratio, prohibited development standards, and procedural requirements; and

WHEREAS, the Board of Commissioners has determined it is meritorious establish a process for waiving certain provisions of the Land Development Regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MADEIRA BEACH, FLORIDA:

Section 1. That Section 86-29 of Article I of Chapter 86 of the Code of Ordinances of the City of Madeira Beach is hereby created to read as follows:

Sec. 86-29 - Administrative waiver.

- (a) *Purpose.* Administrative waiver provides a process for the city staff to consider requests to waive or modify certain standards of this Code when, special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other physical features, the strict application of the development regulations otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same zoning district.
- (b) *Applicability.* An administrative waiver may be granted to waive or modify any requirement of the land development regulations (LDR) except: permitted land uses; density; floor area ratio; specific prohibitions (for example, prohibited signs), or procedural requirements.
- (c) *Review authority.* The City Manager or designee may approve an administrative waiver to grant relief from the required setbacks in the LDR, up to a maximum variance of fifteen percent of the requirement or a maximum of five feet, whichever is smaller.

An administrative waiver may also be used to grant relief from "on-site parking, loading, and landscaping" up to a maximum reduction of ten percent provided there is less than a one percent reduction in the impervious surface ratio on the site.

- (d) *Application filing and processing.* An application for an administrative waiver shall be completed, filed, the required application fee paid and processed in compliance with this chapter. It is the responsibility of the applicant to provide evidence in support of the findings required in subsection (f).
- (e) *Project review, notice and hearing.* Each application shall be reviewed by the City Manager or designee to ensure that the proposal complies with this Section, and other applicable requirements of the LDR. The City Manager or designee may approve or deny an administrative waiver without a public hearing or public notice.
- (f) *Findings and decision.* The City Manager or designee may approve or deny an application for an administrative waiver. The City Manager or designee shall record the decision and the findings on which the decision is based.
 - (1) *General findings.* The City Manager or designee may approve an administrative waiver only after first making all of the following findings.
 - a. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, so that the strict application of the LDR deprives the property of privileges enjoyed by other property in the vicinity and within the same zoning district;
 - b. The approval of the administrative waiver includes conditions of approval as necessary to ensure that the adjustment granted does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zoning district; and
 - c. The administrative waiver is consistent with the comprehensive plan, and any other adopted plan or policy of the city.
 - (2) *Reasonable accommodation.* The City Manager or designee may also grant an administrative waiver to the site planning or development standards of the LDR in compliance with this section, based on the finding that the waiver is necessary to accomplish a reasonable accommodation of the needs of a disabled person, in compliance with the Americans with Disabilities Act (ADA).
 - (3) *Sanitation service.* The City Manager or designee may also grant an administrative waiver to the site planning or development standards of the LDR in compliance with this section, based on the finding that the waiver is necessary to install a dumpster and provide traffic circulation on the site for the sanitation vehicle.
 - (4) *Improvements to existing buildings.* The City Manager or designee may also grant an administrative waiver to a development standard of the LDR in compliance with this section, based on the finding that the improvement is required by the Florida Building Code.
- (g) *Conditions of approval.* In approving an administrative waiver, the City Manager or designee:
 - (1) Shall impose conditions to ensure that the approval does not grant special privileges inconsistent with the limitations on other properties in the vicinity and zoning district in which the property is located; and

(2) May impose any reasonable conditions to ensure that the approval complies with the findings required by subsection (f).

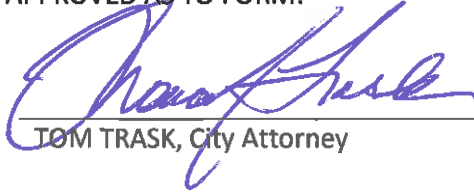
(h) *Appeal procedures.* A property owner that is denied an administrative waiver may, before presenting their grievance to any circuit court or other court of competent jurisdiction attacking the land development regulations, or any of its terms and provisions, shall first apply to the board of commissioners of the city, or petitioning the special magistrate for relief as in such cases made and provided.

Section 2. That this Ordinance shall become effective immediately upon its passage and adoption.


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PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF MADEIRA BEACH, FLORIDA THIS 9TH
DATE OF AUGUST, 2016.

APPROVED AS TO FORM:



TOM TRASK, City Attorney



TRAVIS PALLADENO, Mayor

ATTEST:



AIMEE SERVEDIO, City Clerk

PLANNING COMMISSION RECOMMENDATION:	<u>07/11/2016</u>
PASSED ON FIRST READING:	<u>07/12/2016</u>
PUBLISHED:	<u>07/22/2016</u>
PASSED ON SECOND READING:	<u>08/09/2016</u>

All dates tentative, based on recommendations and official votes at public hearings.

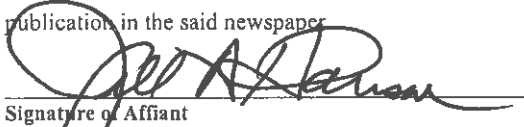
Tampa Bay Times

Published Daily

STATE OF FLORIDA)
COUNTY OF Pinellas County ss

Before the undersigned authority personally appeared **Jill Harrison** who on oath says that he/she is **Legal Clerk of the Tampa Bay Times** a daily newspaper printed in St. Petersburg, in Pinellas County, Florida; that the attached copy of advertisement, being a Legal Notice in the matter **RE: Ord. 2016-06** was published in **Tampa Bay Times: 7/22/16**. in said newspaper in the issues of **St Pete Times Beaches**

Affiant further says the said **Tampa Bay Times** is a newspaper published in Pinellas County, Florida and that the said newspaper has heretofore been continuously published in said Pinellas County, Florida, each day and has been entered as a second class mail matter at the post office in said Pinellas County, Florida for a period of one year next preceding the first publication of the attached copy of advertisement, and affiant further says that he/she neither paid not promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper


Signature of Affiant

Sworn to and subscribed before me this 07/22/2016.

Signature of Notary Public

Personally known or produced identification

Type of identification produced _____



LEGAL NOTICE

NOTICE OF PUBLIC HEARING CITY OF MADEIRA BEACH

In accordance with the City of Madeira Beach Code of Ordinances, the City of Madeira Beach Charter, and Florida Statutes §166.041 (3)(a):

NOTICE IS HEREBY GIVEN, the Board of Commissioners of the City of Madeira Beach will conduct a second and final hearing and proposes to adopt **Ordinance 2016-06** on **Tuesday, August 9, 2016** at 6:00 p.m. City of Madeira Beach Commission Chambers, located at 300 Municipal Drive, Madeira Beach, FL 33708.

The title of said Ordinance is as follows:

ORDINANCE 2016-06

AN ORDINANCE OF THE CITY OF MADEIRA BEACH, FLORIDA, CREATING SECTION 86-29 OF THE CODE OF ORDINANCES TO PROVIDE FOR ADMINISTRATIVE WAIVERS; PROVIDING FOR PURPOSE, APPLICABILITY, AUTHORITY, APPLICATION PROCESS, REVIEW, FINDINGS AND DECISION, CONDITIONS OF APPROVAL, AND APPEAL PROCEDURES; AND PROVIDING FOR AN EFFECTIVE DATE.

Copies of the proposed Ordinance are available for inspection in the Office of the City Clerk between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

All persons are hereby advised that any presentation they make to the Board of Commissioners will be encouraged to be as precise as possible. The Board of Commissioners may limit the time of each individual to permit maximum participation by the public at large. Any person who decides to appeal any decision of the Board of Commissioners with respect to any matter considered at this meeting will need a record of proceedings, and for such purposes 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. Therefore, any person needing a verbatim record must make the necessary arrangements with a private reporter or private recording firm and bear the resulting expense. Any person with a disability requiring reasonable accommodation in order to participate in this meeting should call (727) 391-9951 or fax a written request to (727) 391-1131.

Aimee Servedio
City Clerk
7/22/2016