

**CITY OF LIGHTHOUSE POINT
FLORIDA**

ORDINANCE NO. 2014 – 0911

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, RELATING TO RESIDENTIAL OPEN AIR SHADE STRUCTURES; AMENDING CHAPTER 42, ENTITLED “LAND DEVELOPMENT CODE,” ARTICLE IV, ENTITLED “ZONING” BY AMENDING DIVISION 1, ENTITLED “DEFINITIONS,” TO DEFINE “OPEN AIR SHADE STRUCTURE” AND AMENDING DIVISION 5, ENTITLED “SUPPLEMENTAL REGULATIONS AND REQUIREMENTS FOR SPECIFIC USES,” SECTION 42-271 ENTITLED “YARD ENCROACHMENTS,” TO PERMIT OPEN AIR SHADE STRUCTURES AS EXCEPTIONS TO YARD ENCROACHMENTS AND PROVIDE FOR REGULATIONS FOR SUCH AND TO AMEND THE PROHIBITION OF GAZABOS, CABANAS, AND CHICKEE HUTS INTO ENCROACHMENTS; PROVIDING FOR PROCESS TO GRANT ADMINISTRATIVE DEVIATION FROM REQUIREMENTS FOR CERTAIN EXISTING OPEN AIR SHADE STRUCTURES; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City Administration and City Commission has undertaken a review of open air shade structures, including gazebos, cabanas, and chickee huts, that encroach into property setbacks within the City; and,

WHEREAS, despite the current prohibition of such structures within setbacks, a review of the City, through a survey of the City completed May 20, 2014, indicates a significant number of such structures exist; and,

WHEREAS, the City Commission has authorized and directed the City Administration to study the issue and proposed revisions to the City’s land development code that would permit Open Air Shade Structures that satisfy specific criteria to avoid excessive impacts on neighboring properties, including visual impacts, particularly along the City’s waterways; and,

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WHEREAS, the City Administration surveyed regulations of several municipalities in South Florida with extensive waterfront properties as to their regulations relating to setbacks, height limitations, and other regulations for Open Air Shade Structures; and,

WHEREAS, the City's Marine Advisory Board reviewed the matter and recommended the adoption of regulations that would, among other things, permit Open Air Shade Structures within residential setbacks, place height and size limitations on such structures, and limit such to one (1) per lot; and,

WHEREAS, the City's Planning and Zoning Board reviewed the proposed ordinance to amend the City's land development code to permit Open Air Shade Structures that satisfy specific regulations relating to such structures, and recommended that the City Commission adopt the ordinance; and,

WHEREAS, the City Commission has considered the proposed regulations for Open Air Shade Structures, the recommendations of the City's Marine Advisory Board and Planning and Zoning Board, and finds that it is in the best interest of the City to adopt this ordinance.

THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, THAT:

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. The Code of Ordinances of the City of Lighthouse Point, Florida, is hereby amended as follows:

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CHAPTER 42 – LAND DEVELOPMENT CODE
ARTICLE IV: ZONING
DIVISION 1: GENERALLY

Sec. 42-242. - Definitions.

The following words, terms and phrases when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

...

Open Air Shade Structure means a freestanding structure which is supported by columns or poles, open on all sides, and covered by a roof that is either open or solid, such as a tiki hut, chickee hut, canopy, gazebo, pergola, or open cabana.

CHAPTER 42 – LAND DEVELOPMENT CODE
ARTICLE IV: ZONING
DIVISION 5: SUPPLEMENTAL REGULATIONS AND
REQUIREMENTS FOR SPECIFIC USES

Sec. 42-371. - Yard encroachments.

(a) *Exceptions.* The side, street side, rear, and front setback spaces of any lot or parcel of land shall be open and unobstructed from the ground to the sky, with the exception of the following:

- (1) Ordinary projection of cornices, eaves, gutters, belt courses, and window sills, none of which to exceed three feet.
- (2) Flagpoles.
- (3) Fixed or movable window and door awnings limited to a projection not to exceed one-third of the minimum setback (side, rear or front) applicable to such lot. No such awning shall be supported from the ground in the setback area.
- (4) Mechanical equipment such as air-conditioning compressors, pool filters, water softeners, LP gas tanks, sprinkler controls, pool heaters, and any concrete pads used to support such mechanical equipment.
- (5) Underground garbage containers.
- (6) Unenclosed patios located no closer than four feet from the side lot line between the rear building setback line and the rear property line. Street side yards are exempt from this four foot setback requirement.

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- (7) Landscaping, including grass, low growing ground cover that covers the ground in place of grass, mulch, pebbles, bark chips, or other horticulturally suitable and pervious ground cover, shrubs, vines, trees, palms, or hedges. Hedges shall be subject to height limitations as provided elsewhere in this Code.
- (8) Walls and fences with height limitations as provided elsewhere in this Code.
- (9) Unenclosed pools, spas, and hot tubs subject to limitations as provided elsewhere in the Code.
- (10) Diving boards, sliding boards, and children's playground equipment. Children's playground equipment is defined to include swing sets with or without slides and other similar type appurtenances that do not exceed ten feet in height nor a foot print of no more than 100 square feet, measured on the ground by creating a square or rectangle around the ground contacts and not in the front setback area.
- (11) Driveways and walkways. Walkways located closer than three feet from the side lot line shall be constructed to retain rainwater on the property. Rain gutters shall be installed as necessary. Driveways are subject to setbacks from property lines, as provided elsewhere in this Code.
- (12) Permanent structures of not more than three feet in height nor more than 100 square feet in area and not located within eight feet of the rear and side lot line.
- (13) With respect to any front or rear setback or any side setback area which fronts on a dedicated public street, any bay window or balcony may intrude into such setback area, as follows:
- a. No more than two bay windows allowed per setback, provided that each bay window is limited in length to 12 feet and does not extend into the setback area any further than three feet and is cantilevered off the ground at least 12 inches from the lowest finished floor elevation of the first floor.
 - b. For any parcel that has a setback area of 15 feet or more on the facade where balconies are located, the combined total length of balconies allowed per setback shall not exceed 40 percent of the facade measured along the ground from the side walls in a straight line, may not extend into the setback any further than five feet, and may not be supported from the ground within the setback area. The same criteria shall apply to any parcel that has a setback area of less than 15 feet on the facade where the

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balconies are located except that they may not extend further than one-third of the setback area.

(14) Open Air Shade Structures as defined in Section 42-242, and which satisfy all of the following requirements:

- (a) No portion shall encroach closer than ten (10) feet from the rear lot line;
- (b) No portion shall encroach closer than the required building setback from a side lot line;
- (c) For any Open Air Shade Structure constructed with combustible thatched materials, no portion of the structure shall be closer than five (5) feet from the residential structure;
- (d) No portion shall exceed fifteen (15) feet in height from normal grade level, and in no instance should any portion of the structure be higher than the roofline of the principal structure;
- (e) The covered portion of the structure shall not exceed one hundred and fifty (150) square feet, as measured from the center of support posts;
- (f) The maximum roof projection from the structure shall be no greater than three (3) feet;
- (g) The structure must be open on all sides, from normal grade level to the roof beam;
- (h) No more than one (1) Open Air Shade Structure shall be permitted per lot;
- (i) All required building permits shall have been obtained; and.
- (j) The roof of the Open Air Shade Structure shall not be used as a deck, balcony, or for any other use, and no stairs shall extend to the roof of the Open Air Shade Structure.

(b) *Prohibited.* The following is a list of structures that are specifically prohibited in the side, street side, rear, and front setback spaces of any lot or parcel of land, but it is not intended to be a complete exclusive list of prohibited structures:

- (1) Awnings, canopies, or other roof-like structures supported from the ground in the setback area.
- (2) Any above-the-ground pool.

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- (3) Except as permitted in subsection 42-371(a)(14), Ggazebos, cabanas, chickee huts, and orchid or flower enclosures.
- (4) Sheds.
- (5) Clothesline poles.
- (6) Satellite dish antennae and television receiving antennae in the front yard.

(c) Administration Deviation from the Requirements in subsection 42-371(a)(14) for Existing Open Air Shade Structures. A property owner may apply for an Administrative Deviation from the requirements of subsection 42-371(a)(14) of this Code for an Open Air Shade Structure, in existence as of May 20, 2014, and/or any improvements contained within the Open Air Shade Structure in existence as of May 20, 2014, pursuant to the procedure described herein.

(1) The application for an Administrative Deviation shall be executed and submitted by the property owner, or their authorized representative, to the City's Building Department. The property owner may request approval for an Administrative Deviation from the requirements contained only in subsections 42-371(a)(14) (a), (b), (c), (d), (e), and (f). The City Commission may establish a fee for the application for an Administrative Deviation. An Administrative Deviation shall permit the structure to remain as a legal non-conforming use.

(2) The application for an Administrative Deviation shall be reviewed by the City Administrator, Fire Chief, and City Planner

(3) The decision on an application shall be made in writing and is final. In the event the property owner desires to appeal a denial of the request for an Administrative Deviation, the appeal shall be considered by the Planning and Zoning Board. For purposes of this consideration of the appeal, an appeal of a denial of an Administrative Deviation shall be considered to be an appeal of a decision or determination of an administrative official.

Section 3. Conflicts. All Ordinances or parts of Ordinances, Resolutions, or parts of Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 4. Severability. If any clause, section, or other part of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional

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or invalid part shall be considered as eliminated and in no way affecting the validity of the other provisions of this Ordinance.

Section 5. Codification. It is the intention of the City Commission of the City of Lighthouse Point that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Lighthouse Point, Florida, and that the Sections of this ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section", "Article" or such other word or phrase in order to accomplish such intention.

Section 6. Effective Date. This Ordinance shall take effect immediately upon its adoption.

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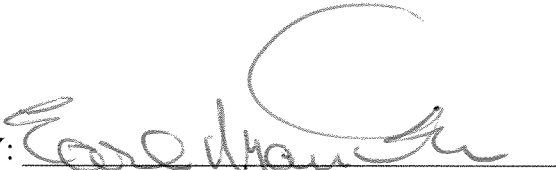
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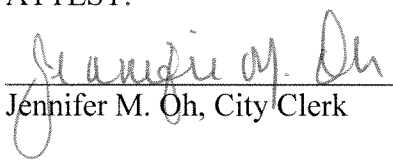
PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, ON THE FIRST READING, THIS 24th DAY OF JUNE, 2014.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, ON THE SECOND AND FINAL READING, THIS 8th DAY OF July, 2014.

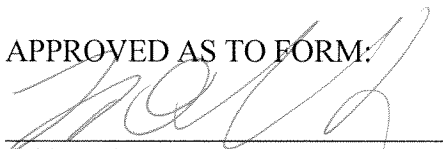
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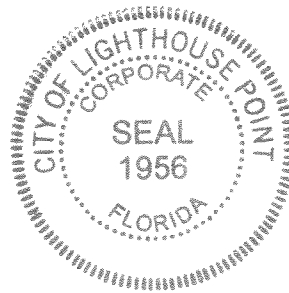

Earl Maucker, Commission President

ATTEST:


Jennifer M. Oh, City Clerk

APPROVED AS TO FORM:


Office of the City Attorney



Commission President Earl Maucker
Commission Vice President Becky Lysengen
Commissioner Sandy Johnson
Commissioner Michael S. Long
Commissioner Kyle Van Buskirk

Yes	No	Absent
<u>x</u>	_____	_____
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