

ORDINANCE NO. 2022-04

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 98, ZONING, ARTICLE V, SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 2 – HEIGHT, YARD AND AREA REQUIREMENTS, SECTION 98-1003. YARD ENCROACHMENTS, AND DIVISION 3 – ACCESSORY STRUCTURES, SECTION 98-1047. SCREEN ENCLOSURES; DELETING SECTION 98-1048. CALCULATION FOR COMPLIANCE WITH LOT COVERAGE IN RESIDENTIAL DISTRICTS; PROVIDING FOR INCLUSION IN THE CODE, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, the City has received requests from residential property owners to allow screen porches with hard cover roofs to extend into the required rear yard area; and

WHEREAS, in some instances, screen porches with hard cover roofs have been permitted to encroach into the required rear yard area in residential zoning districts; and

WHEREAS, by expressly allowing screen porches with hard cover roofs to extend into the required rear yard area on all single-family residential lots subject to specified requirements and limitations, this ordinance will provide clarity for property owners and City staff;

WHEREAS, the City Council finds that the adoption of this ordinance is in the best interests of the public health, comfort, safety, welfare, and quality of life of the citizens of the City of West Melbourne.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of West Melbourne, Brevard County, Florida, that:

Section 1. Findings. The foregoing recitals are hereby ratified and incorporated as findings of the City Council and as the legislative intent of this ordinance.

Section 2. Chapter 98 – Zoning, Article V. – Supplementary District Regulations, Division 2. – Height, Yard and Area Requirements, Section 98-1003. Yard encroachments is hereby amended to read as follows:

Sec. 98-1003. – Yard encroachments.

Every part of every required yard shall be open and unobstructed from the ground to the sky except as follows or as otherwise permitted in this chapter:

- (1) Sills or belt courses may project not over 18 inches into a required yard.

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- (2) Movable awnings may project not over four feet into a required yard, provided that where the yard is less than ten feet in width the projection shall not exceed one-half the width of the yard.
- (3) Chimneys, fireplaces or pilasters may project not over three feet into a required yard.
- (4) Fire escapes, stairways and balconies which are unroofed and unenclosed may project not over five feet into a required rear yard or not over three feet into a required side yard in any residential district. Balconies required as a feature of a decreased townhouse lot width may project not over three feet into the front yard of the R-2 and R-3 zoning districts.
- (5) Overhangs, hoods, canopies or marquees may project not over three feet into a required yard.
- (6) Fences, walls and hedges shall be permitted in required yards subject to the provisions established in this chapter.
- (7) In the C-P, C-1, C-2, C-1A, M-1 and M-2 districts, required off-street parking space may be located within any setback area, except that no parking space, drive or backout area shall be permitted within ten feet of any lot line and provided that the requirements of chapter 94 and section 98-1116 are satisfied.
- (8) Other than as listed above in subsection (7) of this section, or in the front yard of townhouses, no required setback area shall be used for any parking space, drive or backout area.
- (9) Open, unenclosed porches, platforms, or paved terraces not covered by a roof or a canopy and which do not extend above the level of the first floor of the building may extend or project into the required yard area not more than six feet.
- (10) On all single-family residential lots, screen porches may extend into the rear yard to within 15 feet of the rear lot line. However, any portion of the screen porch that projects into the required yard is subject to the following requirements and limitations:
 - a. All walls of the screen porch must be screen walls supported by a screen frame, except for the wall shared with the principal structure.
 - b. The screen walls may not be enclosed in any manner other than kickplates on the lower portion of the screen walls not to exceed 32 inches in height.
 - c. The screen porch may be covered by a hard roof, provided that such roof is a flat pan aluminum cover, insulated aluminum-clad

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foam roof, or similar roof system as approved by the building official.

d. The screen porch shall meet the same side yard requirements as the principal structure.

e. The screen porch may not extend above the first floor of the principal structure.

Section 3. Chapter 98 – Zoning, Article V. – Supplementary District Regulations, Division 2. – Height, Yard and Area Requirements, Section 98-1047. Screen enclosures is hereby amended to read as follows:

Sec. 98-1047. – Screen enclosures.

- (a) For the purpose of this section, screen enclosures shall be defined as accessory structures having a minimum of three screen walls and a screen roof.
- (b) Screen enclosures for one- and two-family dwellings shall not be closer than 7½ feet to a rear lot line. Screen enclosures for multiple-family dwellings shall not be closer than ten feet to any lot line, provided such enclosures are located to the rear of the principal structure. Screen enclosures for townhouses shall not be closer than five feet to a rear lot line.
- (c) Under no circumstances shall a permitted screen enclosure be converted into another type of room having alternative walls and/or a hard, covered roof unless the conversion is within the required setbacks of the principal structure.
- (d) For screen porches with hard roofs on single-family residential lots, see section 98-1003(10).

Section 4. Chapter 98 – Zoning, Article V. – Supplementary District Regulations, Division 2. – Height, Yard and Area Requirements, Section 98-1048. Calculation for compliance with lot coverage in residential districts is hereby deleted in its entirety.

~~Sec. 98-1048. – Calculation of floor area for compliance with lot coverage requirements in residential districts.~~

~~In residential zoning classifications, the floor area of accessory structures other than utility buildings, swimming pools and screen enclosures as defined in section 98-1047 shall be included with the floor area of a principal structure in calculating compliance with maximum lot coverage requirements. The floor area of utility buildings and screen enclosures and the area of swimming pools, swimming pool decks, terraces, driveways and sidewalks shall not be~~

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~~considered or included in determining compliance with such lot coverage requirements.~~

Section 5. Inclusion in the Code. It is the intention of the City Council of the City of West Melbourne that Sections 2 through 4 of this ordinance be made a part of the City of West Melbourne Code of Ordinances. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and similar or like errors may be corrected.

Section 6. Severability. The provisions of this ordinance are declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held by a court of competent jurisdiction to be invalid or unenforceable, such decision shall not affect the validity of the remaining terms, provisions, clauses, sentences, or sections of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

Section 7. Conflict with Other Ordinances. 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 hereby repealed to the extent inconsistent herewith.

Section 8. Effective Date. This ordinance shall become effective immediately upon its adoption by the City Council on second reading.

PASSED AND ADOPTED by the City Council of the City of West Melbourne, Brevard County, Florida, this 5th day of April, 2022.

1ST READING: March 15, 2022

2nd READING: April 5, 2022

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