

ARTICLE IV  
Residence R-4 District

**§ 164-16. Legislative intent.**

It is the intent of the Board of Trustees to provide for the health, safety and welfare of the residents of the Village of Ocean Beach by protecting the land within this district as part of the natural functioning of barrier beach from overuse and over-development which does not take into account the natural functioning of barrier beach and associated ecological systems.

**§ 164-17. Permitted uses.**

In the Residence R-4 District, no building, structure or premises shall be used or occupied and no building or part thereof or other structure shall be so erected or altered except for one or more of the following purposes:

- A. Single-family detached dwellings.
- B. Accessory buildings may be erected on the same lot, provided that all requirements of this chapter are met.

**§ 164-18. Uses permitted by special permit.**

The following uses shall be permitted by special permit from the Board of Trustees after public hearing and, except for property owned or leased by the Incorporated Village of Ocean Beach, following approval by the Fire Island National Seashore:

- A. Public utility.
- B. Community building; place of worship.
- C. Historical or memorial monument.
- D. Extension of a nonconforming use or building upon the lot occupied by such use or building at the effective date of this chapter by virtue of proven hardship.
- E. Any use or provision determined to require appeal from any order or decision made by any person designated by the Board of Trustees for such purpose, not expressly designated by the Board of Trustees to be determined by the Board of Appeals, including variance of area density requirements, by virtue of proven hardship.
- F. Temporary and conditional permits of limited duration for nonconforming uses and buildings by virtue of proven hardship.
- G. Office of a licensed physician or dentist residing on the premises and when such use is incidental to such residence; provided, however, that such use shall be within the main building and occupying not more than 1/3 of the first-floor area.  
**[Amended 3-14-1981 by L.L. No. 2-1981]**
- H. Municipal park, municipal playground, municipal recreation building or other

municipal building or use.

- I. (Reserved)<sup>1</sup>
- J. Receiving or transmission tower. **[Added 6-25-1983 by L.L. No. 7-1983]**

### **§ 164-19. Accessory uses.**

- A. The following accessory uses shall be permitted when located on the same lot with the authorized use:
  - (1) Signs, as permitted and regulated in § 164-29.
  - (2) Other customary accessory uses, structures and buildings, including outside showers, temporary storage sheds and sun decks, provided that such uses are clearly incidental to the principal use. An accessory use does not include any activity commonly conducted as a business. **[Amended 5-23-2009 by L.L. No. 3-2009]**
  - (3) Any accessory building shall be located in the same lot with the principal building, and no accessory building shall be constructed on a lot until the construction of the main building has actually been commenced, and no accessory building shall be used unless the main building on the lot is completed and used.
  - (4) Whenever a use has been authorized by special permit pursuant to § 164-18, no accessory use shall be permitted unless the same shall have been specifically authorized by the Board of Trustees.
- B. The following accessory uses shall be prohibited: **[Amended 3-16-1985 by L.L. No. 3-1985; 4-28-2006 by L.L. No. 5-2006]**
  - (1) Guesthouses, bathhouses or guest rooms not part of the principal structure.

### **§ 164-20. Height requirements.**

- A. In the Residence R-4 District, no two-story building or structure shall be erected or altered to a height in excess of 24 feet as measured from the finished first floor to the highest point of the roof. The highest structural roof member in the east-west direction shall be at a minimum of 16 feet from the north property line. The height limit for a flat roof on a two-story building or structure shall be 21 feet, No one-story building shall be erected or altered to a height in excess of 16 feet as measured from the finished first floor to the highest point of the roof. **[Amended 6-13-1981 by L.L. No. 4-1981; 11-22-1999 by L.L. No. 6-1999; 11-13-2004 by L.L. No. 2-2004; 9-8-2007 by L.L. No. 4-2007; 4-26-2008 by L.L. No. 1-2008; 11-2-2019 by L.L. No. 6-2019]**
- B. Accessory buildings and temporary storage sheds. **[Amended 5-23-2009 by L.L.**

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1. Editor's Note: Former Subsection I, regarding apartments, added 11-1-1980 by L.L. No. 12-1980, was repealed 8-12-2006 by L.L. No. 7-2006.

**No. 3-2009]**

- (1) Accessory buildings shall not exceed 10 feet in height as measured from the main-floor level.
- (2) Temporary storage sheds shall not exceed 10 feet in height.
- C. Exceptions subject to approval by the Board of Trustees after a public hearing:
  - (1) Place of worship.
  - (2) Flagpole in excess of 18 feet in height. **[Amended 5-23-2009 by L.L. No. 3-2009]**
  - (3) Stack, chimney or standpipe.
  - (4) Water tank.
  - (5) Receiving or transmission tower. **[Added 6-25-1983 by L.L. No. 7-1983]**

**§ 164-21. Plot area requirements. [Amended 9-8-2007 by L.L. No. 4-2007; 9-14-2019 by L.L. No. 5-2019]**

- A. Effective September 14 2019, the minimum required plot area for a single-family dwelling shall be 4,000 square feet. Any existing plots that are less than 4,000 square feet shall be deemed legally nonconforming.
- B. No property in the Residential R-4 District shall be subdivided in a manner which creates a plot area of less than 4,000 square feet.

**§ 164-22. Living area requirements. [Amended 7-9-1983 by L.L. No. 10-1983; 10-12-1991 by L.L. No. 3-1991; 1-28-2006 by L.L. No. 1-2006; 8-12-2006 by L.L. No. 7-2006; 9-8-2007 by L.L. No. 4-2007]**

- A. For any building or structure hereafter erected, the minimum required ground floor area, exclusive of accessory uses such as sheds, decks and ramps and other such uses, shall be 600 square feet.
  - (1) For the purpose of this chapter, "ground floor area" shall mean the area within the exterior walls of the dwelling at first floor level. **[Amended 11-2-2019 by L.L. No. 6-2019]**
  - (2) The maximum ground floor area for any one-story, building or structure hereafter erected or altered on lots of 4,000 square feet or more shall be a maximum living area of 40% of the total lot area, exclusive of accessory uses. For the purposes of this chapter, swimming pools shall be included in the calculations for ground floor area and living area. **[Amended 11-2-2019 by L.L. No. 6-2019]**
  - (3) The maximum ground floor area for any two-story building or structure hereafter erected or altered on lots of 4,000 square feet or more shall be a

maximum of 30% ground floor and a maximum of 45% total lot area. For the purposes of this chapter, swimming pools shall be included in the calculations of the second floor area and of the total living area. No pool shall be constructed on lots of less than 4,000 square feet. **[Amended 11-2-2019 by L.L. No. 6-2019]**

- (4) The maximum ground floor area for any one-story building or structure hereafter erected or altered on lots of 3,000 square feet to 3,999 square feet shall be a maximum living area of 35% of the total lot area.
  - (5) The maximum ground floor area for any two-story building or structure hereafter erected or altered on lots of 3,000 square feet to 3,999 square feet shall be 27% of the total plot area with a maximum living area of 40% of the total plot. **[Amended 11-2-2019 by L.L. No. 6-2019]**
- B. No building hereafter shall be constructed, enlarged, extended, reconstructed, altered or partitioned so as to provide more than one kitchen, three bathrooms or three water closets and four rooms for sleeping purposes, nor shall more than four rooms in any one building be used for sleeping purposes. For the purposes of this section, all accessory buildings and accessory uses to the main building shall be included in determining compliance with the provisions of this subsection.

**§ 164-23. Width of lot. [Amended 9-8-2007 by L.L. No. 4-2007; 9-14-2019 by L.L. No. 5-2019]**

- A. Single-family dwellings. Effective September 14, 2019, plots shall have a width of at least 50.00 feet, regardless of the depth thereof. Any existing plots that are less than 50 feet wide shall be deemed legally nonconforming.
- B. No property in the Residential R-4 District shall be subdivided in a manner which creates a plot with a width of less than 50 feet.

**§ 164-24. Front yard requirements.**

- A. Main buildings. All buildings, except accessory buildings, hereafter erected, modified or altered shall have a required front yard of 14 feet. **[Amended 9-8-2007 by L.L. No. 4-2007; 10-13-2007 by L.L. No. 6-2007; 11-2-2019 by L.L. No. 6-2019]**
  - (1) All buildings hereafter erected, modified or altered shall have a required front yard of 14 feet except buildings having a lot depth of 104 feet hereafter erected, modified or altered after September 10, 2007, which shall have a required front yard of 18 feet.
  - (2) All second stories hereafter erected after September 10, 2007, shall have a second-story setback from the front property line of at least 22 feet.
  - (3) Switchback ramps shall be prohibited in the fourteen-foot front yard setbacks on plots of less than 4,000 square feet.

- (4) No portion of a staircase or ramp is allowed within five feet of the front property line.
- (5) All plans must comply with the Plot Use Diagram (See § 164-3)<sup>2</sup>.
- B. Corner lots. All main buildings hereafter erected, modified or altered on a corner lot shall also have a front yard facing the sidewalk. This front yard shall be at least eight feet.
- C. Through lots. Front yard requirements shall be required on both walk frontages on a through lot. **[Amended 9-8-2007 by L.L. No. 4-2007]**
- D. Accessory buildings.
  - (1) An accessory building in the Residence R-4 District shall have a minimum front yard setback of 25 feet.
  - (2) An accessory building on a corner lot shall in no case be nearer than eight feet to the side or rear property line.

**§ 164-25. Side yard requirements. [Amended 9-8-2007 by L.L. No. 4-2007; 5-23-2009 by L.L. No. 3-2009; 11-2-2019 by L.L. No. 6-2019]**

- A. Dwellings. All main buildings hereafter erected, modified or altered shall have a side yard setback along each lot line of eight feet on each side, totaling 16 feet and at least 12 feet from the main side of any adjacent building.
- B. Accessory buildings and sheds. No accessory buildings, sheds or structures shall be closer to any side line than eight feet.
- C. Decks, ramps and steps hereafter erected, modified or altered shall be no closer to any side property line than eight feet. Exception: A four-foot-wide ramp shall be allowed in one side-yard setback for existing houses in plots of 37.5 feet or less in width that are raised to flood prevention elevation.
- D. All two-story buildings or structures hereafter erected shall have a second-story setback from the north property line of at least 12 feet.
- E. All plans must comply with the Plot Use Diagram (See § 164-3).<sup>3</sup>

**§ 164-26. Rear yard requirements. [Amended 9-8-2007 by L.L. No. 4-2007; 5-23-2009 by L.L. No. 3-2009; 11-2-2019 by L.L. No. 6-2019]**

- A. Dwellings. All main buildings hereafter erected, modified or altered shall have a minimum rear-yard setback whose depth is not less than eight feet, except after September 10, 2007, those having a plot depth of 84 feet shall have a setback of not less than 12 feet.

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2. Editor's Note: The Plot Use Diagram follows the definition of "elevating a building."

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- B. Accessory buildings and storage sheds.
  - (1) Accessory buildings and storage sheds shall not be nearer to a rear line than eight feet, except after September 10, 2007, those having a plot depth of 84 feet shall have a setback of not less than 12 feet.
  - (2) Accessory buildings shall not be built in excess of a maximum of 40 square feet.
- C. All plans must comply with the Plot Use Diagram (See § 164-3).<sup>4</sup>

**§ 164-27. Permitted encroachments. [Amended 11-16-2013 by L.L. No. 2-2013; 11-2-2019 by L.L. No. 6-2019]**

The following encroachments are hereby permitted:

- A. Cornices, eaves, gutters, box windows and bay windows projecting not more than two feet and a maximum two-foot-wide overhang of second-floor living area, provided that such encroachment is at least eight feet from ground level.
- B. Front yard: steps, ramps and landings used solely for access to the first-floor entry door.

**§ 164-28. Fences and walls, arbors, trellises, patios, ground-level decks and refuse can storage bins. [Amended 5-21-1994 by L.L. No. 1-1994; 3-8-1997 by L.L. No. 3-1997; 8-9-1997 by L.L. No. 9-1997; 9-13-1997 by L.L. No. 12-1997]**

- A. No fence shall be erected, altered or repaired within the Village of Ocean Beach, except upon the filing with the Building Inspector of a plan for the fence with a survey of the property showing the location of the fence.
- B. No fence shall be erected within the Village of Ocean Beach within eight feet of the front, rear or side lines of any lot, which fence exceeds four feet in height measured from the grade where the fence is erected or as otherwise provided in this herein. Fences can be erected within the Village of Ocean Beach within the rear and side yard setbacks, No fence can exceed four feet in height measured from grade on the front yard property line, except a fence that is set back five feet from the existing concrete walk can be constructed to a height of six feet measured from existing grade.
- C. (Reserved)
- D. Exceptions to setback requirements; conversions; power pole restrictions.
  - (1) A fence need not comply with the lot line setbacks provided in § 164-28B hereof, so long as:
    - (a) A front yard fence does not exceed six feet in height measured from the grade where the fence is erected, is erected entirely on the owner's

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4. Editor's Note: The Plot Use Diagram follows the definition of "elevating a building."

property and is no closer than five feet to any part of the concrete walk in front of the property.

- (b) A side yard fence does not exceed eight feet in height and is erected on the side lot line but no closer than four feet from the rear power lines and is totally constructed of wood or a combination of nonferrous materials.
  - (c) A rear yard fence does not exceed eight feet in height and is at least four feet from the rear power lines and is totally constructed of wood or a combination of nonferrous materials.
- (2) An existing legal fence may be converted to the respective heights as set forth in this section by adding fence material as listed under § 164-3B and additionally said fence must meet all other requirements for fences as contained in § 164-28.
  - (3) No fence may be directly fastened to a power line pole, and no fence may be constructed within four feet of any power line pole or four feet from the vertical line of any power pole.
- E. Any fence which is designed or constructed so as to have a front or outside (a "good side") and a rear or inside (a "bad side") shall be installed so that the good side faces abutting streets or lots and so that the bad side faces in toward the premises on which the fence is erected.
  - F. No fence shall be erected or maintained so as to interfere with natural surface drainage or in contravention of any fire, health or police regulations of the village. Fences shall include emergency access gates to the rear of property devoid of padlock or other locking devices. Gates shall open both in and out to allow access for emergency and nonemergency services. Gates shall be clearly defined and kept free of all vegetation.
  - G. The provisions of this section regarding deer fences shall not be applicable and of no force and effect and a moratorium declared as to the provisions regarding the same from the effective date until such time as the moratorium shall be lifted by a duly adopted resolution of the Board of Trustees.
  - H. The construction and maintenance of arbors, patios, trellises, ground-level decks and refuse can storage bins as defined in § 164-3 shall be permitted.
  - I. All fences, arbors and trellises shall be constructed of fence materials as defined in § 164-3.

**§ 164-28.1. Landscaping. [Added 11-2-2019 by L.L. No. 6-2019]**

An application for new construction or substantial renovation, as determined by the Building Inspector, must include a landscape plan that will include the following:

- A. Inventory of any and all existing trees of a four-inch diameter or larger measured 12 inches above the surrounding ground level. If such trees need to be removed for

the purposes of approvable construction or due to deteriorated condition, they must be replaced on the same plot by equivalent species.

- B. All existing shrubs must be shown on the inventory and maintained. If a new landscape plan requires their removal, they must be replaced on the same plot by equivalent species and number.
- C. All submitted applications must include a plan for proposed landscaping by indigenous plant material selected so as, in maturity, to screen no less than 60% of the vertical wall area below the level of the first floor, including break-away walls or fences in view from the public ways of all proposed structures, including the main house, decks, staircases, ramps and accessory structures.
- D. Planters may be included as part of the screening not to exceed 30 inches in height from an adjacent lower planter or ground level.
- E. Plant material shall be selected from the Appendix L of recommended species known to thrive in the Fire Island environment.
- F. If any fill is requested for landscaping purposes, it must be of an indigenous sand. No other soil material will be allowed as fill in the land, except when used in planters or installation of new plant material as detailed on the construction plans and landscaping plan.
- G. Pavers must be permeable and installed according to industry standards where allowed on the plot. Pavers in a public easement shall be restricted to a six-foot length along the concrete walk at the entrance onto the property.

#### **§ 164-29. Signs.**

- A. No illuminated signs shall be permitted in the Residence R-4 District, and no advertising or business signs shall be permitted, nor signs of an obscene nature appealing to prurient interests or offensive to community standards.
- B. Size shall be limited to one square foot and shall be limited in number to one per premises, to be located on the premises.
- C. Nonconforming signs may continue such nonconformity until they are destroyed, structurally altered, reconstructed, changed or moved, but the period of such nonconformity may not exceed two years from the date of enactment of this chapter.
- D. Noncommercial signs to be used for public information, orientation or education purposes may be larger by special permit from the Board of Trustees, with time limitation to be delineated by the Board of Trustees.

#### **§ 164-30. Prohibited uses. [Added 11-1-1980 by L.L. No. 12-1980; amended 8-12-2006 by L.L. No. 7-2006]**

- A. In the Residence R-4 District, any use which is not expressly stated to be a



permitted use shall be a prohibited use.

- B. It has been determined that structures with apartments, apartment buildings, rooming houses and multiple dwelling units (MDU's) are not in conformity with the character of the R-4 Residential District. Such structures and uses mar the appearances of the residential neighborhood, impair the use, enjoyment and desirability and reduce the values of properties, are detrimental to the character of the neighborhood, prevent the most appropriate development and utilization of land and therefore adversely affect the functioning, economic stability, prosperity, health, safety and general welfare of the entire community. Structures with apartments, apartment buildings, rooming houses and multiple dwelling units (MDU's) are expressly prohibited in the Residence R-4 District, unless expressly permitted and authorized pursuant to § 164-10.

**§ 164-30.1. Swimming pools. [Added 3-16-1985 by L.L. No. 3-1985; amended 5-11-1996 by L.L. No. 5-1996; 1-28-2006 by L.L. No. 1-2006; 4-28-2006 by L.L. No. 5-2006]**

- A. Definition: aboveground only, as defined in § 164-3. **[Amended 11-2-2019 by L.L. No. 6-2019]**
- B. Permitted use. Swimming pools may be installed, used or maintained as an accessory to a dwelling for the private use of the owners or occupants of such dwelling and their families and guests, provided that the premises is in the R-4 District, consists of a parcel of at least two lots which are contiguous and joining and the parcel must have an area of at least 4,000 square feet.
- C. Installation requirements and permits. Permit applications for swimming pools shall be forwarded to the Building Department for review and consideration. Upon a determination that the application and proposed swimming pool meet all the requirements of this chapter and the applicable zoning code the Building Department shall issue the necessary permit. In the event the Building Department denies a swimming pool permit application, the applicant may appeal the denial to the Village's Zoning Board of Appeals.
- D. Every application for a permit shall be made to the Building Department and be accompanied by detailed plans, specifications and drawings showing pool construction conforming to the NYS Building Code. A survey showing the proposed location of the swimming pool, fences and gates, outdoor lighting, landscaping, screening, filter and heating systems and such other information as may be required by the Building Department. A landscape plan for the property shall be submitted.
- E. Location. Swimming pools shall be constructed and installed so that the outside dimensions of the pool shall be no less than 12 feet from the rear or side property line, and no less than 18 feet from the front property line.
- F. Lot coverage. Swimming pools shall be included in the second-floor area calculation of two-story buildings and the maximum living area (45% of the total

lot area). No pool may be constructed on plots that have an area of less than 4,000 square feet. **[Amended 11-2-2019 by L.L. No. 6-2019]**

- G. Fencing. There shall be erected and maintained a restrictive-type fence not less than four feet in height and not accessible from any externally adjacent high ground, tree or structure. Fencing shall be constructed of wood (louvered or solid), shall completely surround the pool and shall be constructed in such way as to screen the pool from outside view. No opening in the fence construction of larger than two inches in one dimension will be permitted. All gates and doors shall be equipped with self-closing and self-latching devices for keeping the gate or door securely closed at all times. During the course of construction of any pool, a temporary fence shall be erected as required by the Building Department. No water shall be put or caused to be put in any swimming pool unless and until an appropriate fence or barrier, as approved by the Building Department shall first be erected.
- H. Compliances. Every swimming pool shall be used and maintained in accordance with the provisions of the NYS Sanitary Code and the rules and regulations of the Suffolk County Board of Health Department.
- I. Electrical devices. All electrical devices used in connection with any pool shall be equipped with a UL-approved ground fault interrupter.
- J. Pool covers. Every swimming pool when unattended from September 15 to May 15 shall be covered with a suitable strong protective covering fastened in place having the ability to support a minimum dead weight of 200 pounds.
- K. Equipment. Any pool pumps, filters, heaters and other such equipment shall be soundproofed so as not to be disturbing to adjoining lots. No equipment shall be located in any setback area. Pools and pool decks shall not be equipped with exterior entertainment systems, floodlights or speakers. **[Amended 11-2-2019 by L.L. No. 6-2019]**
- L. Nuisance. There shall be no floodlighting of the pool or pool decks, except for lighting egress pathways and deck downlighting set at a maximum of 4.0 feet, after 10:00 p.m. Any lighting, noise, music or sounds which creates a nuisance is prohibited. The pool-operating mechanism shall be housed and located so as not to cause annoyance to neighboring homes. **[Amended 11-2-2019 by L.L. No. 6-2019]**
- M. Certificate of occupancy. No swimming pool shall be used until a certificate of occupancy has been issued by the Building Department. All the provisions of the chapter shall be enforced by the Building Inspector.