

Handbook for Owners, Architects, Builders and Contractors

February 2020



Bird Key Homeowners Association, Inc.

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INTRODUCTION

The Handbook for Owners, Architects, Builders and Contractors (the “Handbook”) is intended to clarify and implement the restrictions contained in the Declaration of Restrictions, Limitations, Conditions and Agreement for Bird Key Subdivision (the “Declaration”). The Handbook hereby incorporates, by reference, all applicable provisions of Articles 3, 4, 5, and 6 of the Declaration. This Handbook does NOT contain any new building restrictions.

Due to space constraints, not all restrictions are noted in the Handbook. Members and their contractors seeking to commence these activities should read and become familiar with these sections.

The Handbook will also provide procedures to govern permit application, permit review and approval, construction, construction parking, portable toilets, placement of construction materials and equipment, site debris and cleanliness and similar issues.

This Handbook is based on the most recent Bird Key Homeowners Association, Inc. (“BKHA”) governing documents that contain requirements different from the City of Sarasota. BKHA is not a source of information about the City of Sarasota and other government entity requirements.

The primary responsibility of the Bird Key Homeowners Association and the Architectural Review Committee (ARC) is to insure that a project is consistent with the requirements in the BKHA governing documents, including the Declaration, Articles of Incorporation and Bylaws. Fines, liens and legal action may result from failure to comply with the mandatory provisions of BKHA governing documents.

Visit www.bkha.org or contact the Community Association Manager for additional information on this Handbook (941-366-0848).

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PRIOR ASSOCIATION APPROVAL

No construction, alteration, improvement, renovation or demolition or other material change in appearance to the exterior of a house, pool, pool cage, seawall, wall, roof, planter, dock, fence, gazebo, pergola, driveway or landscape shall commence without a prior written permit from the Association.

PERMIT REQUIREMENTS

<u>Type of Project</u>	<u>Bird Key</u>	<u>City / County</u>
1. Boat Lifts	Permit	Permit
2. Docks (fixed or floating)	Permit	Permit
3. Drainage or Runoff Changes	None	Permit
4. Dredging	None	Permit
5. Driveways (removal/installation)	Permit	Permit
6. Fences, Walls, and Gates (all types)	Permit	Permit
7. Flood Lighting	Permit	Permit
8. Gazebos	Permit	Permit
9. Home Demolitions	Permit	Permit
10. Home – New or Exterior Additions	Permit	Permit
11. Home – New or Exterior Renovations/Windows/Doors	Permit	Permit
12. Hurricane Shutters – See Suggestions on Page 16	Permit	Permit
13. Interior Renovations	None	Permit
14. Irrigation Systems	None	Permit
15. Landscape & Hardscape Projects over \$2,500	Permit	Permit
16. Lightning Rods	Permit	Permit
17. Lot Elevation Changes	Permit	Permit
18. Pergolas	Permit	Permit
19. Pool Cages (removal/installation)	Permit	Permit
20. Pool Heaters (all types)	None	Permit
21. Pools, Patios, Decks	Permit	Permit
22. Roofs (removal/installation)	Permit	Permit
23. Satellite Dishes	Permit	Permit
24. Seawalls / Caps (new/repair)	Permit	Permit
25. Tree Removal	None	Permit
26. Utility Enclosures / Pads	Permit	Permit
27. Wells	None	Permit

PERMIT PROCESS

This process applies to buildings, docks, landscape and hardscape (e.g. patios, fences, retaining walls, walkways, etc.). For permit applications visit www.bkha.org or contact the association manager (941-366-0848).

All Permits

1. The following is required for all BKHA permit applications:
 - a. Permit application signed by all owners of the lot
 - b. A copy of a signed contract, and a fee payment of \$1 per \$1,000 of total project cost, with a minimum of \$10
 - c. Plans and specifications, plot plans, sketches or diagrams for the project
 - d. City permit, if required
2. The Architectural Review Committee (ARC) will review permit applications to:
 - a. Verify compliance with BKHA governing documents.
 - b. Determine if City permit has been approved (as required)
 - c. Issue a permit approval and/or denial letter within 30 days from the date of application receipt and have all approvals and recommendations countersigned by a Board member.

Permits for New Homes, Additions or Exterior Renovations:

1. An owner must submit one set of plans certified by a registered Florida architect or engineer. Plans must comply with requirements set out in the Bird Key Declaration and Bylaws and consist of:
 - a. Plot plans showing existing and / or proposed structures
 - b. **All setback distances including eaves and gutters.**
 - c. Height dimension from street center line
1. **Important** - A copy of the foundation post pour survey will be necessary to confirm that the building and mechanical equipment have not been placed in the setbacks. This will be needed within two weeks of the pour or when the survey is submitted to the City. Construction cannot proceed until the foundation post pour survey has been approved.
2. City building permit (if required)
3. City affidavit (if required)
4. No building, wall, fence, swimming pool, dock, aerial, antenna, satellite dish, lightning rods or other structure shall be placed upon said lot unless and until the plans and specifications and plot plan have been approved in writing by the ARC. Each such building, wall, swimming pool, dock, aerial, antenna, lightning rods or other structure shall be placed on the lot only in accordance with the plans and specifications and plot plan so approved.
5. It is the responsibility of the owner to ensure that the contractor(s) maintains liability and worker's compensation insurance.
6. Office trailers are not permitted.

Permits for Demolition:

1. All chain link fences must be removed.
2. Any alterations of an existing lot's elevation will require a BKHA permit, a licensed surveyor's certificate for new construction elevation, and all adjoining lot elevations.
3. All city code requirements must be adhered to, including but not limited to the following:
 - a. A silt fence must be placed on the property lines of the entire property.
 - b. A tree removal permit must be secured if trees are to be removed.
 - c. Any back fill or alterations of existing lot elevation and pool excavation must be leveled and vibrated for compaction in 1-foot layers.
4. **If an empty lot is to be vacant longer than 60 calendar days, then it must be sodded, grassed or hydro-seeded by the lot owner. The owner must properly maintain the lot (including watering and mowing) on a regular basis**

Permits for Major Alteration of Landscaping and Hardscaping:

1. Landscape plans shall include the location and height, if over 4' above finished ground level at maturity, of all trees (more than 4" in diameter), shrubs, decorative rocks, fences, walls, other hardscape, driveway, drainage and other relevant detail. **Hand drawn sketches are permissible.**

PERMIT DISPLAY

1. Permits must be displayed so they are visible from the street.
2. "No Trespassing" signs may be posted on vacant lots and construction sites in compliance with state law.
3. The permit package on site must have plans, drawings and both City and BKHA permits.
4. Contractor signs are allowed only on front side of the permit board.
5. City requirements for permit display must be adhered to.

PERMIT DURATION

Any construction or renovation that has been the subject of a permit issued by BKHA must commence within 90 days of receiving the permit issued by BKHA. A new permit will be required from BKHA if the project has not commenced within 90 days. Construction must be completed within 18 months of commencement. It is the responsibility of the owner to notify BKHA of the date of commencement. **If the actual commencement date is not communicated to BKHA, then the permit approval date will be deemed to be the commencement date.**

If construction is not completed within 18 months of commencement, BKHA may grant an extension upon a showing of good cause and/or extenuating circumstances. Should BKHA determine that such an extension is not warranted, either a permit addendum will be authorized for a limited time period of up to 6 months and at a fee not to exceed the original permit fee; or BKHA will assess a daily fine against the owner and/or contractor until the permit work is completed.

NOTIFICATION OF COMPLETION OF WORK

Lot owners shall notify the ARC in writing when work covered by the Association's permit is completed or when plans are altered during construction for possible inspection by the Board.

ASSOCIATION RETAINED ARCHITECT OR ENGINEER

The Board shall have the right to retain a registered architect or engineer to review the plans and specifications submitted by any member, and the cost of such consultant shall be borne by such member.

WORK SITE REQUIREMENTS

Hazards

Safety is paramount at each worksite. Owners and contractors must take the requisite steps to protect the site and adjacent properties from hazard or damage affected by construction on the owner's lot, particularly during times of high winds, storms, hurricane flooding or other acts of nature. In particular, roof tiles, plywood, machines, construction materials and equipment and other unattached structural material must be either stored in a secure manner or removed from the construction site and stored elsewhere when such events are expected. It is the owner's responsibility to ensure that the owner's contractor has secured the work site in a safe, secure and responsible way when a hurricane or storm threatens the Sarasota area.

Staging Areas Prohibited on Other Properties

No vacant properties other than an owner's own land may be used as a staging point or car parking area unless advance written notice is obtained from the owner and submitted to the management office. Staging is prohibited on public streets and common areas.

Hours of Work and Noise

Professional construction and professional landscape work may only be done between 8 am – 6 pm on Mondays through Fridays, and 9 am – 5 pm on Saturdays. However, and notwithstanding the foregoing, no professional construction or professional landscape work is allowed on Sundays or holidays. BKHA shall create and maintain a list of such holidays, which may be amended from time to time. Exception(s) to these times may be granted by the BKHA Community Association Manager for extreme circumstances or emergency repairs, as delegated by BKHA. **NO NOISE OR AUDIO EQUIPMENT SHALL BE PERMITTED THAT IS AN ANNOYANCE OR NUISANCE TO THE NEIGHBORHOOD OR ITS RESIDENTS.**

Parking

All vehicles must have full and open access to all streets of BKHA at all times. Construction vehicles, equipment, materials and delivery vehicles shall not block vehicular or pedestrian access to any home or lot. All construction, delivery and other vehicles associated with a construction project must, to the extent possible, be parked on the owner's lot and not on the street. If such vehicles, equipment, materials or delivery vehicles must be temporarily parked on the public street, they **MUST PARK ON ONLY ONE SIDE OF THE STREET**, heading in the proper direction and not blocking driveways or mailboxes. Non-compliance will result in notifying the Sarasota Police and requesting that violating vehicles be ticketed or towed.

Debris and Site Cleanliness

No construction debris will accumulate on any lot for a period in excess of 24 hours, unless concealed in a standard dumpster or an appropriate trash receptacle. Once filled, the container must be emptied within 1 day. Loose construction materials and unsightly debris must be policed daily by the owner's contractor.

Temporary Construction Fences

Temporary construction fences, including chain link fences, may be erected at a work site for a new house to prevent trespassing and to improve the appearance of the work site. However, they must be: a) installed only after a permit has been approved for the installation of the fence by the BKHA and construction of the home has begun, b) removed as soon as practicable but in no event longer than at the completion of construction or the expiration of the building permit, whichever comes first, c) no more than six feet (6') high, d) covered with material acceptable to the BKHA intended to obscure the chain links (see photo below, as an example), and e) maintained during construction of the home to avoid unsightliness or dangers to passersby. Fences may not be erected within the approximately 12 foot (12') city-owned right of way between the curb and the front property line.

Owners whose fences do not comply with the above may be subject to fines up to \$250 per day.



Example of a temporary construction fence

Portable Toilet Structures

Portable toilets must be located at least 15' from the curb. The owner or the owner's contractor must screen from view (by acceptable landscaping or a concealing fence/wall) all portable toilets. The portable toilet must be inspected by the contractor to ensure proper and clean condition. **Acceptable examples are shown below.**



GRANDFATHERING

The Association shall allow existing physical situations that were legal, and in full compliance with BKHA governing documents at the time they were installed, to continue including without limitation, asphalt and metal seamed roofs, asphalt driveways, etc. For example, if these amendments require all building roofs to be tile, existing asphalt roofs that were permitted when originally constructed will not have to be changed in any way and may be replaced, when needed, with another asphalt roof. However, if the home is demolished, the owner would have to comply with the new roofing restrictions. This requirement also applies to other physical situations, such as driveways, fences, mechanical equipment, etc.

VARIANCES

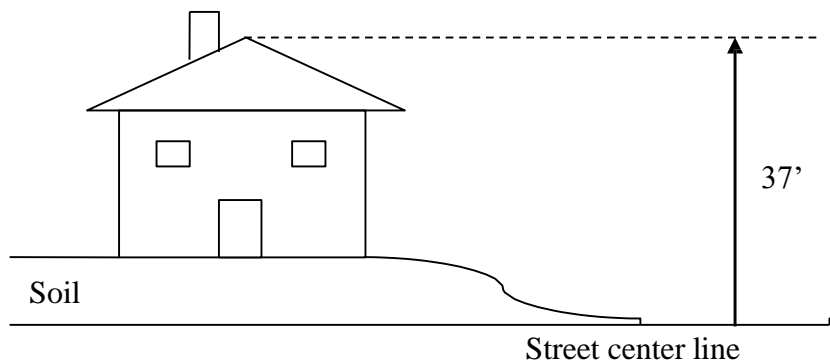
Upon written application and after a showing of **good cause**, the Board may enter into one or more written agreements with an owner granting a variance to the terms and conditions of the Declaration. All such variances shall be manifested by a legal agreement in writing, signed by the owners and an authorized representative of the Board, and recorded in the Official Records of Sarasota County, Florida. The owner is responsible for reimbursing the Association all reasonable attorney's fees and costs incurred by the Association as a condition precedent to receiving a variance. Variances shall not constitute waivers of any such condition, restriction, limitation or agreement as to the remaining lots in the Subdivision, and the same shall remain fully enforceable by the Association and other lot owners as to all other Subdivision lots.

BUILDING HEIGHT LIMITS

The City measures building heights in a different manner. BKHA requirements are as follows:

No building shall consist of more than two stories. No building shall exceed 37' in height to the highest ridge line, **measured from the elevation of the street center line**. The 37' height limitation shall not include decorative roof top features (chimneys, cupolas, etc.) Such decorative roof top features shall not exceed 6' in height from the roof center line of the highest ridge line.

There are variations of street elevations in BKHA. The plans must denote the building height from the center line of the street.



SETBACK RESTRICTIONS

No building shall occupy more than two lots. Except as otherwise provided herein, no building or structure, except gazebos and pergolas, shall be constructed that is not attached to an integral part of the residential building. No building or mechanical equipment shall be constructed so that any part thereof shall be closer (measurements to be taken perpendicular to lot lines or to the tangents of curved lot lines) than:

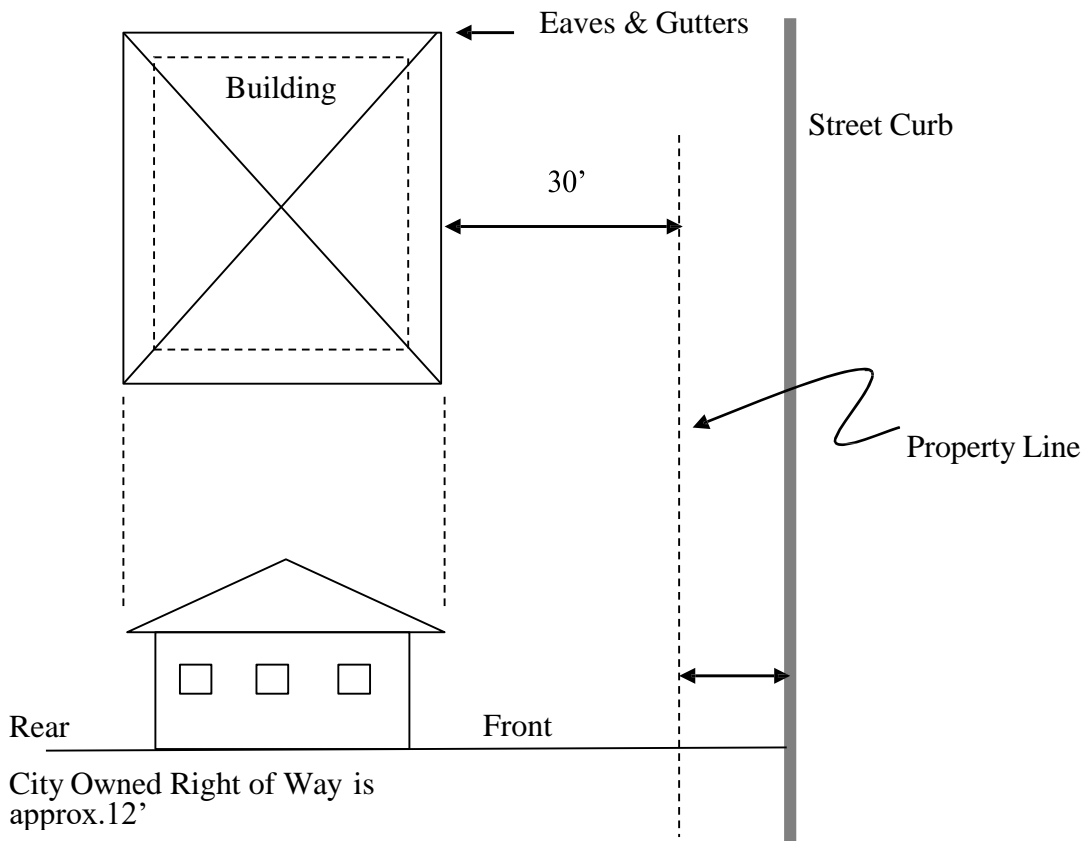
1. 30' from the property line of the street its front entrance faces (the property's postal address).
2. 10' from any side lot line, except a lot line covered by a residence occupying two lots.
3. 15' from the rear property line of any non-waterfront lot.
4. In the case of corner lots, 30' from the lot line parallel to the street that its front entrance faces (the property's postal address), 20' from the lot line parallel to the side street, and 15' from the rear property line (see pg. 11, "Corner Lot Setbacks" for clarification).
5. 30' from any waterway boundary line.

Front Setback

BKHA setback differs from the City's setback.

The BKHA setback requirement is 30' from the property line of the street it faces **to the closest point of any part of the building, including the eaves and gutters.**

The diagram below clarifies various measurements to the front of a structure on a Bird Key property.

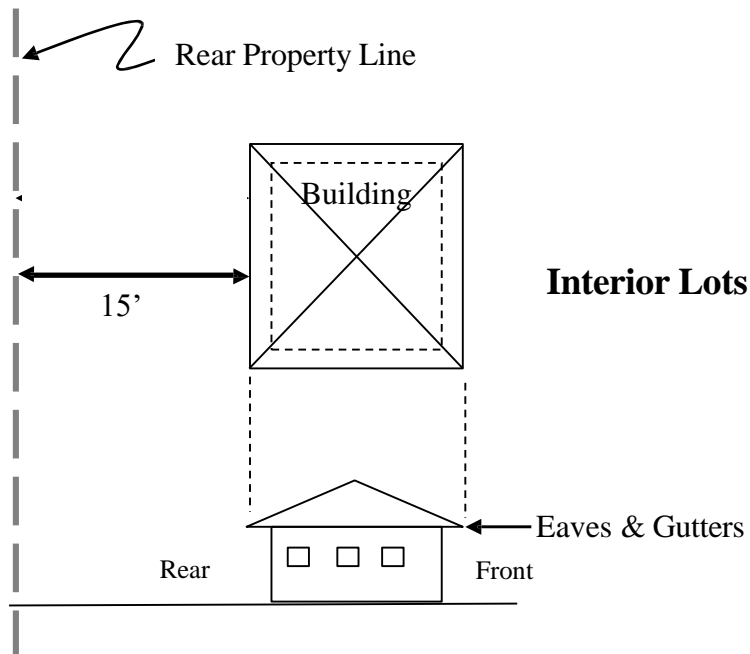


Rear Setback

The BKHA setback differs from the City's setback.

The BKHA setback requirement is 15' from the property line for interior lots (garden homes), including corner lots, and 30' from the rear property line for waterfront property (canal or bay front homes). **This measurement is to the nearest part of the building, including the eaves and gutters.**

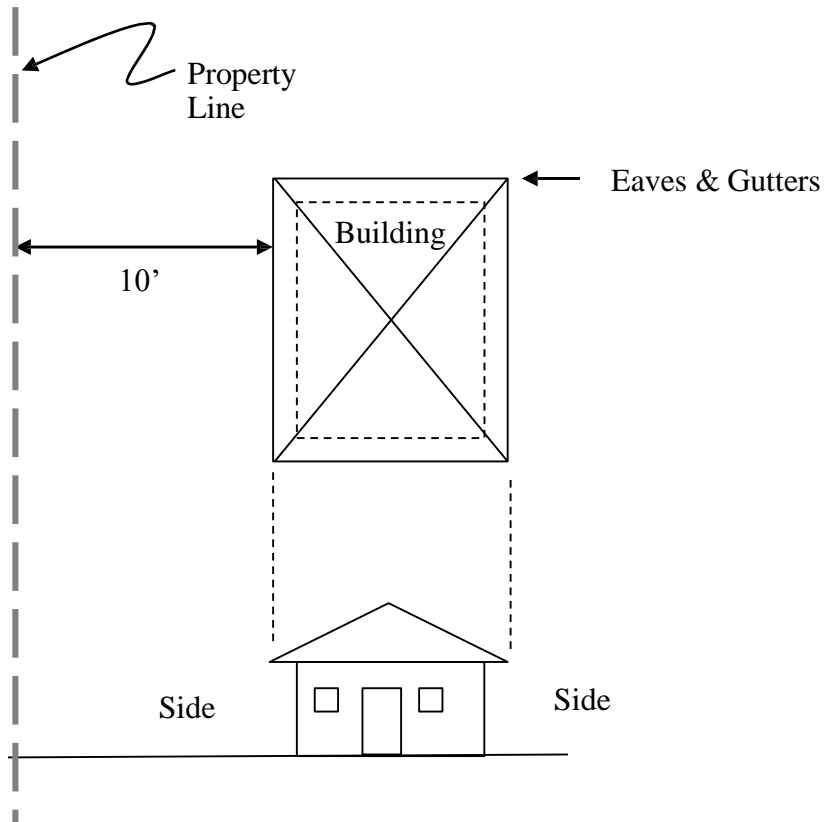
Pool cages must also meet this rear setback requirement.



Side Setback (except corner lots)

The BKHA setbacks differ from the City's setback.

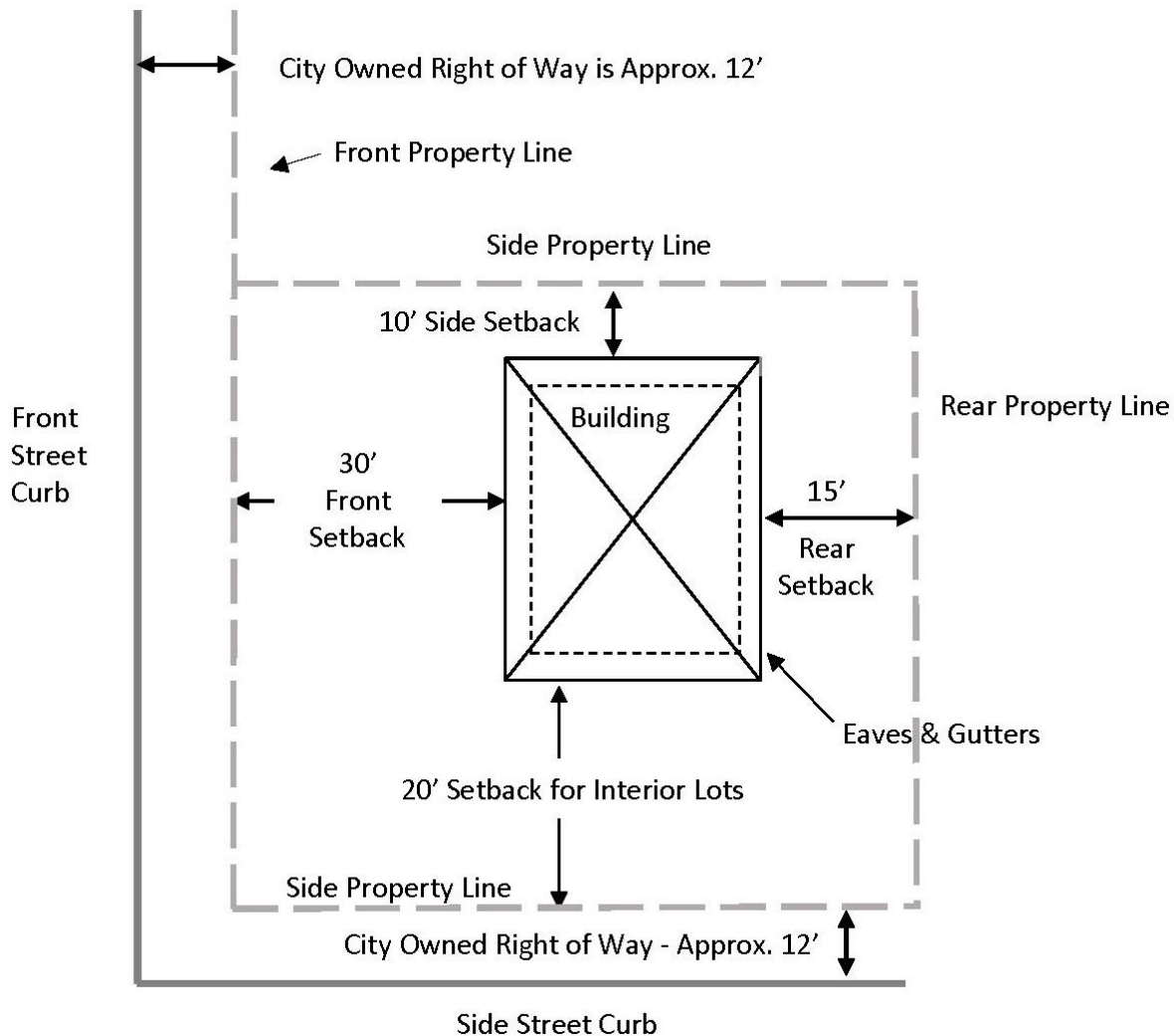
The BKHA setback requirement is 10' from the property line **to the closest point of any part of the building, including the eaves and gutters.**



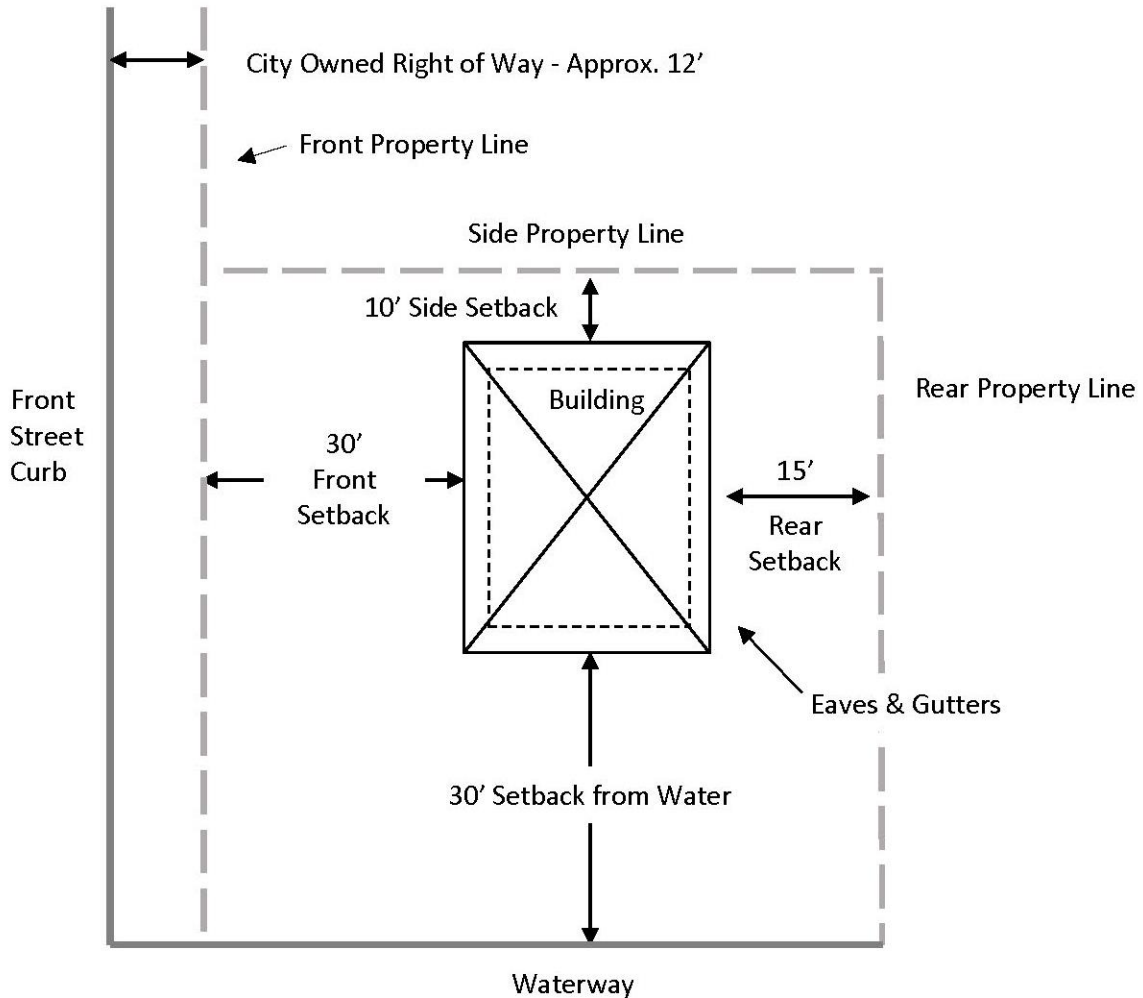
CORNER LOT SETBACKS (INTERIOR AND WATERFRONT)

The BKHA setbacks differ from the City's setback requirements.

- 1) For interior corner lots (not on the water), the BKHA setback requirements are 30' from the front property line (parallel to the street its front entrance faces, which is also the property's postal address), 15' from the rear property line, 20' from the property line along the side street, and 10' from the side property line. This measurement is to the nearest part of the building, including the eaves and gutters. See below.



- 2) **For waterfront corner lots (where one side of the building is on the water),** the BKHA setback requirements are 30' from the front property line (parallel to the street its front entrance faces, which is also the property's postal address), 15' from the rear property line, 30' from the property line parallel to the waterway on the side of the building, and 10' from the side property line. **This measurement is to the nearest part of the building, including the eaves and gutters.** See below.



Sound Barriers for Mechanical Equipment

All mechanical equipment (that is, pool filters, pool pumps, air conditioners, generators, heat pumps, etc.) placed outside the main structure must be screened by the lot owner from adjoining properties with a wall as required by City regulations. Screening is required for new exterior mechanical equipment. **No mechanical equipment may be placed or installed in the lot's setback areas.**

Pool Cage Setbacks

The BKHA setbacks differ from the City's setback.

1. Interior Lots – Pool cages cannot extend into the rear setback area, which begins 15' from the rear property line
2. Waterfront Lots - Pool cages cannot extend into the waterway setback area, which begins 30' from the water property line

In all situations, pool cages must be attached to the building.

Exceptions to Setback Restrictions

Terraces, walls, fences, low platforms or steps, swimming pools and similar low, unroofed and unscreened construction may be erected outside the setback lines, provided that such construction shall not interfere with the exposure or view or reasonable privacy of adjoining or facing properties, and shall be determined by the Association to be in compliance with the prevailing City zoning regulations. In the case of interior garden lots, swimming pools, terraces, low platforms or steps, and similar, unroofed and unscreened construction may be built no higher than 1 foot above grade level in areas outside the setback lines. Swimming pools built outside the 15 foot rear setback lines under this exception may not have pool cages, as stated under "Pool Cage Setbacks", above. No construction of this type may be erected without prior written approval from the Association.

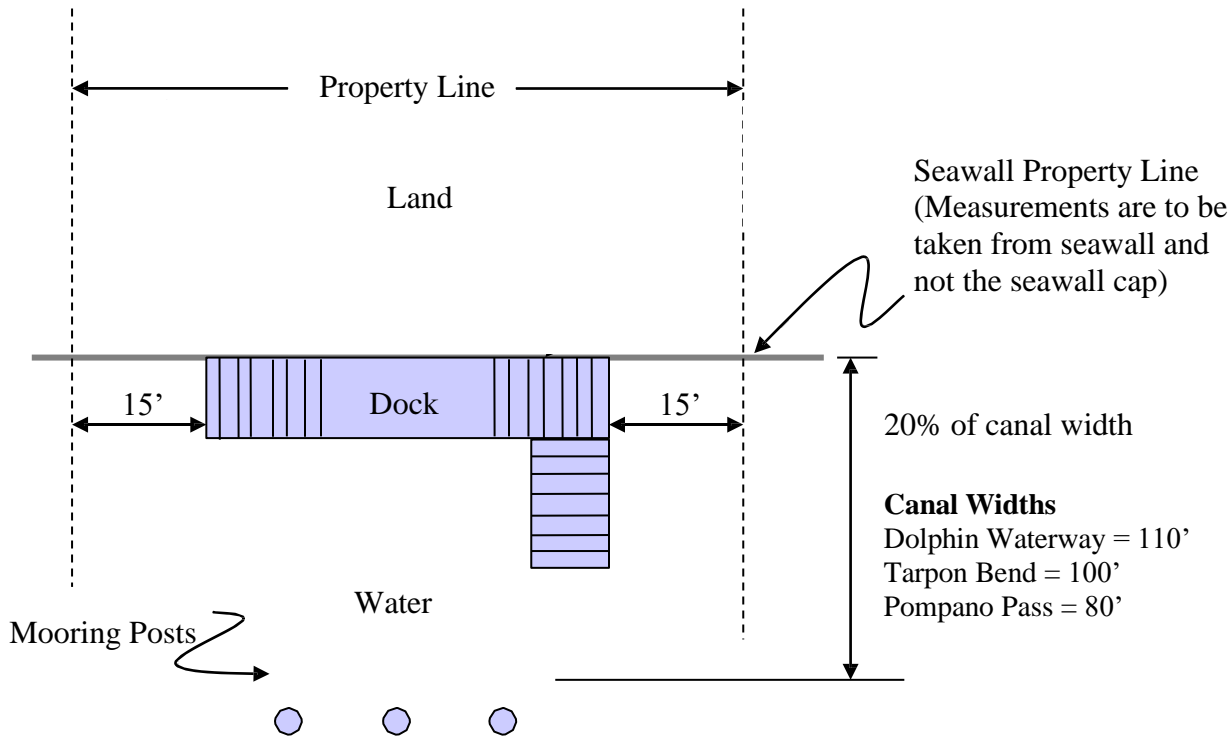
No structure, wall, fence, hedge or line of contiguous shrubs, bushes or other vegetation shall exceed 4' above finished ground level within 25' of the street or waterway boundary. Trees are an exception unless they form a contiguous hedge line.

A hedge or line of contiguous shrubs, bushes or other vegetation is allowed up to 12' above finished ground level in the rear setbacks of any garden (interior) lot and in the side setbacks of any lot except on the street side of corner lots.

Docks, Mooring Posts, Davits and Boat Lifts

The terminology “docks” includes docks and related pilings / mooring posts, lifts, walkways, ramps, stairs, or any other structure outside the seawall or waterline.

Waterfront Lots - Docks and pilings may not extend within 15’ of the extended side property boundary. Docks and pilings may not extend more than 20% into the width of the owner’s canal, while Bayfront docks and pilings extending into the bay are covered by the City requirements.



Bayside Lots - BKHA adheres to the City requirements for sizes and setbacks. Please contact the City for further clarification.

Dredging

No dredging shall commence without the owner first obtaining all applicable governmental permits.

Gazebos / Pergolas

After obtaining the prior written approval of the ARC, gazebos and pergolas can be constructed providing that they are in compliance with the property setback restrictions.

The height shall not exceed 15’ above the existing finished ground level, excluding ornamental items. It shall not exceed 150 square feet in total area. The sides shall not be enclosed other than with screens. For safety concerns, the association recommends that the structure be anchored to the ground and the roof constructed meets hurricane requirements.

These structures may not be used for storage.

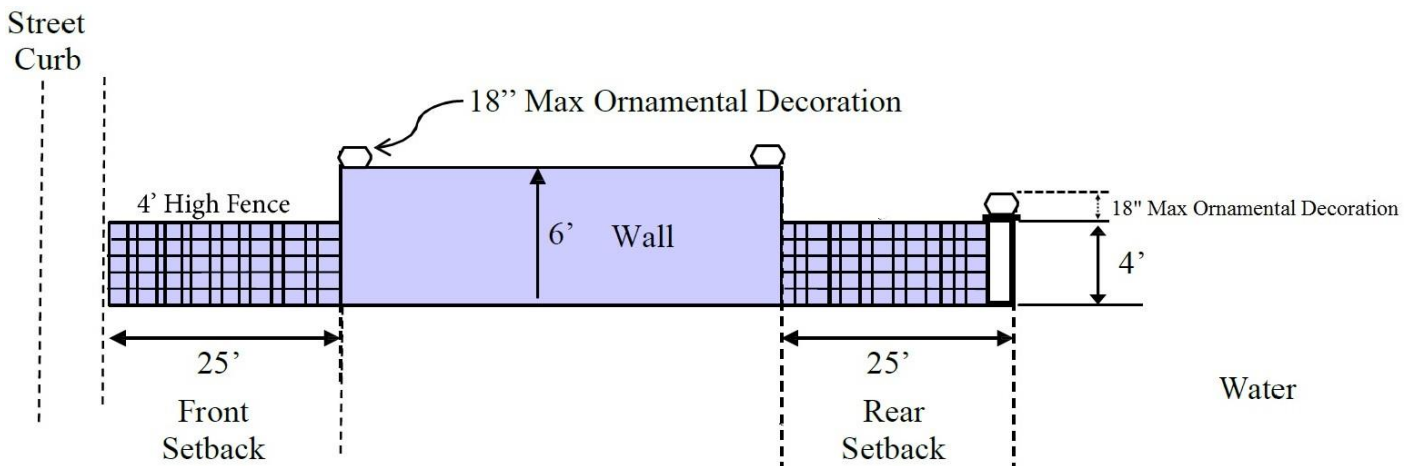
FENCES, WALLS, AND GATES

Chain link, wire and similar fences are prohibited on any portion of a lot except for those that are grandfathered. However, temporary construction fences, including chain link fences, are allowed under specific conditions (see page 6, “Temporary Construction Fences”).

No wall or fence in the front and rear setback areas shall exceed 4’ above finished ground level, within 25’ of the street or waterway property line.

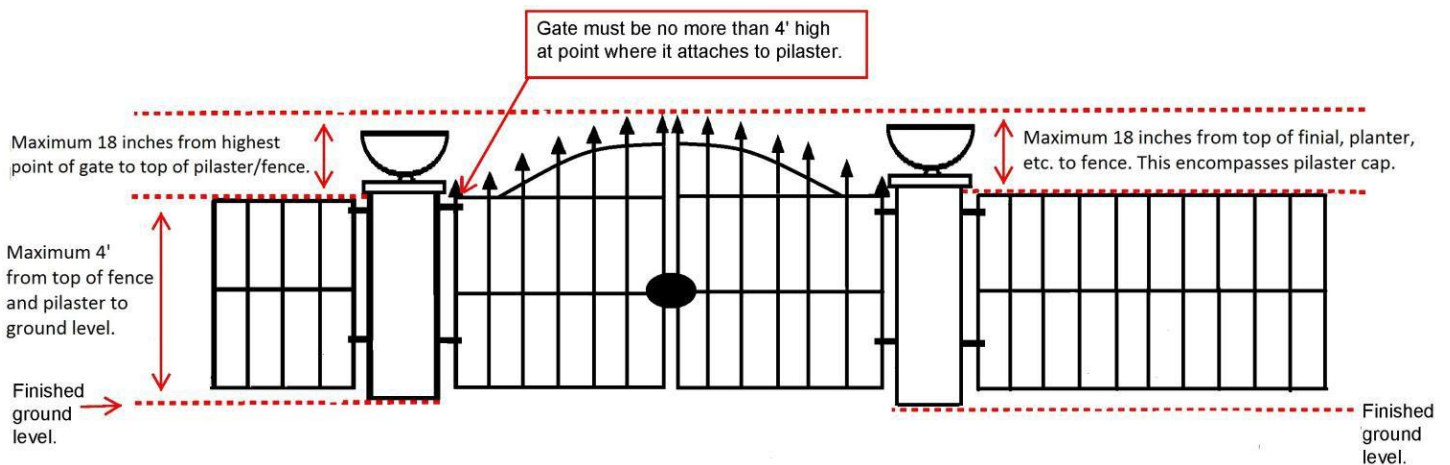
No wall or fence shall exceed 6’ in height, above finished ground level on any other part of a lot. Planters, ornamental decorations, and lights shall not exceed 18” in height above the fence or wall.

Example of Wall and Fence on Side of House



Example of Gate and Fence on Front of House

Gates within the front and rear setback areas must not exceed 4’ above finished ground level at the point at which they are connected to walls, posts, or pilasters (see below). However, the height of an ornamental decoration at the mid-point of the gate may be up to 5 feet 6 inches above finished ground level (see below).



MAJOR LANDSCAPING AND HARDSCAPING

(Hedges, Shrubs, Bushes and Vegetation)

A hedge or line of continuous shrubs, bushes or other vegetation shall not exceed 12' above finished ground level. Additionally, no hedge or line of contiguous shrubs, bushes or other vegetation shall exceed 4' above finished ground level within 25' of the street or waterway boundary. No hedge or line of contiguous shrubs, bushes, or other vegetation shall impede the enjoyment of the water view of any BKHA member.

Trees are an exception unless they form a contiguous hedge line.

Landscaping plans shall include the locations and projected maximum height, if over four feet (4') above the ground, of all trees, shrubs and decorative rocks on the lot.

DRIVEWAYS

Asphalt driveways are prohibited. Existing asphalt driveways that were permitted (grandfathered) may be repaired / resurfaced. If the existing home is demolished, the new driveway material must be consistent with the BKHA restrictions in existence at that time.

FLOOD LIGHTING

Floodlights are permitted. However, they must not disturb or unreasonably illuminate neighboring properties.

ROOFS

The only roofing materials permitted for new homes are tile and metal. Existing asphalt or wood shingled roofs that were permitted (grandfathered) may be replaced with asphalt or wood shingled roofs; however, if a building is torn down, its replacement must meet all current BKHA restrictions.

REMEDIES FOR NON-COMPLIANCE

Remedies for Non-Compliance are included in the Bylaws, under Articles 7, 8 and 9. It's important that the property owner understand the provisions in these articles, particularly with respect to the penalties that may be imposed. The BKHA also suggests that the owner discuss this subject with applicable parties (architects, builders and contractors) since there is potential liability for project violations.

NUISANCES

Nothing shall be done on any lot which may be or become an annoyance or nuisance to the neighborhood or to its residents (See Article 5.11 of the Declaration). Habitual violations of regulations shall be deemed a violation of the use and restrictions of the BKHA governing documents.

HURRICANE SHUTTER SUGGESTIONS

Please note that the BKHA Declaration of Restrictions, Limitations, Conditions and Agreements contain no specific restrictions or rules on the use or deployment of hurricane shutters. In order to assist its members and residents, BKHA makes the following suggestions:

1. Please install hurricane shutters and other hurricane protection that blends in with your home's exterior architecture and color palette so that they are not readily apparent. A home with obvious hurricane shutters may attract undesirable attention and may make it appear that your home is unoccupied. For example, owners should try to avoid dark colored shutters on light colored homes.
2. Owners should use only licensed and insured contractors. All hurricane shutters and other hurricane protection must comply with the current requirements of your insurance carrier and the Florida Building Code. Owners should check references of the contractor. Owners should use a written construction contract. Owners should make sure to use the contractor payment forms and lien release forms required by Florida law. If you do not have a construction contractor or you do not know what these forms are, please consult with your personal attorney. Always make sure your selected contractor obtains any and all required permits from the City and other applicable governmental entities.
3. If all windows, doors and other openings of your home are protected by hurricane shutters and/or other hurricane protection, it may make it difficult or impossible for you and your family to quickly exit your home in a fire or other emergency that may block one or more exits. Therefore, please remove your hurricane shutters and other hurricane protection as soon as the storm has passed and you determine it is safe to do so. For example, the Association recommends that hurricane shutters be removed no later than 2 weeks after the storm has passed.

PLEASE NOTE THAT THE ABOVE ARE HURRICANE SHUTTER SUGGESTIONS AND RECOMMENDATIONS ONLY. No warranty is offered, with regard to the recommendations contained herein, either by the Association or its management company, or their directors, members or employees. These organizations and their employees do not assume any legal liability or responsibility for the accuracy, completeness, or usefulness of any of the above information, recommendations or suggestions included in this document. The reader is cautioned to review carefully the material presented on this page and exercise independent judgment as to its suitability for application to any specific facts and circumstances. The Association makes no warranty or guarantee of security or safety for you and your family. Your safety is your responsibility.

DISCLAIMER OF LIABILITY

Neither the Association nor the ARC or any of its members or advisors shall have any responsibility for the design or quality of materials, construction or structural soundness of any improvements, nor compliance thereby with any governmental codes or requirements. No liability relating to the construction of improvements or alterations shall result from the Association, the ARC, or any consultant engaged by the Association reviewing, approving, or commenting upon any proposed improvements or alterations. The Association, the ARC or its advisors shall not evaluate applications or proposals to determine whether same meet architectural or engineering standards, or comply with government codes and regulations, nor do they evaluate the quality of workmanship and materials.