

Key City Ordinances Impacting Fuel Farm Approval

Please click on the embedded links to learn more about each ordinance.



Ordinance 2023-24

Annexation of Halifax Paving (Approved May 16, 2020)

Halifax Paving annexed into the city. Once land is annexed by a city, the city is required to assign (by ordinance) a comparable **land use** and **zoning** to that which applied under the county's jurisdiction. The city commission determined by the adoption of Ordinance 2023-24 that the Halifax Paving land met all legal requirements and could/should be annexed. The city lacked the option to not annex Halifax Paving, but could have delayed it.

Ordinance 2023-40

Land Use Designation Specific to Halifax Paving (Not Yet Approved)

After annexing Halifax Paving, the city commission approved Ordinance 2023-40 on first reading, which would provide a **land use designation (i.e., Industrial)** to the Halifax Paving land (no other land) comparable to the county's designation. Ordinance 2023-40 has not been approved on second reading, therefore it's not effective. *At some point*, the city must assign it a similar land use (i.e., Industrial) and zoning (I-2) to which it is entitled under county's jurisdiction.

Ordinance 2023-41

I-2 Heavy Industrial District - Not Site Specific (Approved Aug. 1, 2023)

Created the **I-2 Heavy industrial zoning district**, provided use definitions, and created conditions for conditional and special exception uses. According to city planners, the creation of the I-2 district was directly related to the annexation of Halifax Paving and the need for the city to approve a zoning district and regulations for that land.

The need to adopt industrial zoning regulation in the city's Land Development Code was identified in 2010 and included a general placeholder identified as "Section 2-33 Reserved." City staff began drafting criteria for the I-2 zoning district in 2020 and finalized it in 2023. Staff have not disclosed WHEN terminology and conditional use provisions related to "Bulk oil storage and fuel distribution facility" were added to the ordinance.

Land Use Designation	Compatible Zoning District	Conditional Uses
Industrial/Utilities	I-2, Reserved	Bulk Oil Storage & Distribution Facility



Questions to follow up on:

- When was "bulk oil storage and fuel distribution facility" definition and conditional uses added to Ordinance 2023-41?
- When was "industrial uses, heavy" definition finalized in Ordinance 2023-41?
- Were there any other inquiries for bulk oil storage and fuel distribution facilities prior to Belvedere?
- What is the process for establishing an interlocal agreement between the County and City for the I-2 Heavy Industrial District?

Q & A with City Attorney Randy Hayes

For additional context, please refer to Sept. 6, 2023 City Commission Meeting Recording, closing statement (starting at minute 2:11:00) or contact Mr. Hayes at randy.hayes@ormondbeach.org



Would postponing Ordinance 2023-40 have any effect on the fuel farm project?

Delaying or postponing **Ordinance 2023-40** would have no effect on the proposed fuel farm project because the land is located in the unincorporated territory of Volusia County and the county's land regulations apply exclusively to the land and the proposed project. Assuming the city commission approves Ordinance 2023-40, and in the event the city ever received an application for the development of land within the city as a fuel farm, the application would be handled as a conditional use (not as a permitted use as is the case in the county). The conditional use process ensures the right of the public to participate in a public hearing before the city's planning board and another public hearing before the city commission. Some of the many criteria under section 2-54 of the Land Development Code that an application would be reviewed against include, and are not limited to, the following: (1) compatibility with the character of surrounding land; (2) the scale, density and intensity of the use, and vehicular and pedestrian circulation and safety; screening and buffering; (3) whether it creates nuisances or other adverse impacts. Several other conditions would also apply. It's hard to imagine how the proposed fuel farm project could be approved under Ordinance 2023-40. Unfortunately, the city's regulations do not apply.



Could the City withhold utilities from Belvedere?

Section 180.02(2), Florida Statutes allows a city to provide utility service outside its municipal boundary (but no farther than five miles from the city boundary). The authority provided by section 180.02(2) is permissive or discretionary. The city is not necessarily required to provide utilities to land that is located outside the municipal boundaries. This may be a question the city commission will address, at an appropriate time. In the event the city does not provide utilities to the proposed county project, it is possible for the applicant to obtain water from a source other than the city. This is an issue we continue to evaluate.



In drafting the criteria for an I-2 zoning district, did city staff take into account the highly populated area this I-2 zoning district was abutting? In light of this, could Ordinance 2023-41 be amended to restrict heavy industries from being built there even though that's an allowed use at the county level?

Industrial uses can generate adverse impacts on residential areas and other property owners, which is why a fuel farm use would be required to comply with the conditional use process under Ordinance 2023-40. This is consistent with section 2-01(7) of the city's Land Development Code which provides that a use that is not allowed in any zoning district may be allowed as a special exception/conditional use if it meets very restrictive criteria. Governmental entities may only exercise jurisdiction over land within their respective boundary. Counties are political subdivisions of the state of Florida. The boundaries of counties are established by statutes. In general a county and city would need to enter into an **interlocal agreement** that would authorize one government to exercise jurisdiction within the other government's boundaries, within authority allowed by law. The city's restrictive regulations would only apply to land within the city's boundary or over land that is the subject of an **interlocal agreement** between the city and county. The city's restrictive regulations would not ordinarily apply in the unincorporated county and that is the situation with respect to the proposed fuel farm project.
