

ORDINANCE NO. 1304

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S LAND DEVELOPMENT CODE TO CLARIFY THAT LAWFUL DEVELOPMENT OR USE MADE UNLAWFUL BY AN AMENDMENT TO THAT CODE SHALL HAVE NON-CONFORMING STATUS; CLARIFYING WHEN DEVELOPMENT OR A CHANGE OF USE MAY BE MADE WITH ONLY A BUILDING PERMIT AND WITHOUT A DEVELOPMENT ORDER; CLARIFYING THE STATUS OF NON-CONFORMING USES APART FROM NON-CONFORMING DEVELOPMENT; CLARIFYING PROCESS TO MODIFY NON-CONFORMING USES OR DEVELOPMENT; CLARIFYING THAT APPLICATIONS SUBJECT TO TYPE II OR QUASI-JUDICIAL REVIEW INCLUDE DENIALS OF SMALL AND LARGE CONDITIONAL USE REQUESTS; CLARIFYING THE PROCESS TO DETERMINE STANDING FOR PURPOSES OF REQUESTING REHEARING OF A PLANNING BOARD DECISION; PROVIDING FOR CODIFICATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH:

SECTION 1. From and after the effective date of this ordinance, Section 1.04.01 of the Land Development Code of the City of Panama City Beach is amended to read as follows (new text underlined, deleted text ~~struck through~~):

1.04.00 APPLICABILITY

1.04.01 Generally

- A.** The **Use** of any **Parcel** of land or any structure or any combination thereof, within the corporate limits of the **City** shall be in conformance with the requirements of the **LDC**.
- B.** All **Development** shall conform to the applicable standards, criteria, requirements and procedures of the **LDC**.
- C.** Unless otherwise authorized in this **LDC**, no **Development** shall proceed without a **Local Development Order** ~~or~~ and a Building Permit issued by the **City**, ~~or where permitted by Section 10.01.03 only a Building Permit by the City.~~

D. A **Change of Use** shall conform to the standards, criteria, requirements and procedures of the **LDC**.

E. Unless otherwise authorized in this **LDC**, no **Change of Use** shall be permitted without a **Local Development Order** ~~or~~ and a **Building Permit**, or where permitted by Section 10.01.05 only a **Building Permit** by the City.

SECTION 2. From and after the effective date of this ordinance, Section 1.07.01 of the Land Development Code of the City of Panama City Beach is amended to read as follows (new text underlined, deleted text ~~struck through~~):

1.07.00 ACRONYMS and DEFINITIONS

1.07.01 Acronyms

dbh – diameter at breast height

DCA – Florida Department of Community Affairs

FAA – Federal Aviation Administration

F.A.C. – Florida Administrative Code

FBC – Florida Building Code

FDEP – Florida Department of Environmental Protection

FDOT – Florida Department of Transportation

FHA – Federal Housing Administration

F.S. – Florida Statutes

GLA – gross leasable area

ITE – The Institute of Transportation Engineers.

LDC – Land *Development Code*, as adopted and subsequently amended by Ordinance.

PUD – Planned Unit Development

TCEA – Transportation Concurrency Exception Area

TNOD – Traditional Neighborhood Development

TSO – Traditional *Subdivision* Overlay

USACOE – United States Army Corps of Engineers

SECTION 3. From and after the effective date of this ordinance, Section 9.02.01, 9.02.02 and 9.02.03 of the Land Development Code of the City of Panama City Beach is amended to read as follows (new text underlined, deleted text ~~struckthrough~~):

9.02.00 EXISTING NON-CONFORMING DEVELOPMENT

9.02.01 Continuation of Non-conforming Development

- A. Subject to section 9.02.02, **Non-conforming Development** may remain in **Use** and in place in its nonconforming state, if such **Development** is otherwise lawful and in existence on the date or subsequent amendment of enactment of this **LDC**.
- B. Nothing in this chapter shall be construed to prevent the ordinary and routine maintenance and repair of nonconforming structures. A non-conforming structure may be issued a roofing permit, regardless of the other provisions of this section.
- C. Where an existing **Use** is located in conformity with this **LDC** (or similar, preceding law), the subsequent establishment of a neighboring **Use**, which due to distance limitations would make the pre-existing use non-conforming, shall not cause the prior **Use** to be in violation of this **LDC**. Such **Use** shall not become a non-conforming **Use** but shall continue as if a lawful, conforming **Use** except that the **Use** shall be brought into full compliance with the **Use** regulations in this **LDC** upon discontinuance of occupancy and/or **Use** of the **Development** for a period of more than 180 days in any 365 day period.

9.02.02 Expansion, Enlargement or Modification of Non-conforming Development or Uses

Non-conforming Development or the Use thereof shall not be expanded, enlarged or modified, unless:

- A. The expansion, enlargement or modification reduces the extent and burden of the nonconformity;
or
- B. The expansion, enlargement or modification meets each of the following criteria and is, therefore, deemed to be de-minimis de minimis:
 - I. The expansion, enlargement or modification does not increase the economic value by more than ten (10) percent of the full **Assessed Value** of the site on which the **Non-conforming Development** is located ("Subject Site");

2. The expansion, enlargement or modification would not adversely affect the properties surrounding the Subject Site;
3. The expansion, enlargement or modification would not degrade any level of service below the level established for the Subject Site by the Comprehensive Plan;
4. The expansion, enlargement or modification would not materially increase pedestrian or vehicular traffic to or from the Subject Site; and
5. A Local Development Order has been issued finding that the expansion, enlargement or modification complies with the criteria in this section and that the Non-conforming Development status of the property or Use has not been Terminated under any of the provisions of section 9.02.03; and
- 5- 6. Enforcement of the prohibition against expansion, enlargement or modification would either:
 - (a) Impose an undue hardship upon the owner of the Subject Site and the undue hardship is not shared generally by others similarly situated; or
 - (b) Fail to serve the useful purpose of ultimately eliminating, or at least not increasing, the burden imposed upon the policies and priorities of this LDC by the subject non-conformance.

9.02.03 Termination of Non-conforming Development

Non-conforming Development shall be brought into full compliance with the **Use** regulations and the **Development** design and improvement standards in this **LDC**, in conjunction with the following:

- A. The discontinuance of occupancy and/or **Use** of a **Non-conforming Development** for a period of more than 180 days in any 365 day period;
- B. Expansion, enlargement or modification of the **Non-conforming Development** or **Use** other than that set forth in section 9.02.02 and other than the conversion of a flat roof to a new pitched roof (gable or hip with at least a 4:12 pitch) which roof otherwise complies with the roof requirements of this code;
- C. The amount of land devoted, in whole or in part, to the **Non-conforming Development** is increased; or
- D. Reconstruction of the **Principal Structure** after the structure has been substantially destroyed by any means, whether voluntarily or involuntarily. A structure is "substantially destroyed" if the cost of reconstruction exceeds sixty (60) percent of the structure's **Assessed Value**. If there are multiple **Principal Structures** on a site, the cost of reconstruction shall be compared to the combined **Assessed Value** of all **Principal Structures**. A **Non-conforming**

Single Family Residence may be rebuilt provided the new building footprint is contained within the previously existing building footprint.

SECTION 4. From and after the effective date of this ordinance, Section 10.01.02 of the Land Development Code of the City of Panama City Beach, is amended to read as follows (new text underlined, deleted text ~~struckthrough~~):

10.01.00 GENERALLY

10.01.02 Local Development Orders and Building Permits Required

- A. Local Development Order** shall be issued to indicate approval of any **Site Plan, Subdivision Plat, Variance, ~~or Rezoning~~**, or expansion, enlargement or modification of **Non-conforming Development or Use**.
- B.** Except as provided in sections 10.01.03 ~~or~~ 10.01.05, a valid and current **Local Development Order** shall be required prior to the issuance of any **Building Permit** to authorize **Development** or a **Change of Use**.
- C.** No **Development** or **Change of Use** shall be made or continued without a lawful **Building Permit**, ~~unless exempted by section 10.01.03.~~

SECTION 4. From and after the effective date of this ordinance, Sections 10.02.16 of the Land Development Code of the City of Panama City Beach is created to read: (new text underlined):

10.02.00 APPLICATION REQUIREMENTS

10.02.16 Additional Submittal Requirements for Requests for Expansion, Enlargement or Modification of Non-Conforming Development or Uses

- A.** All information required pursuant to section 10.02.02.

- B. An analysis of the proposed request using the general and specific criteria of section 9.02.02.

SECTION 5. From and after the effective date of this ordinance, Sections 10.04.02, 10.04.03, 10.04.04 and 10.04.06 of the Land Development Code of the City of Panama City Beach are amended to read as follows (new text underlined, deleted text ~~struckthrough~~):

10.04.00 CLASSIFICATION OF APPLICATIONS

10.04.02 Applications Subject to Type I Review – Notice of Intent Proceedings

The following applications shall be processed pursuant to the Type I procedures:

- A.** A *Site Plan* approval;
- B.** A *Land Clearing Permit* or a *Tree Removal Permit*;
- C.** Administrative approval of a preliminary *Subdivision Plat* to confirm compliance of the subject lands, lots, *Streets* and other features with the substantive requirements of this LDC;
- D.** A planned unit development *Final Development Plan*;
- E.** A traditional neighborhood overlay district *Final Development Plan*;
- F.** Approval of a *Lot Split*; and
- G.** Approval of a Request for Expansion, Enlargement or Modification of a *Non-Conforming Development or Use*; and
- H.** Approval of a Any local development order not classified elsewhere in this LDC.

10.04.03 Applications Subject to Type II Review – Quasi-Judicial Proceedings

The following application, which pertains to quasi-judicial decisions, which are required to be made by the City Council, shall be processed pursuant to the Type II procedures:

- A. Statutorily required approval of final **Subdivision Plats** for compliance as to form with state law and review for compliance with additional requirements, if any, imposed by this LDC on the form of **Subdivision Plats**;
- B. A Zoning or **Rezoning** which does not involve one or more **Lots** of land that in the aggregate are so large as to affect the community as a whole and accordingly constitute a legislative and not a quasi-judicial action;
- C. Conditional **Uses** involving any **Parcel** or combination of contiguous **Parcels** encompassing more than three (3) acres of land (a large conditional **Use**); and
- D. City Council rehearing of decisions of the Planning Board pursuant to section 10.17.00.

10.04.04 Applications Subject to Type III Review – Legislative Proceedings

The following applications, which all pertain to legislative decisions, shall be processed pursuant to the Type III procedures:

- A. Zoning or **Rezoning** which involves one or more **Parcels** of land that, in the aggregate, are so large as to affect the community as a whole and accordingly does not constitute a quasi-judicial action;
- B. Any annexation;
- C. ~~Conditional **Uses** involving any **Parcel** or combination of contiguous **Parcels** encompassing more than three (3) acres of land; and~~
- D.C. Comprehensive Plan Amendment.

10.04.06 Applications Subject to Type V Review – Planning Board Proceedings

The following applications shall be processed pursuant to the Type V procedures:

- A. Planned unit development Master Plan;
- B. Traditional Neighborhood Overlay Development Master Plan (**TNOD**);
- C. Large site development (see section 7.02.03P);
- D. Variances to the FBO district requirements;
- E. Conditional **Uses** involving any **Parcel** or combination of contiguous **Parcels** encompassing three (3) or less acres of land (small conditional **Uses**).

SECTION 6. From and after the effective date of this ordinance, the caption of Section 10.10.00 of the Land Development Code of the City of Panama City Beach is

amended to read as follows (new text underlined, deleted text ~~struckthrough~~):

**10.10.10 TYPE V PROCEDURES – PLANNING BOARD PROCEEDINGS
~~MASTER PLAN PROCEEDINGS FOR PUD, TRADITIONAL
NEIGHBORHOOD OVERLAY DISTRICTS (TNOD), LARGE SITE
DEVELOPMENT PLANS AND SMALL CONDITIONAL USES~~**

SECTION 7. From and after the effective date of this ordinance, Section 10.17.01 and 10.17.04 of the Land Development Code of the City of Panama City Beach is amended to read as follows (new text underlined, deleted text ~~struckthrough~~):

**10.17.00 CITY COUNCIL REHEARING OF DECISIONS OF THE
PLANNING BOARD**

10.17.01 Scheduling of Rehearing Before the City Council

Within ten (10) days of the filing of a timely and authorized request for rehearing of a decision of the Planning Board, pursuant to Section ~~10.11.00 (Variances)~~ or ~~10.16.00 (Administrative Appeal)~~ or of a decision of the planning Board pursuant to Section ~~10.10.00 (PUD Master Plan)~~, the **City Manager** shall schedule the rehearing within forty-five (45) days of the receipt of the request for rehearing, unless all parties consent to additional time.

10.17.04 Rehearing Before the City Council

A. _____ The City Council shall conduct a quasi-judicial hearing in accordance with the requirements of section 10.13.00.

~~A.B.~~ When a rehearing has been requested by a purported Adversely Affected Person, before accepting evidence on the merits the Council shall inquire, accept evidence and make a determination of whether the person is in fact and law Adversely Affected. If no party with standing has requested the hearing, the City Council shall dismiss the request for lack of jurisdiction without considering the merits. The Council may take into consideration but shall not be bound by a prior determination of the Planning Board in the same matter that a person is an Adversely Affected Person.

~~B.C.~~ _____ The **City** staff shall introduce into the record the minutes and exhibits that were introduced during the Board's hearing.

~~G.D.~~ The party requesting the rehearing shall have the burden of going forward with the evidence and the privilege of opening and closing the rehearing.

~~D.E.~~ The party invoking the jurisdiction of the Board shall bear the burden of proof.

~~E.F.~~ The City Council shall base its decision upon the record of the Board's hearing, which may, but shall not be required to, include a verbatim transcript and such additional evidence as may be submitted to the City Council during the rehearing.

SECTION 8. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.


SECTION 9. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Land Development Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 10. This Ordinance shall take effect immediately upon passage.

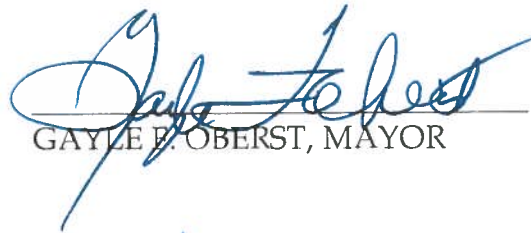
PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this 27th day of March, 2014.


GAYLE F. OBERST, MAYOR

ATTEST:


Holly J. White, City Clerk

EXAMINED AND APPROVED by me this 27th day of March, 2014.


GAYLE E. OBERST, MAYOR

Published in the Panama City News Herald on the 10th day of March, 2014.

POSTED AT:

PCB City Hall Annex

Dated: March 28, 2014

PCB Public Library

Dated: March 28, 2014

W PCB Post Office

Dated: March 28, 2014