

ORDINANCE NO. 1367

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE APPLICATION, REVIEW AND DECISION MAKING PROCEDURES SET FORTH IN THE CITY'S LAND DEVELOPMENT CODE; CLARIFYING THAT APPLICATIONS FOR LARGE CONDITIONAL USES AND NEW STAND-ALONE WIRELESS TOWERS OR ANTENNA ARE GOVERNED BY THE QUASI-JUDICIAL PROCESS SET FORTH IN SECTION 10.07.02B; REFERENCING THE CONDITIONAL USE CRITERIA TO BE REVIEWED DURING PLANNING BOARD PROCEEDINGS, WHEN APPLICABLE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION 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 10.07.00 of the Land Development Code of the City of Panama City Beach related to Unified Development in Multiple Districts, is amended to read as follows (new text **bold and underlined**, deleted text ~~struck through~~):

10.07.00 TYPE II PROCEDURES – QUASI-JUDICIAL PROCEEDINGS

10.07.01 Generally

The procedures set forth in this section, are applicable to all applications subject to Type II review, which are listed in section 10.04.03.

10.07.02 Procedures After Completeness Determination

A. Final Subdivision Plats

1. Within thirty (30) days of the Building and Planning Department's, the Engineering Department's and the City Attorney's determination that the final plat application is complete, the Building Department shall schedule a public hearing on the proposed plat before the City Council.

2. The *Building* and Planning Department and the Engineering Department shall each prepare a written report to the City Council regarding the respective Department's analysis of the pending application. The report shall be available to the applicant and the general public no less than five (5) days prior to the City Council's public hearing on the plat
3. The City Council shall conduct a quasi-judicial hearing on the application and determine whether to approve or deny the plat. In addition to notice of hearing by *Publication* as required by the Florida Statutes, notice of the City Council hearing shall be by *Posted Notice*.
4. All quasi-judicial hearings shall be conducted pursuant to the requirements of section 10.13.00.

B. Zoning, ~~or~~ Rezoning, Large Conditional Use, and New Wireless Tower or Antenna (no colocation)

1. Within thirty (30) days of the Building and Planning Department's determination that the application is complete, the Department shall schedule a public hearing on the application before the Planning Board.
2. The Building and Planning Department shall prepare a written report to the Planning Board regarding the Department's analysis of the pending application. The report shall be available to the applicant and the general public no less than five (5) days prior to the Planning Board's public hearing on the application.
3. The Planning Board shall conduct a quasi-judicial hearing on the application and prepare a recommendation to the City Council. Public Notice of the Planning Board quasi-judicial hearing shall be provided by *Posted Notice, Publication* and *Neighborhood Notice* (300 feet).
4. The City Council shall conduct a quasi-judicial hearing on the application and determine whether to approve, approve with conditions or deny the application. In addition to notice of hearing by *Publication* as required by the Florida Statutes, notice of the City Council hearing shall be by *Posted Notice*.
5. All quasi-judicial hearings shall be conducted pursuant to the requirements of section 10.13.00.

{Ord. # 1253, 12-13-12}

SECTION 2. From and after the effective date of this ordinance, Section 10.09.00 of the Land Development Code of the City of Panama City Beach related to

Telecommunications Proceedings, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

10.09.00 TYPE IV PROCEDURES – TELECOMMUNICATIONS PROCEEDINGS

10.09.01 Generally

- A. The procedures set forth in this section are applicable to all applications subject to Type IV review, which are listed in section 10.04.05.
- B. In the case of a declared local, state or federal emergency that directly affects the *City's* administration of all permitting activities, the *City* may require a one-time waiver by the applicant of the time-frames set forth in this section. Other than this one-time waiver, the *City* may request, but not require, an applicant to waive the time-frames set forth in this section.
- C. The applicant may voluntarily waive the time-frames set forth in this section.

10.09.02 Procedures After Completeness Determination -- New Wireless Tower or Antenna -- No Collocation

An application for a new wireless tower or *Antenna*, which does not involve *Collocation*, shall be processed as follows:

- A. If the *Building* and Planning Department determines that the application is complete, the application shall be processed in accordance with the requirements of section 10.07.02**(B)**.
- B. The City Council shall render its decision within ninety (90) business days after the date on which the applicant submits a properly completed application to the *City*. See section 365.172(11)(d), Florida Statutes.
- C. If the City Council fails to act within the ninety (90) business day time-frame mandated by section 1.02.01B, the application shall be deemed automatically approved and the applicant may proceed with placement of the facility without interference or penalty by the *City*.

10.09.03 Procedures After Completeness Determination -- Collocation of Wireless Communications Facility -- Height Increase

- A. An application for the *Collocation* of a wireless communications facility, which increases the height of the *Existing Structure*, shall be processed pursuant to the requirements of section 10.09.02, except the time-frame for the City Council to render its decision is forty-five (45)

business days after the date on which the applicant submits a properly completed application to the *City*. See section 365.172(11)(d), Florida Statutes.

- B. If the City Council fails to act within the forty-five (45) business day time-frame mandated by section 1.02.01A, the application shall be deemed automatically approved and the applicant may proceed with placement of the facility without interference or penalty by the *City*.

10.09.04 Collocation of Wireless Communications Antenna -- No Height Increase.

An applicant seeking approval to collocate a wireless communications *Antenna* on an above-ground structure and any related equipment to service the *Antenna*, is not required to obtain a *Local Development Order*, provided the height of the *Existing Structure* is not increased. Rather, the applicant shall apply for a *Building Permit* in accordance with applicable law.

SECTION 3. From and after the effective date of this ordinance, Section 10.10.00 of the Land Development Code of the City of Panama City Beach related to Planning Board Proceedings, is amended to read as follows (new text bold and underlined, deleted text ~~struckthrough~~):

10.10.00 TYPE V PROCEDURES – PLANNING BOARD PROCEEDINGS

(Ord. # 1304, 3/27/14)

10.10.01 Generally

- A. The procedures set forth in this section are applicable to all applications subject to Type V review, which are listed in section 10.04.06.
- B. Notice of the Planning Board quasi-judicial hearings shall be provided by *Neighborhood Notice, posting* and *Publication* (300 feet).
- C. All quasi-judicial hearings shall be conducted pursuant to the requirements of section 10.13.00.
- D. A property owner has no legal right for approval of a Master Plan. Rather, the *City* shall approve a *PUD* Master Plan only when it has determined that the applicant has demonstrated, to the satisfaction of the *City*, that the *PUD* Master Plan provides a sufficient public benefit to justify allowing the property owner to deviate from otherwise applicable minimum requirements of the *LDC*.

- E. For approval of a **TNOD** Master Plan, the Planning Board shall follow the requirements of Section 7.02.02.

(Ord. #1254, 11/14/13)

10.10.02 Procedures After Completeness Determination

- A. Within thirty (30) days of the **Building** and Planning Department's determination that the application is complete, the Department shall schedule a public hearing on the application before the Planning Board.
- B. The **Building** and Planning Department shall prepare a written report to the Planning Board regarding the Department's analysis of the pending application. The report shall be available to the applicant and the general public no less than five (5) days prior to the Planning Board's public hearing on the application.
- C. The Planning Board shall conduct a quasi-judicial hearing on the application and determine whether the following conditions (among others it deems appropriate) are met by the applicant:
 - 1. That the **Development** is planned under unified ownership and control rather than as an aggregation of individual and unrelated **Buildings** and **Uses**;
 - 2. That the applicant has met the intent of the applicable sections addressing **PUD** or **TNOD**; and
 - 3. That the applicant is providing sufficient public benefit to allow the applicant to deviate from the regulations applicable within the underlying zoning district generally.

(Ord. #1254, 11/14/13)

4. That the applicant meets the Conditional Use criteria set forth in Section 5.06.00.

- D. At the conclusion of the quasi-judicial hearing or within thirty (30) days thereafter, the Planning Board's decision shall be reduced to a proposed, written order containing conclusions of applicable law, findings of relevant fact and signed by the chairman or vice-chairman and attested by the Board's secretary.
- E. Notice of the proposed order shall be mailed to the applicant and any person who shall have requested a copy during or at the conclusion of the public hearing. A sign-up sheet for such notice requests shall be provided and announced at the public hearing. Such notice shall include a copy of the proposed order, a description of the persons entitled to appeal and a statement of the appeal procedures set forth in this section.
- F. Within ten (10) days after mailing the notice of proposed order, the **City**, the applicant or an **Adversely Affected Person** who appeared at the hearing shall be entitled to file with the secretary of the Planning Board a written request for a rehearing before the City Council. The

written request for a rehearing shall set forth the specific grounds for such request. Any amendments to the written request for a rehearing may be made no less than ten (10) days prior to the City Council's public hearing on the application.

(Ord. # 1328, 2/12/15)

- G. If no such request is timely filed, the Planning Board's proposed order shall become final and the City Council shall have no jurisdiction in the matter.
- H. If such a request is timely filed, the Planning Board's proposed order shall be superseded by the City Council's final action on the request pursuant to section 10.17.00.

10.10.03 Revisions to Master Plan

Any revisions to an approved Master Plan shall be submitted to the Planning Board for approval with the same procedures and formality as approval of the original Master Plan.

(Ord. # 1271, 4-25-13)

10.10.04 Progress Report to Planning Board

Upon Master Plan approval, the applicant shall submit a Progress Report to the Planning Board no later than the dates as stated in the Master Plan. The Progress Report shall give a summary of the **Development** of the to date including number of **Dwelling Units**, square footage of non- **Residential Development**, protection of natural resources, unanticipated events that have taken place and other benchmarks that measure progress in completing the approved Master Plan.

10.10.05 Invalidation of Master Plan

Failure to complete a benchmark by the time specified in the Master Plan timeline shall, upon notice and hearing, result in the invalidation of the Master Plan and Final **Development** Plan by written order of the Planning Board. Upon invalidation of the Master Plan, all land **Development** regulations applicable to the underlying zoning district in the case of a TNOD, the prior zoning in the case of a PUD or other regulations in effect prior to the approval of the Master Plan, as applicable shall apply to the property which was the subject of the Master Plan.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 5. 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 6. 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 12th day of November, 2015.


MAYOR

ATTEST:


CITY CLERK

EXAMINED AND APPROVED by me this 12th day of November, 2015.


MAYOR

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