

ORDINANCE NO. 1410

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S LAND DEVELOPMENT CODE RELATING TO THE ALLOWED EXPANSION, ENLARGEMENT OR MODIFICATION OF EXISTING NON-CONFORMING DEVELOPMENT AND EXISTING NON-CONFORMING USES; AMENDING THE CITY'S LAND DEVELOPMENT CODE RELATING TO THE LOSS OF THE PRIVILEGE OF CONTINUING NON-CONFORMING DEVELOPMENT AND USES; PROHIBITING THE OCCUPANCY OF A PORTION OF A NON-CONFORMING STRUCTURE WHEN THAT PORTION LOSES THE PRIVILEGE OF CONTINUING; REQUIRING PLANNING BOARD APPROVAL OF EXPANSION, ENLARGEMENT, OR MODIFICATION OF NON-CONFORMING DEVELOPMENT AND USES; AMENDING PLANNING BOARD PROCEEDINGS TO REQUIRE NOTICE OF A HEARING ON AN APPLICATION TO EXPAND, ENLARGE OR MODIFY A NON-CONFORMING DEVELOPMENT OR USE TO BE BY POSTING AND PUBLICATION BUT NOT BY NEIGHBORHOOD NOTICE; INCREASING THE DOLLAR VALUE OF *DE MINIMIS* IMPROVEMENTS PERMITTED FOR NON-CONFORMING DEVELOPMENT AND USES; AMENDING AFFECTED CROSS-REFERENCES; CLARIFYING THE DEFINITION OF NON-CONFORMING DEVELOPMENT TO EXPRESSLY INCLUDE SITES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

NOW THEREFORE, 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 9.02.02 of the Land Development Code of the City of Panama City Beach is amended to read as follows (new text **bold and underlined**, deleted text ~~struck through~~):

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 (including by way of example and not limitation reduction in spatial characteristics such as area, height, volume or proximity to property lines) and burden (including by way of example and not limitation reduction in noise, impairment of light and air, vibration, dust or odors perceived from adjacent or neighboring properties) of the nonconformity; or
- B. The modification is a conversion of a flat roof to a new pitched roof (gable or hip with at least a 4:12 pitch) so long as that new roof otherwise complies with the roof requirements of this code; or
- C. The expansion, enlargement or modification meets each of the following criteria and is, therefore, deemed to be *de minimis*:
 - 1. The expansion, enlargement or modification does not increase the economic value by more than ~~twenty (20)~~ 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 so increase the extent and burden (as exemplified in sub-section A of this section) of the nonconformity that adversely affect the properties adjacent to or neighboring surrounding the Subject Site would be materially and adversely affected;
 - 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~~**The Non-Conforming Development** status of the property or **Use** has not been ~~lost~~**terminated** under any of the provisions of Section 9.02.03; ~~or~~
- ~~D.6.~~ D.6. Enforcement of the prohibition against expansion, enlargement or modification would impose 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.~~

SECTION 2. From and after the effective date of this ordinance, Section 9.02.03 of the Land Development Code of the City of Panama City Beach is amended to read as follows (new text **bold and underlined**, deleted text ~~struck through~~):

9.02.03 Termination of the Privilege of Continuing Non-Conforming Development and Uses

Non-conforming Development and Uses shall be brought into full compliance with the *Use* regulations and the **Site Design and Development** ~~design and improvement~~ standards in **Chapters 2, 4, 5, and 7** of this *LDC* (**except set-back and stormwater management standards**) ~~in conjunction with~~ **as a result of any of any one or more of** the following:

- A. The discontinuance of occupancy and/or use ~~Use~~ of a *Non-Conforming Development* or *Use* for a period of more than 180 days in any 365-day period. **Where the occupancy of a portion of a Non-Conforming Development has been discontinued for a period of more than 180 days in any 365-day period, that portion of the Development may not be occupied for any purpose until the entire Development is brought into full compliance with the Site Design and Development standards in Chapters 2, 4, 5, and 7 of this Code (except set-back and stormwater management standards).**
- B. ~~Expansion, enlargement or modification of the *Non-Conforming Development* other than that set forth in section 0 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~~
- B.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 3. From and after the effective date of this ordinance, Section 10.04.06 of the Land Development Code of the City of Panama City Beach is amended to read as follows (new text **bold and underlined**, deleted text ~~struck through~~):

10.04.00 CLASSIFICATION OF APPLICATIONS

10.04.01 Generally

There are six (6) different categories of applications: Type I, Type II, Type III, Type IV, Type V or Type VI. An application will be reviewed based upon the category to which it is assigned by the Building and Planning Department in accordance with sections 10.04.02-07.

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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*).
- F. Application to expand, enlarge or modify Non-Conforming Development or Uses pursuant to Section 9.02.02.

SECTION 4. From and after the effective date of this ordinance, Section 9.02.02 of the Land Development Code of the City of Panama City Beach is amended to read as follows (new text **bold and underlined**, deleted text ~~struck through~~):

10.10.00 TYPE V PROCEDURES – PLANNING BOARD PROCEEDINGS

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 (300 feet), Posting and Publication (300 feet)*, except that *Neighborhood Notice shall not be required for applications to expand, enlarge or modify Non-Conforming Development or Uses pursuant to Section 9.02.02.*
- 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.

SECTION 5. From and after the effective date of this ordinance, Section 7.02.03(B) of the Land Development Code of the City of Panama City Beach is amended to read as follows (new text **bold and underlined**, deleted text ~~struck through~~) to conform section numbers:

7.02.00 ESTABLISHMENT OF SPECIAL OVERLAY DISTRICTS

7.02.03 Front Beach Road Overlay Districts

A. Purpose

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B. Applicability:

1. All of the standards in this section apply to *New Development* or *Redevelopment*.
2. The standards of this section do not apply to:
 - (a) Continuation of a permitted *Use* within an existing structure;
 - (b) Changes of *Use* within existing structures that do not require increased parking;
 - (c) Normal repair and maintenance of existing structures that do not increase its size or parking demand; and
 - (d) Continuation of a *Non-Conforming* situation in accordance with section 9.02.00 of this *LDC*.
3. Modifications to existing *Non-Conforming* structures or *Uses* may be authorized in accordance with section 9.02.02, provided that expansions increase conformance by reducing excess front *Building Setbacks* and front *Yard* parking. In lieu of the standard established in section ~~9.02.02C.49-02.02B.4~~, an expansion, enlargement or modification that otherwise meets the standards in section ~~9.02.02C~~~~9.02.02B~~ is considered *de minimis* even if it materially increases pedestrian traffic to or from the Subject Site.

SECTION 6. From and after the effective date of this ordinance, Section 1.07.02 of the Land Development Code of the City of Panama City Beach is amended to read as follows (new text **bold and underlined**, deleted text ~~struck through~~):

1.07.02 Definitions

As used in the *LDC*, the following terms shall have the meanings assigned to them. When one or more defined terms are used together, their meanings shall also be combined as the context shall require or permit. All terms not specifically defined shall carry their usual and customary meanings. Undefined terms indigenous to a trade, industry or profession shall be defined when used in such

context in accordance with their usual and customary understanding in the trade, industry or profession to which they apply.

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Non-conforming Development – A ***Use, site*** or structure which was lawfully established under the laws and rules of the ***City*** at the time of establishment of the ***Use, site*** or structure, but which does not conform to the requirements of the ***LDC***.

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SECTION 7. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 8. 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 9. 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 ____ day of _____,
2017.

MAYOR

ATTEST:

CITY CLERK

EXAMINED AND APPROVED by me this ____ day of _____,
2017.

MAYOR

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