

ORDINANCE NO. 1476

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S LAND DEVELOPMENT CODE RELATED TO VARIANCES; PROVIDING THAT VARIANCES SHALL BE TYPE II QUASI-JUDICIAL PROCEEDINGS HEARD BY THE CITY COUNCIL, AND CONFORMING PROVISIONS THROUGHOUT THE LDC; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; 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 1.07.02 of the Land Development Code of the City of Panama City Beach related to Definitions, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

**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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**Variance** – Administrative action of the **City Council** ~~Planning Board~~ authorized by section 9.03.00.

SECTION 2. From and after the effective date of this ordinance, Section

3.02.07 of the Land Development Code of the City of Panama City Beach related to Floodplain Management Variances, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

### 3.02.07 VARIANCES AND APPEALS

- A. General.** The **City Council** ~~Planning Board~~ shall hear and decide on requests for appeals and requests for variances from the strict application of this ordinance. Pursuant to section 553.73(5), F.S., the **City Council** ~~Planning Board~~ shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the *Florida Building Code*. This section does not apply to Section 3109 of the *Florida Building Code, Building*.
- B. Appeals.** ~~The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Planning Board in the administration and enforcement of this ordinance.~~ Any person aggrieved by the decision of the City Council may appeal such decision to the Circuit Court, as provided by Florida Statutes.
- C. Limitations on authority to grant variances.** The **City Council** ~~Planning Board~~ shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 0 of this ordinance, the conditions of issuance set forth in Section 0 of this ordinance, and the comments and recommendations of the Floodplain Administrator and the Building Official. The **City Council** ~~Planning Board~~ has the right to attach such conditions as it deems necessary to further the purposes and objectives of this ordinance.
- D. Restrictions in floodways.** A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in Section 3.02.05C of this ordinance.
- E. Historic buildings.** A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the *Florida Building Code, Existing Building*, Chapter 12 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the *Florida Building Code*.
- F. Functionally dependent uses.** A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this ordinance, provided the variance meets the requirements of Section 0, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

**G. Considerations for issuance of variances.** In reviewing requests for variances, the **City Council Planning Board** shall consider all technical evaluations, all relevant factors, all other applicable provisions of the *Florida Building Code*, this ordinance, and the following:

1. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
4. The importance of the services provided by the proposed development to the city;
5. The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
6. The compatibility of the proposed development with existing and anticipated development;
7. The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
8. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
9. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
10. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

**H. Conditions for issuance of variances.** Variances shall be issued only upon:

1. Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this ordinance or the required elevation standards;
2. Determination by the **City Council Planning Board** that:
  - (a) Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
  - (b) The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and
  - (c) The variance is the minimum necessary, considering the flood hazard, to afford relief;

3. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and
4. If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

SECTION 3. From and after the effective date of this ordinance, Section 3.05.05 of the Land Development Code of the City of Panama City Beach related to Floodplain Management Variances, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

### **3.05.05 Appeals**

- A. Any person aggrieved, developer, owner or applicant who alleges that the administrative official acted erroneously in enforcing this law, or any person aggrieved, developer, owner or applicant who believes he is entitled to a variance from the enforcement of this law, may appeal the decision of that administrative official to the **City Council** ~~Planning Board~~. Such appeal, including any appeal fee, shall be filed within thirty (30) days of the receipt of an official notice of decision, or such longer time as may be expressly provided by this law for a particular circumstance. Such an appeal shall be the exclusive remedy to challenge the decision or authority of the administrative official.
- B. The **City Council** ~~Planning Board~~ shall hear and decide all appeals and requests for variances pursuant to the procedures specified in section 9.03.00 of this LDC, as amended from time to time. In the event of an irreconcilable conflict between the procedures specified in this section and in said section 9.03.00, this section shall control. The **City Council** ~~Planning Board~~ is authorized to hear appeals on two (2) grounds and no other, namely,
  1. The **City Council** ~~Planning Board~~ is hereby authorized to interpret and construe where necessary the provisions of this law as applied to any particular circumstance.
  2. The **City Council** ~~Planning Board~~ is hereby authorized to grant such variances from the literal application of this law as will not be contrary to the public health, safety or welfare, if special conditions or circumstances exist which are not common to those similarly situated and owing to which a literal enforcement of the provisions of this law will result in unnecessary hardship. An appeal for such a

variance shall be in writing and shall state in detail the reasons for the request. No other reasons shall be considered. The appeal shall be signed by the applicant who must be the owner or person who will be entitled to possession of the property. The ~~City Council Planning Board~~ shall grant the variance, deny the variance, or grant the variance with conditions within sixty (60) days after the appeal is filed.

3. Any person aggrieved by any decision of the ~~City Council Planning Board~~ may seek review by certiorari in the Circuit Court, 14th Judicial Circuit, Bay County Florida, which shall be the exclusive remedy to challenge the decision or authority of such Board.

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(Ord. No. 583, § 1, 9-10-98; Ord. No. 617, § 5, 3-11-99; Ord. No. 907, § 2, 10-14-04; Ord. No. 985, § 1, 9-22-05)

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SECTION 4. From and after the effective date of this ordinance, Section 4.02.03C of the Land Development Code of the City of Panama City Beach related to Scenic Corridor Design Requirements, is amended to read as follows (new text **bold and underlined**, deleted text ~~struck through~~):

#### **4.02.03 Scenic Corridor Design Requirements**

*Scenic Corridor* design and performance standards are established throughout this *LDC* and the *City's Code of Ordinances* (CO), including but not limited to the following provisions:

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##### **C. Design**

The following design requirements apply to exterior walls of metal *Buildings* situated on *Lots* or *Parcels* lying in whole or in part within a *Scenic Corridor*:

1. The *City* finds that the appearance of metal *Buildings* within the *Scenic Corridor* is detrimental to the image of the community both as a tourist destination and as a coastal *City* of permanent residents, is contrary to the Community Objectives advanced by the August 2001 Front Beach Road Community Redevelopment Plan, diminishes surrounding property values and is contrary to the public welfare.
2. On any *Parcel* which lies in whole or in part within a *Scenic Corridor*, no exterior wall of any *Building* located on such a *Parcel* shall be constructed of metal unless either (i) such wall is not visible by a pedestrian standing within the vehicular right-of-way of the *Scenic Corridor* or (ii) such wall is completely covered by one or more of the following materials:
  - (a) Brick;
  - (b) Stone;
  - (c) Stucco;

- (d) Synthetic stucco;
  - (e) Cementitious materials;
  - (f) Exterior insulation finish system (E.I.F.S.); or
  - (g) Wood siding, provided that such siding is applied with no panel exceeding twelve (12) inches in height.
3. Other non-ferrous material may be permissible, if determined by the Planning Board as a matter of fact to be aesthetically comparable and at least as opaque, weather resistant and permanent as the materials listed in section 0.

(ZO 13-44 or 5-41)

SECTION 5. From and after the effective date of this ordinance, Section 4.03.01D of the Land Development Code of the City of Panama City Beach related to Subdivision Design and Layout, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

#### **4.03.00 SUBDIVISION DESIGN AND LAYOUT**

##### **4.03.01 Generally**

- A.** Any division of land shall be subject to the design requirements of this section. Procedures for approval of preliminary **Plats**, final **Plats**, **Lot Splits** and improvement plans are set forth in Chapter 10.
- B.** All **New Development** shall be located on a recorded, **Platted Lot** or on a **Lot** resulting from a lawful **Lot Split**.
- C.** An existing **Lot** located within a **Subdivision** that has been approved prior to July 26, 2012 by the City Council in the form of a **Plat**, shall be allowed to be developed with a **Single Family Dwelling Unit** subject to satisfaction of **Setback** and **Building** requirements as well as all other applicable regulations.
- D.** In Bid-A-Wee 1<sup>st</sup> Addition, **Lots** less than the required minimum **Lot** size and not meeting the dimensions as approved on the adopted **Plat**, may still receive approval for a **Building Permit** provided the **City Council** ~~Planning Board~~ finds the following conditions are satisfied:

1. The **Lot** must be of a similar size and width as other **Lots** in the **Subdivision**; and
2. All other applicable regulations must be satisfied.

SECTION 6. From and after the effective date of this ordinance, Section 4.04.01H of the Land Development Code of the City of Panama City Beach related to Variances Generally, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

**H. Variances**

1. The ~~City Council Planning Board~~, upon application of the property owner, may permit an additional temporary or permanent **Access Connection** to a **Parcel** when the property owner demonstrates that:
  - (a) An additional **Access Connection** will not materially and adversely affect the safety and efficiency of travel on the public road;
  - (b) The location, design and construction of the **Access Connection** is based upon sound engineering judgment and best engineering practices, including without limitation, any other applicable provisions of the **City Code**, Florida Administrative Rule 14-97 and any published recommendations of the Institute of Transportation Engineers (ITE), FDOT or the American Association of State Highway and Transportation Officials (AASHTO); and
  - (c) Special conditions or circumstances, not shared by other **Parcels** similarly situated, exist which prevent the **Use** of an internal circulation system, joint **Access Connections** and no alternative means are available to provide **Reasonable Access** to the property.
2. Any person aggrieved by any decision of the ~~City Council Planning Board~~ shall have thirty 30 days to appeal that decision in accordance with the procedures specified **in section [ ]**.  
(Ord. No. 802, § 1, 9-9-04; Ord. No. 906, § 1, 10-14-04)

SECTION 7. From and after the effective date of this ordinance, Section 5.07.09 of the Land Development Code of the City of Panama City Beach related to the City Sign Code, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

**5.07.08H1, 6**

## 5.07.09 Existing Signs

**A. *Illegal Signs.*** Any *Sign* existing as of the effective date of this *Sign Code*, or on the effective date of any amendment to this *Sign Code* (i) which was not **Erected** pursuant to a valid **Permit** from the **City** if required or (ii) which did not comply in all respects with **City** ordinances in effect immediately prior to such effective date or (iii) which was required by **City** ordinance in effect immediately prior to such effective date to be removed due to the passage of time or any other reason, regardless of whether the **City** shall have commenced any enforcement action against such *Sign* or any person, and any *Sign* reclassified as an **Illegal Sign** pursuant to section 0, is hereby deemed to be an "**Illegal Sign**" and such *Sign*, the **Premises** upon which it is located, and the person or persons responsible for such *Sign* shall be subject to the remedies and penalties provided by law.

Upon a determination by the **City Manager** or his designee and written notice at any time to the owner or person entitled to possession of an **Illegal Sign** that such *Sign* exists, in addition to any other remedy or penalty that may be available to the **City**, the owner or person entitled to possession of an **Illegal Sign** shall be obligated to remove such *Sign* and any associated **Sign Structure** within twenty (20) days after receipt of such notice unless an appeal of such determination has been previously filed with the **Planning Board** and is pending or has been resolved in the permittee's favor.

**B. *Legal Signs.*** Any *Sign* existing on the effective date of this *Sign Code* which was **Erected** pursuant to a valid **Permit** from the **City** if required, and which complies in all respects with **City** ordinances in effect immediately prior to such effective date, and which conforms to the provisions of this *Sign Code*, and any subsequent amendment hereto, is hereby deemed to be a "**Legal Sign**" and shall be entitled to a **Permit** or renewed **Permit** evidencing that fact upon application and payment of a registration fee in the amount of \$5.00 to be applied against the actual or reasonably anticipated expenses associated with the registration. The fee may be changed from time to time by resolution of the **City Council** to reflect changed expenses associated with registration.

**C. *Attrition and removal of Nonconforming Signs.*** Any *Sign* existing on the effective date of this *Sign Code*, or the effective date of any amendment to this *Sign Code*, which complied in all respects with **City** ordinances in effect immediately prior to such effective date, and is not an **Illegal Sign**, but which does not conform to the provisions of this *Sign Code*, or any amendment to this *Sign Code*, either independently or in conjunction with other *Signs* is hereby deemed to be a **Nonconforming Sign**.

1. A **Nonconforming Sign** may not be enlarged but may be maintained (i) by painting or refinishing the surface of the **Sign Face** and **Sign Structure**, or by replacing damaged panels, so as to keep the appearance of the *Sign* the same as it was upon the adoption of this *Sign Code* or subsequent amendment hereto which resulted in such *Sign* becoming a **Nonconforming Sign**, or (ii) by replacement of light bulbs or similar expendable electrical devices, and repair and replacement of electrical components for safety reasons only and not to improve or upgrade the appearance or utility of the *Sign*, or (iii) by lawfully changing the content of its **Face**. In the event that a **Nonconforming Sign** is damaged by fire, wind, flood or other sudden casualty and the cost to repaint and repair such *Sign* (including the **Sign Structure**) does not exceed fifty percent (50%) of the cost to replace such *Sign*, then the *Sign* may be repaired provided (i) a **Permit** therefore is



obtained within thirty (30) days after such casualty, (ii) the repair is commenced within twenty (20) days after the issuance of such **Permit** and diligently pursued to completion, and (iii) the repaired **Sign** will comply with all applicable **Building** and electrical codes. If after completion of such repair in accordance with such **Permit** such **Sign** does not fully comply with this **Sign Code**, it shall nonetheless continue to be a **Nonconforming Sign**.

2. Except as provided in the preceding paragraph, any repainting or any structural or other substantive repair, rebuilding, or **Maintenance** work to a **Nonconforming Sign** shall be deemed a waiver of the nonconforming status of the **Sign**, shall render any prior **Permit** void and shall result in the reclassification of such **Sign** as an **Illegal Sign** to be removed pursuant to sub-section C.1. of this section.

(Ord. No. 1254, 11/14/13)

3. An **Abandoned Sign** cannot become or continue to be a **Nonconforming Sign**.

(Ord.No. 1428, 9/14/17)

4. The nonconforming status of all such **Signs** shall expire on January 1, 2001, or such other date as may be stated in the ordinance adopting the amendment to this **Sign Code** which makes the **Sign** nonconforming, and all such **Nonconforming Signs** shall be made to conform with this **Sign Code**, if possible, or be removed before that date. Where two **Off-Premises Signs** are non-conforming due to their proximity to each other, the first in time shall be deemed the first in right and the second shall be removed. The **City Manager** may, and upon written request of the owner or person entitled to possession of a **Nonconforming Sign** shall, notify in writing the owner or person entitled to possession of a **Nonconforming Sign** that the **Sign** is nonconforming and the reasons therefore, and that the **Sign** must be made to conform or be removed before the date of the expiration of the **Sign's** nonconforming status, which date shall be stated. The notice shall state that the owner or person entitled to possession of the **Sign** may appeal: (i) the determination of nonconformance, (ii) the validity or applicability of this **Sign Code**, or (iii) the necessity of a variance, by appeal to the **City Council Planning Board** as provided in **section [ ]** of this **LDC**. The notice shall also state that failure to appeal within thirty (30) days after receipt of the notice shall constitute an acceptance of the **City's** determination respecting the **Sign** and a waiver of any objection to the validity or application of this **Sign Code** to the **Sign**. The purpose of such advance notice is to allow affected parties an opportunity to appeal and resolve contested issues prior to the expiration of nonconforming status.

(Ord. #1254, 11/14/13; Ord. #1428, 9/14/17)

5. Upon a determination by the **City Manager** or his designee and written notice to the owner or person entitled to possession of such **Sign** that a **Nonconforming Sign** has become a **Dilapidated Sign** or an **Abandoned Sign**, or has lost its nonconforming status by waiver or expiration pursuant to this section, the owner or person entitled to possession of such **Sign** shall remove such **Sign** within twenty (20) days after receipt of such notice.

SECTION 8. From and after the effective date of this ordinance, Section 7.02.03 of the Land Development Code of the City of Panama City Beach related to the Front Beach Overlay District, is amended to read as follows (new text **bold and**

underlined, deleted text ~~struckthrough~~):

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**Q. FBO District Development Procedures**

1. Approvals Required. (see section 7.02.03.M)

- (a) Applications for **Development** approval within the FBO districts are processed in accordance with Chapter 10 of the **LDC**, except as modified by this subsection.
- (b) A Large Site Development (see section 7.02.03.P) requires approval of a Master Plan that follows the Type V (Master Plan) review procedures established in Chapter 10.
- (c) A **Plat** cannot be approved by the City Council until the Master Plan has been approved by the Planning Board through the Type V approval process. All **Plats** shall be consistent with the Master Plan.
- (d) All other **Development** requires Type I approval.

**Table 7.02.03.M: Summary of Approval Requirements**

Development Category	I	II	V	VI
	Type Process	Type Process	Type Process	Type Process
Large Site <i>Development</i> or Conditional Use, no <i>Subdivision</i>	✓		✓	
Large Site <i>Development</i> or Conditional Use, with <i>Subdivision</i>	✓	✓	✓	
All other Uses or Development	✓			
<i>Variance</i> requests				✓

2. Concept Plan. This section does not require detailed engineering or **Site Plan** drawings as a prerequisite to approval required by the Planning Board. An applicant may provide a concept plan showing the general types and locations of proposed **Development** and **Street** layouts (such as a bubble plan) before submitting a formal Type I, II or V application. The **Building** and Planning Department and the Engineering Department may submit informal comments on the Concept Plan. However, any comments relating to the Concept Plan are for the applicant's convenience and do not have any binding effect on subsequent approvals.

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## 6. Modification of FBO Standards

(a) Intent. The **City** desires to maintain the design integrity and functionality of the FBO district, while providing flexibility and the ability to provide quality **Development** on the relatively small **Lots** that characterize the Front Beach Road corridor.

(a) Categories of Standards. Table 7.02.03.N establishes three (3) categories of standards:

(1) **Not Modifiable.** Those regulations that cannot be modified or varied are considered essential to the concept of reducing the number and length of automobile trips and to achieve the purposes of the FBO districts.

(2) **Administrative Modifications.** Those regulations that can be modified by: (1) the **Building** and Planning Department if only a Type I approval is required or (2) by the agency with final approval authority if a Class II or Class V approval is required. The approving agency can modify any standard listed as subject to an administrative modification in Table 7.02.03.N by up to 10%, subject to the standards set out below. Any modification that exceeds this threshold requires a **Variance**. In order for an application for an administrative modification to be approved or approved with conditions, the approving agency must make a positive finding, based on the evidence submitted, for each of the following:

- i. The modification is needed due to the physical shape, configuration or topographical condition of the **Lot** and
- ii. The modification is compatible with adjacent and nearby **Development** that conforms to the FBO district standards and
- iii. The modification will not alter the essential character of the district or have a detrimental effect on the community health, safety or welfare.

(3) Those that can only be varied by the **City Council Planning Board** through a [Type VI] process (see section 10.11.00).

- i. The applicant must demonstrate that the requested **Variance** meets the standards established in section 9.03.03 and must proffer an alternative condition that meets the purpose and intent of the FBO standards to the extent possible.
- ii. If a standard is listed in Table 7.02.03.N, below as not modifiable or subject to an administrative modification, the standard is not subject to a **Variance**.
- iii. For Large Site Developments subject to Section 7.02.03.P, modifications authorized through ministerial or variance procedures by Table 7.02.03.N shall be considered and may be granted in conjunction with the Type V consideration of a Master Plan in accordance with sections 10.02.05.G and 10.04.06.

(Ord. No. 1443, 2/8/18)

**Table 7.02.03.N: Standards**

Standard	Reference (subsection of 7.02.03)	Not Modifiable	Ministerial Modification	Variance
Front Yards	G		✓	
Minimum Parking Requirements	I		✓	
Shared Parking	I	✓		
Parking Location	I			✓
Parking Lot Landscaping	I		✓	
Parking Lot Design	I		✓	
Parking Mitigation	I	✓		
Parking Structure Location	K	✓		
Parking Structure Building Fronts	K	✓		
Parking Structure Building Materials	K	✓		
Parking Structures - Other Design Requirements	K			✓
Location of Frontage Types	F			✓
Front Setbacks (minimum)	F			✓
Front Setbacks (maximum)	F			✓
Side Setbacks (minimum)	F		✓	
Side Setbacks (maximum)	F			✓
Rear Setbacks (minimum)	F		✓	
Rear Setbacks (maximum)	F		✓	
Gallery Setback (maximum)	F		✓	
Build-to ratio (80% Building Facade shall be located at the front setback line for first 4 <i>Stories</i> )	F		✓	
Tower Rooms	F		✓	
Height in feet (maximum) and Building Stepbacks	H			✓
Podium Design	H		✓	
<i>Driveways / Garages</i>	J			✓
Building Materials	N			✓
Modulation	N		✓	
Mechanical Unit Locations / Design	N		✓	
Porches / Balconies	N			✓
Drop-offs	L		✓	

SECTION 9. From and after the effective date of this ordinance, Section 8.03.03 of the Land Development Code of the City of Panama City Beach related to Variances Generally, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

### **8.03.03 Roles and Responsibilities**

The Planning Board shall have the following roles and responsibilities:

- A.** To hear, consider and make recommendations to the City Council regarding proposals for amendments to the Comprehensive Plan.
- B.** To hear, consider and make recommendations to the City Council regarding proposals for amendments to the **LDC**.
- C.** To hear, consider and make recommendations to the City Council regarding proposals for amendments to the Official **Zoning Map**.
- D.** To hear, consider and approve or deny applications for conditional **Uses**.
- E.** To conduct public hearings and render decisions in compliance with the requirements of the **LDC**.
- F.** To hear, consider and approve or deny applications for Master Plans of Planned Unit **Developments** and Traditional Neighborhood **Developments** or modifications thereof.
- G.** To hear, consider and recommend action on applications for annexation (or de-annexation) into (or out of) the City of Panama City Beach.
- H.** To review Large-Site Developments and certain variances from the FBO regulations as specified in Chapter 7.
- I.** To sit as the Tree Board for the City of Panama City Beach. The Tree Board shall have the following responsibilities:
  - 1. To study, investigate, counsel and develop and update annually and administer a plan for the care, preservation, pruning, planting, re-planting, removal or disposition of trees and **Shrubs** in parks, **City** right-of-ways and in all other public areas. Such plan will be presented annually to the City Council and, upon

approval and funding, shall constitute the official Comprehensive Tree Plan for the City of Panama City Beach, Florida.

2. To review the **City's** ordinances related to landscaping and tree protection and recommend to the City Council all necessary amendments. Such review shall occur by December of Each year.

**J.** To procure and suggest plans for the arrangement of the **City** with a view to its general improvements and probable future growth and demands. These plans are to take into consideration:

1. The extension of the **City** works into adjacent territory;

2. The improvements and changes in public utilities and lines of transportation by surface and water;

3. The location, widths and grades of **Streets** necessary for the best treatment of the **City**;

4. The **Development** and improvement of waterfronts with seawalls and wharves;

5. The location and design of public **Buildings**; municipal decoration and ornamentation;

6. **Residential**, commercial and industrial **Land Use** and extensions thereof; and

7. The existing park, **Recreation** and boulevard systems and any such extensions thereof as may be deemed advisable.

**K.** (Code 17-18) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination or interpretation made by the **City Manager**, or his designee or the City Engineer, which is related to the **LDC**, excepting building codes and other matters within the jurisdiction of the Examining Board; and

(Ord No. 1241 9-13-12)

**L.** To **hear, consider and make recommendations to the City Council regarding applications for** ~~authorize a~~ **Variance** from a provision of the **LDC**.

(Ord No. 1241 9-13-12)

SECTION 10. From and after the effective date of this ordinance, Section 9.03.00 of the Land Development Code of the City of Panama City Beach related to Roles and Responsibilities of the Planning Board, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

### 9.03.00 VARIANCES

#### 9.03.01 Generally

The City Council ~~Planning Board~~ may authorize a **Variance** from the site and **Building** design or **Development** standards set forth in the **LDC** (except where expressly prohibited) where the Board has determined that the requirements of this subsection have been met. ~~The Planning Board may not authorize a Variance from any standard, requirement or provision of the Sign Code except that the Board may authorize a Variance from the setback requirements for a Sign where the Board has determined that the requirements of this subsection have been met.~~

#### 9.03.02 Procedure

##### A. Applications

1. An application for a **Variance** shall include the submittals required in Chapter 10.
2. The application for a **Variance** shall include a statement explaining how the **Variance** request conforms to the requirements listed in section 9.03.00.

##### B. Review of Applications

An application for a **Variance** shall be reviewed pursuant to the applicable procedures set forth in Chapter 10.

#### 9.03.03 Required Findings

A. In order for an application for a **Variance** to be approved or approved with conditions, the City Council ~~Planning Board~~ must make a positive finding, based on the evidence submitted, with regard to each of the following provisions:

1. There is a specific hardship affecting the **Development** of the **Lot** resulting from the strict application of the provisions of the **LDC**;

2. The hardship is not a result of actions of the owner and is not based solely on a desire to reduce **Development** costs;
3. The need for the proposed **Variance** is due to the physical shape, configuration or topographical condition of the **Lot** in such a manner as to distinguish it from other adjacent or nearby **Lots** or from other **Lots** in the district;
4. The proposed **Variance** is necessary to preserve a substantial property right where such property right is generally available to other property owners of adjacent or nearby **Lots** or other **Lots** in the district;
5. The proposed **Variance** will not substantially increase congestion on surrounding **Streets**, will not increase the danger of fire or other hazard and will not otherwise be detrimental to the health, safety or general welfare of the public;
6. The proposed **Variance** will be compatible with adjacent and nearby **Development** and will not alter the essential character of the district;
7. The effect of the proposed **Variance** is consistent with the purposes of the **LDC**; and
8. The effect of the proposed **Variance** is consistent with the Comprehensive Plan.

**B.** The applicant for a **Variance** has the burden of proof of demonstrating that the application for a **Variance** complies with each of the requirements of section 0.

(Ord. No. 1254, 11/14/13)

#### **9.03.04 Restricted or Conditional Variance and Termination**

- A.** The ~~City Council Planning Board~~ may impose such conditions and restrictions as may be necessary to allow a positive finding for any of the factors listed in section 0 and 6.
- B.** After written notice of violation and reasonable opportunity to cure has been given to the property owner, the **City Manager** shall terminate a restricted or conditional **Variance** for a violation of the restriction or condition imposed that materially negated the related positive finding. This can be done at any point in time after expiration of the time to cure.

#### **9.03.05 Limitation on Time to Use Variance**

Any **Variance** authorized by the ~~City Council Planning Board~~ and not used and acted upon in a real and substantial way by the applicant or the applicant's successor in interest within one (1) year from the date on which the decision of the ~~City Council Planning Board~~ is reduced to a written order or if appealed the date on which the order becomes final, shall be deemed **Abandoned** and be void and of no further force and effect.



SECTION 11. From and after the effective date of this ordinance, Section 10.04.03 of the Land Development Code of the City of Panama City Beach related to Type II Land Use Applications, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

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

The following applications, 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.
- E. Variances;
- F. Appeal of a termination of a restricted or conditional Variance;

SECTION 11. From and after the effective date of this ordinance, Sections 10.04.07 and 10.11.00 of the Land Development Code of the City of Panama City Beach related to Type VI Land Use Applications, is hereby repealed.

SECTION 12. 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 Variances, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

## **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, Rezoning, Large Conditional Use, Variances, 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)~~. **For Neighborhood Notice of a variance for an existing or proposed structure more than forty (40) feet in height, a distance of 500 feet shall be used. For Neighborhood Notice of all other requests, a distance of 300 feet shall be used.**
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.

SECTION 13. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 14. 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 15. 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  
\_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

EXAMINED AND APPROVED by me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
MAYOR

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DRAFT