

ORDINANCE NO. 1328

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S LAND DEVELOPMENT CODE RELATED TO APPLICATION, REVIEW AND DECISION-MAKING PROCEDURES; PROVIDING THAT AN ADVERSELY AFFECTED PARTY WHO REQUESTS A HEARING OR ADMINISTRATIVE APPEAL BEFORE THE PLANNING BOARD, OR A REHEARING OR ADMINISTRATIVE APPEAL BEFORE THE CITY COUNCIL, SHALL PROVIDE ANY AMENDMENTS TO THAT REQUEST NO LESS THAN TEN DAYS PRIOR TO THE PUBLIC HEARING SCHEDULED FOR SAID REQUEST; REPEALING ALL ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WHEREAS, the City's Land Development Code permits adversely affected parties to file requests for a hearing before the Planning Board to challenge Notices of Intent to Issue a Development Order or any administrative decisions made by the City's Building and Planning Department regarding land development within the City, and also permits Adversely Affected Parties to request rehearings before the City Council of matters previously presented to the Planning Board; and

WHEREAS, the City's current administrative procedures provide that the City staff shall prepare a written report and analysis no less than five days prior to the Planning Board's or City Council's public hearing requested by an adversely affected party on certain applications for development; and

WHEREAS, the City's Land Development Code does not uniformly require adversely affected parties who make such requests to state the grounds for such requests, or limit the timeframe in which adversely affected parties may amend such requests, such that the City staff is unable to adequately prepare the written report, or other analysis necessary for the scheduled hearing.

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 10.06.02 of the Land Development Code of the City of Panama City Beach related to hearings requested by Adversely Affected Parties, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

## 10.06.00 TYPE I PROCEDURES – NOTICE OF INTENT PROCEEDINGS

### 10.06.01 Generally

The procedures set forth in this section, are applicable to all applications subject to Type I review, which are listed in section 10.04.02.

### 10.06.02 Procedures After Completeness Determination

- A. When the **Building** and Planning Department and the Engineering Department determine that the application is consistent with the requirements of the Comprehensive Plan and the **LDC**, the **Building** and Planning Department shall issue a Notice of Intent to issue a **Local Development Order, PUD** or **TNOD Final Development Plan** approval or preliminary **Plat** approval. The Notice of Intent shall contain the following information:
1. The information required in section 10.03.01;
  2. A statement notifying affected parties of their right to file a written request for a public hearing before the Planning Board;
  3. The requirements for such a written request; and
  4. The deadline for filing such a written request.
- B. As soon as practicable after issuance, the Notice of Intent shall be **mailed** to the applicant and noticed by **Publication**.
- C. An **Adversely Affected Person** may file a written request for a hearing with the **Building** and Planning Department within five (5) days of **Publication** of the Notice of Intent. The written request for a hearing shall identify the specific sections of the Comprehensive Plan and/or the **LDC** that the application violates and describe how such sections are not met. **Amendments to the written request for a hearing may be made no less than ten (10) days prior to the Planning Board's public hearing on the application.**
- D. If a written request for a hearing has not been filed within five (5) days of **Publication** of the Notice of Intent, the **Building** and Planning Department shall issue the **Local Development Order PUD** or **TNOD Final Development Plan** approval or **Building Permit** for which application was made.
- E. If a written request for a hearing has been filed within five (5) days of **Publication** of the Notice of Intent, the **Building** and Planning Department shall schedule a quasi-judicial hearing on the application before the Planning Board.
- F. In the event the **Building** and Planning Department or the Engineering Department determine that the application is complete but that the proposed action fails to comply with the requirements of the Comprehensive Plan and the **LDC**, the **Building** and Planning Department shall issue a notice of intent to deny the application which shall be subject to the

notice and appeal procedures provided in this section, except that if a request for a hearing is not timely and properly made by an **Adversely Affected Person**, the application for the **Local Development Order, PUD** or **TNOD Final Development Plan** approval or **Building Permit** shall be deemed denied upon expiration of the time for requesting a hearing without the necessity of further action by the **Building** and Planning Department.

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

### **10.06.03 Procedural Requirements Regarding a Request for Hearing to Address a Notice of Intent**

- A.** The **Building** and Planning Department and the Engineering Department shall prepare a written report to the Planning Board setting forth 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.

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

- B.** The hearing shall be conducted under the procedures for Administrative Appeals and City Council rehearings specified in sections 10.16.00 and 10.17.00.

SECTION 2. From and after the effective date of this ordinance, Section 10.10.02 of the Land Development Code of the City of Panama City Beach related to hearings requested by Adversely Affected Parties, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

## **10.10.00 TYPE V PROCEDURES – PLANNING BOARD PROCEEDINGS**

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### **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)

- 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.**
- 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.

SECTION 3. From and after the effective date of this ordinance, Section 10.11.02 of the Land Development Code of the City of Panama City Beach related to hearings requested by Adversely Affected Parties, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

## 10.11.00 TYPE VI PROCEDURES – VARIANCE PROCEEDINGS

### 10.11.01 Generally

- A. The procedures set forth in this section are applicable to all applications subject to Type VI review which are listed in section 10.04.07. A Type VI review is not an administrative appeal.
- B. Notice of the Planning Board quasi-judicial hearings shall be provided by **Neighborhood Notice, posting** and **Publication**. 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 variances, a distance of 150 feet shall be used.
- C. All quasi-judicial hearings shall be conducted pursuant to the requirements of section 10.13.00.

### 10.11.02 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.
- D. At the conclusion of the quasi-judicial hearing or within 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 identify 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.**

- 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.

SECTION 4. From and after the effective date of this ordinance, Section 10.14.01 of the Land Development Code of the City of Panama City Beach related to hearings requested by Adversely Affected Parties, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

## **10.14.00 PROCEDURES AND REQUIREMENTS FOR *BUILDING PERMITS* AND TEMPORARY *USE PERMITS***

### **10.14.01 Generally**

- A. ***Building Permits*** are required for new construction of ***Buildings*** and structures, signs, fences, walls, ***Accessory Buildings***, temporary ***Buildings*** and modifications to Existing Structures, subject to the administrative procedures set forth in the ***FBC***.
- B. ***Building Permits*** are required for electrical, plumbing, heating and air conditioning, gas or swimming pool installation, subject to the administrative procedures set forth in the ***FBC***.
- C. The ***City Manager*** is authorized and directed to establish and submit to the City Council for approval by resolution, from time to time, an Engineering Technical Manual to specify technical standards for stormwater improvements, sanitary sewer connections, potable water connections, reuse water connections, ***Street*** and other public works construction, sidewalk construction, paving, land clearing and such other similar matters as may be addressed in such a resolution. No ***Building Permit*** shall be issued for ***Development*** not in compliance with those technical standards.
- D. Applications shall be submitted to the Building and Planning Department and shall comply with the submittal requirements of section 10.02.00 et seq.
- E. Applications shall be reviewed by the ***City Manager*** for compliance with the requirements of this ***LDC***, including the Engineering Technical Manual.

- F. The **City Manager** shall render his written decision, within thirty (30) days of the submittal of a complete application, to approve, approve with conditions or deny the application.
- G. **Mailed Notice** of the **City Manager's** decision to approve, approve with conditions or deny the application shall be given to the applicant. **Posted Notice** of the **City Manager's** decision to approve or approve with conditions shall be provided and may be removed ten (10) days after first posting.
- H. The applicant or, if the decision is to approve or approve with conditions an **Adversely Affected Person**, may appeal the **City Manager's** decision by filing a notice of Administrative Appeal to the Planning Board with the **City Clerk** within ten (10) days after the later of the **Mailed Notice** or the **Posted Notice**. The written notice of appeal shall identify the specific grounds for such appeal. Amendments to the stated grounds for appeal set forth within the notice may be made no less than ten (10) days prior to the City Council's public hearing on the application.

SECTION 5. From and after the effective date of this ordinance, Section 10.16.00 of the Land Development Code of the City of Panama City Beach related to hearings requested by Adversely Affected Parties, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

## 10.16.00 ADMINISTRATIVE APPEALS

### 10.16.01 Applicability

An **Adversely Affected Person** may appeal an administrative decision to the Planning Board.

### 10.16.02 Time for Filing Administrative Appeal and Submittal Requirements

An administrative appeal shall be filed with the office and within the time period specified in the **LDC** for such appeal or if no office or time period is so specified, with the **City Manager** and within thirty (30) days of the administrative decision that is the subject of the administrative appeal. An administrative appeal shall include:

- A. All information required pursuant to section 10.02.01 which has not been previously provided in the pending application.
- B. A copy of the decision order or ruling from which the administrative appeal is taken.
- C. The date of the decision order or ruling which is the subject of the administrative appeal.
- D. The grounds for the administrative appeal, including a summary of any argument in support thereof which the applicant wishes to advance to the Planning Board. **Amendments to the**

**grounds for the appeal may be made in writing no less than ten (10) days prior to the Planning Board's public hearing on the appeal.**

**10.16.03 Stay of Proceedings**

The filing of an administrative appeal stays all proceedings in furtherance of the action that is the subject of the administrative appeal, unless the **City Manager** certifies to the Planning Board that a stay would cause imminent peril to life and property. In such a case, the proceedings shall not be stayed unless the person who has filed the appeal obtains a restraining order from either the Planning Board or a Circuit Court. The Planning Board shall not issue a restraining order unless notice of the request has been provided to the **City Manager**.

**10.16.04 Hearing Before the Planning Board**

**A. Time**

1. A hearing before the Planning Board on an Administrative Appeal shall be scheduled and held within forty-five (45) days of the filing of the Administrative Appeal, not counting the day of receipt and not counting any Saturday, Sunday or legal holiday which falls upon the forty-fifth (45<sup>th</sup>) day.
2. With respect to any appeal from the denial in whole or in part of an application made under the **Sign Code** (herein a "**Sign** Application Appeal"), if the Board fails to meet and commence the hearing within such forty-five (45) day period, the appeal will be deemed denied and the decision of the City Manager or designee regarding the sign application will be deemed a final decision subject to immediate appeal to a court of competent jurisdiction. The Board shall render a written decision on a **Sign** Application Appeal within ten (10) days following the commencement of the hearing, failing which the appeal shall be deemed denied and the decision of the City Manager or designee will be deemed a final decision subject to immediate appeal to a court of competent jurisdiction. The applicant may waive or extend these deadlines and proceed to a hearing before the Board.

**B.** The **Building** and Planning Department shall prepare a written report to the Planning Board regarding Department's analysis of the pending Administrative Appeal. The report shall be available to the person filing the Administrative Appeal 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, pursuant to the requirements of section 10.13.00 on the Administrative Appeal.

**D.** Notice of the quasi-judicial hearing shall be provided by **posting** and **Publication**.

**E.** At the conclusion of the quasi-judicial hearing or within thirty (30) days thereafter, the Planning Board shall issue a proposed order to:

1. Reverse, wholly or partly, the administrative decision that is the subject of the Administrative Appeal;
  2. Affirm, wholly or partly, the administrative decision that is the subject of the Administrative Appeal; or
  3. Modify the administrative decision that is the subject of the Administrative Appeal.
- F. 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.
- G. Notice of the proposed order shall be mailed to the party who invoked the jurisdiction of the Planning Board 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.
- H. Within ten (10) days after mailing the notice of proposed order, the **City**, the party who invoked the jurisdiction of the Planning Board or an **Adversely Affected Person** who attended the hearing shall be entitled to file with the secretary of the Planning Board a request for rehearing before the City Council. **The written request for a rehearing shall identify the specific grounds for the 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.**
- I. 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.
- J. 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.
- K. Once an administrative decision concerning a **Sign** is appealed, the City Manager or designee shall take no further action on the matter pending the Board's decision, except for unsafe **Signs** which present an immediate danger to the public in which event the **City** may pursue any legal remedy available to it.
- L. In the case of a hearing concerning an interpretation of the **Sign Code** or the denial in whole or in part of an application made under the **Sign Code**, the person who invoked the jurisdiction of the Board and any **Adversely Affected Party** who attended the hearing and is aggrieved by a decision of the Planning Board, including the **City**, may elect to request a rehearing before the City Council as provided above or, alternatively, the applicant may elect to seek judicial review in a court of competent jurisdiction in which case the City Council shall have no further jurisdiction until the judicial review is completed.

SECTION 6. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 7. 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 8. 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 \_\_\_\_\_, 2015.

CITY OF PANAMA CITY BEACH

ATTEST:

By \_\_\_\_\_  
GAYLE F. OBERST, MAYOR

\_\_\_\_\_  
HOLLY J. WHITE, CITY CLERK

PUBLISHED in \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2015.

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\_\_\_\_\_  
HOLLY J. WHITE, CITY CLERK