

ORDINANCE NO. 1335

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S LAND DEVELOPMENT CODE RELATED TO COMMERCIAL USE OF FRONT YARDS; RECLASSIFYING THE COMMERCIAL USE OF FRONT YARDS FROM A CONDITIONAL USE TO A SUPPLEMENTAL USE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WHEREAS, the City's Land Development Code classifies the Commercial Use of Front Yards as a Conditional Use which requires a public hearing; and

WHEREAS, the current regulation creates a disincentive for a business to create such outdoor areas because of the expense and time involved in the extraordinary notice and undertaking of public hearings; and

WHEREAS, the Front Beach Road Overlay District was adopted with the intent of encouraging such uses rather than providing barriers to their existence; and

WHEREAS, reclassifying the commercial use of front yards as a supplemental use will empower staff to approve the request as a matter of right if all conditions for such use are met.

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 7.02.03G of the City's Land Development Code, related to Front Yards along Front Beach Road, Arnold Road and South Thomas Drive, is amended to read as follows:

7.02.03 Front Beach Road Overlay Districts

...

G. Front Yards Along Front Beach Road, Arnold Road and South Thomas Drive

- I. **Purpose.** Regardless of the maximum **Setback** requirements, an applicant may establish a **Front Yard** for a portion of any **Building** front type subject to compliance with the provisions of this section 7.02.03G. Applicants are encouraged to provide **Front Yards** that include widened sidewalks, galleries, arcades, courtyards and other places for customers and the public to gather, provided that the **Front Yards**:

- (a) Improve the visual quality and character of the **Street**;

- (b) Promote pedestrian traffic and the use of public transit;
- (c) Are readily accessible and ADA/State of Florida compliant if used for Tourist Accommodations or non-residential purposes;
- (d) Enhance access between outdoor and indoor spaces; and
- (e) Enhance public safety and security, while promoting more effective use of the public realm.

2. **Types of Front Yard Improvements and Locations.** Where provided, **Front Yards** shall include a combination of the items listed in Table 7.02.03.F provided that the item is specifically allowed in the applicable portion of the **Setback** area, as indicated by the letter "A" in the exhibit. If not allowed, the item is prohibited. Table 7.02.03.F also establishes the group letter applicable to **Front Yard** items that corresponds with the group letters in Table 7.02.03.G. Table 7.02.03.G establishes the number of authorized items that must be established within each **Front Yard**. **Front Yards** also may be used for **Building Access** improvements and **Driveways** in accordance with section 7.02.03L. In addition to the items listed below, the City may approve the installation of decorative bike racks, planter pots and pedestrian furniture.

Table 7.02.03.F: Items Authorized in Front Yards

Group #	Front Yard Items	Location	Distance from Back of Sidewalk (in feet)			
			d ≤ 5	5 ≤ d < 15	15 ≤ d < 25	d ≥ 25
1	Patio Paving/Hardscape	Behind the back edge of the sidewalk	A	A	A	A
	Groundcover		A	A	A	A
2	Lawn			A	A	A
	Hedge		Along Building Facade		A	A
	Clustered Ornamentals: Flowering trees, palms			A	A	A
	Planting Beds: Shrubs , seasonal plantings	At the front property line or along the back edge of a sidewalk outside of the right-of-way	A	A	A	A
Palms planted on 25 feet centers	A		A	A	A	
Trees planted on 50 feet centers	A		A	A	A	
3	Decorative Fence 42 inch maximum height (see Section 7.02.03.G.3.d)		A	A	A	A
	Masonry Wall with Hedge				A	
	Masonry Wall with clustered ornamentals or groundcover		A	A	A	

Notes:

- 1: d = distance measured in feet
- 2: A = allowed item
- 3: < = is less than
- 4: ≤ = is less than or equal to
- 5: ≥ = is greater than or equal to

Table 7.02.03.G: Minimum Number of Items Required in Front Yards

Distance from Back of Sidewalk (feet)	Group 1	Group 2	Group 3
$d \leq 5$	1	0	0
$5 \leq d < 15$	0	2	0
$15 \leq d < 25$	0	3	0
$d \geq 25$	0	3	1

Notes:

- 1: d = distance measured in feet
- 2: < = is less than
- 3: ≤ = is less than or equal to
- 4: ≥ = is greater than or equal to

3. **Design Standards.** To achieve the purposes of this section, **Front Yards** shall be designed so that they are visible, avoid clutter, incorporate high quality, durable materials that are comparable in quality and complementary in design to public improvements provided or planned for the Front Beach Road corridor. In addition to complying with other district requirements, **Front Yards** and **Facades** shall meet the following design standards:
- (a) Flooring and surfaces shall be constructed of durable, non-slip materials that complement sidewalk paving. Changes in colors shall be used to highlight steps.
 - (b) The shape and design (including landscaping) of the space shall provide visibility of the entire space from the sidewalk.
 - (c) Lighting shall be adequate to illuminate the entire space, but lighting sources shall be hooded or directed so that they are not visible to pedestrians on the sidewalk.
 - (d) Except as provided in this paragraph, fencing is prohibited. **Front Yards** may be enclosed by decorative walls, posts with decorative ropes or chains or other decorative enclosures approved by the **City Manager**, provided that the enclosure is not taller than thirty (30) inches. **Decorative Fencing** that is not higher than forty-two (42) inches may be authorized pursuant to a supplemental conditional **Use** permit to enclose commercial **Use of Front Yards**.

- (e) At least fifty (50) percent of the wall surface between two (2) and seven (7) feet above the **Average Grade** of the **Front Yard** shall be glazed and shall have a minimum transparency of seventy (70) percent.
 - (f) Other than furniture for dining areas and outdoor displays subject to supplemental conditional Use approval, **Front Yard** improvements shall be limited to seating, decorative waste receptacles, fountains, water features and landscaping.
4. **Maintenance.** The ultimate owner of the **Front Yard** shall be responsible for raising all monies required for operations, maintenance or physical improvements in the **Front Yard** through annual dues, special assessments or other arrangements approved by the **City**. A copy of binding covenants or other arrangement providing for ongoing maintenance shall be recorded and a copy shall be provided to the **City**. In the event that the association or any successor organization shall fail to maintain the **Front Yard** in reasonable order and condition in accordance with the **Development** plan, the **City** may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the **Front Yard** in reasonable condition. Failure to adequately maintain **Front Yards** in reasonable order and condition constitutes a violation of this section. The **City** is hereby authorized to give notice to the owner or occupant, as the case may be, of any violation, directing the owner to remedy the same within twenty (20) days. If a homeowner's association assumes ownership, its by-laws shall provide as follows:
- (a) The homeowners' association shall be authorized under its bylaws to place liens on the property of residents who fall delinquent in payment of such dues or assessments.
 - (b) Should any bill or bills for maintenance of **Front Yards** by the **City** be unpaid by November 1 of each year, a late fee of fifteen percent (15%) shall be added to such bills and a lien shall be filed against the **Premises** in the same manner as other municipal claims.
 - (c) **Commercial Use of Front Yards.** All or a portion of privately owned **Front Yards** may be used for dining areas or other commercial activities, subject to approval of a ~~Conditional Use~~ Supplemental Standards for Specific Uses as provided in section **5.04.06**.

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

SECTION 2. From and after the effective date of this ordinance, Section 5.04.06, of the City's Land Development Code, related to Supplemental Uses, is created to read as follows:

5.04.06 Reserved Commercial Use of Front Yards

All or a portion of privately owned Front Yards may be used for dining areas or other commercial activities in the FBO districts subject to conditional use approval and compliance with the following conditions:

- A. The Use complies with applicable design requirements in the district;
- B. The Use is limited to the hours of operations of the business in the principal structure, with all displays and stands being moved indoors nightly;
- C. The Use will not interfere with pedestrian movement along public sidewalks;
- D. The Use will not create a traffic hazard or interfere with transit service;
- E. The Use will not interfere with the Use, enjoyment or operations of adjacent properties; and
- F. The approval shall be valid for one year and shall automatically be renewed unless the City finds evidence of repeated or intentional failure to maintain one or more of the conditions of approval. If such evidence is presented then the approval may only be extended following submission of a credible plan to correct such failures and maintain compliance with such conditions.

SECTION 3. From and after the effective date of this ordinance, Section 5.06.07, of the City's Land Development Code, related to Conditional Uses is hereby repealed.

5.06.07 Commercial Use of Front Yards Reserved.

All or a portion of privately owned ~~Front Yards~~ may be used for dining areas or other commercial activities in the FBO districts subject to conditional use approval and compliance with the following conditions:

- A. The ~~Use~~ complies with applicable design requirements in the district;
- B. The ~~Use~~ is limited to the hours of operations of the business in the principal structure, with all displays and stands being moved indoors nightly;
- C. The ~~Use~~ will not interfere with pedestrian movement along public sidewalks;
- D. The ~~Use~~ will not create a traffic hazard or interfere with transit service;
- E. The ~~Use~~ will not interfere with the ~~Use~~, enjoyment or operations of adjacent properties; and
- F. The conditional use approval shall be valid for one year and shall automatically be renewed unless the Planning Board finds evidence of failure to comply with one or more of the conditions of approval. If such evidence is presented then the conditional use approval may only be extended following a hearing following the procedures for a new conditional use application.

SECTION 4. From and after the effective date of this ordinance, Table 2.03.02, in Section 2.03.02 of the City's Land Development Code related to Land Uses, is amended to

read as follows:

2.03.00 LAND USES ALLOWED IN ZONING DISTRICTS

2.03.02 Land Uses

A. Legend:

1. P = Permitted, subject to standards for the zoning district.
2. A = **Accessory**, subject to standards for **Accessory Uses** in section 5.02.00.
3. C = Conditional, subject to additional standards for the **Use** and additional review and approval procedures. (see section 5.06.00 et seq)
4. S = Supplemental, subject to standards for the zoning district and additional standards for the specific **Use**. The numbers indicate the section of this **LDC** that contains the supplemental standards. (see section 5.04.00 et seq)
5. **Uses** that are not listed or found to be substantially similar to listed **Uses** are prohibited. All listed **Uses** are prohibited in those districts where no indicator ("P", "A", "C", "S") is provided.

Table 2.03.02: Land Uses in Base Zoning Districts

Land Uses	AR	R-1a	R-1b	R-1c	R-1CT	RO	RTH	R-2	R-3	CL	CM	CH	MI	C	R	PF
<u>Commercial Use of Front Yards in an FBO District</u>										S 5.04. 06	S 5.04. 06	S 5.04. 06				

SECTION 5. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 6. 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 City's 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

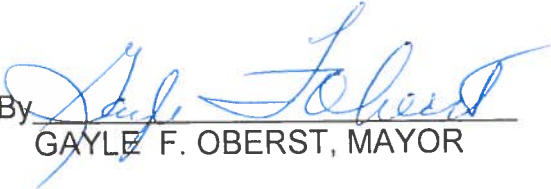
be assigned and changed whenever necessary or convenient.


SECTION 7. 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 26th day of February, 2015.

CITY OF PANAMA CITY BEACH


ATTEST:

By 
GAYLE F. OBERST, MAYOR


HOLLY J. WHITE, CITY CLERK

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HOLLY J. WHITE, CITY CLERK