

ORDINANCE NO. 1443

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S LAND DEVELOPMENT CODE RELATED TO LARGE SITE DEVELOPMENT APPLICATIONS; PROVIDING THAT AUTHORIZED MODIFICATIONS FROM FBO REQUIREMENTS MAY BE CONSIDERED BY THE PLANNING BOARD IN CONJUNCTION WITH A LARGE SITE DEVELOPMENT APPLICATION; INCLUDING LARGE SITE DEVELOPMENT FINAL DEVELOPMENT PLANS TO CATEGORY OF APPLICATIONS SUBJECT TO TYPE I REVIEW AND CONFORMING SECTIONS 10.06.00 TO BE CONSISTENT THEREWITH; DELETING VARIANCES TO FBO DISTRICT REQUIREMENTS; CLARIFYING THE CRITERIA BY WHICH THE PLANNING BOARD SHALL CONSIDER THE VARIOUS TYPE V APPLICATIONS; CLARIFYING THE EFFECT OF MASTER PLAN DENIAL ON THE VARIOUS TYPE V APPLICATIONS; 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 7.02.03Q of the Land Development Code of the City of Panama City Beach related to FBO District Development Procedures, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

**7.02.03 Front Beach Overlay**

**Q. FBO District Development Procedures**

1. Approvals Required. (see Table 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 7.02.03P) 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 1 approval.

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

Development Category	I Type Process	II Type Process	V Type Process	VI Type Process
Large Site Development or Conditional Use, no Subdivision	✓		✓	
Large Site Development or Conditional Use, with Subdivision	✓	✓	✓	
All other Uses or Development	✓			
Variance 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.

3. Master Plan. Master Plan approval is subject to section 10.10.00 of the **LDC**, except as provided below:
  - (a) The provisions of section 10.10.01E and section 10.10.02C.2 do not apply to the approval of a Master Plan in the FBO Districts and alternative procedures and standards are provided below.
  - (b) A property owner has the burden of proof to demonstrate that the Master Plan complies with the FBO district standards.
  - (c) In lieu of section 10.10.02C.2 the applicant shall demonstrate:
    - (1) For a Large Site **Development**, that the proposed **Development** conforms to the standards established in section 7.02.03 in addition to all applicable requirements of this subsection; or
    - (2) For a **Conditional Use** other than a Large Site **Development**, that the proposed **Development** conforms to all applicable requirements of this subsection and the conditions established in section 5.06.00
4. Changes to Master Plans. Changes to master plans may be authorized subject to the provisions of section 10.15.00.
5. Final Development Plan. After final approval of a Master Plan, the applicant shall submit a final development plan for Type I Review (see section 10.06.00). An approved final development plan is required before issuance of a **Building Permit**.  
(Ord. #1254, 11/14/13)
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.
  - (b) 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 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 7.02.03P, modifications authorized through ministerial or variance procedures by Table 7.02.03N 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.**

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 Stories)	F		✓	
Tower Rooms	F		✓	
Height in feet (maximum) and Building Stepbacks	H			✓
Podium Design	H		✓	
Driveways / Garages	J			✓
Building Materials	N			✓
Modulation	N		✓	
Mechanical Unit Locations / Design	N		✓	
Porches / Balconies	N			✓
Drop-offs	L		✓	

(Ord. # 1340, 4/9/15)

SECTION 2. 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 related to Type V Applications, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

#### 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 0-07.

##### 10.04.02 Applications Subject to Type I Review – Notice of Intent Proceedings

The following applications shall be processed pursuant to the Type I procedures:

- A. A *Site Plan* approval;
- B. A *Land Clearing Permit* or a *Tree Removal Permit*;
- C. Administrative approval of a preliminary *Subdivision Plat* to confirm compliance of the subject lands, lots, *Streets* and other features with the substantive requirements of this LDC;
- D. A planned unit development *Final Development Plan*;
- E. A traditional neighborhood overlay district *Final Development Plan*;
- F. **A Front Beach Overlay district Large Site Development Final Development Plan**;
- G. F. Approval of a *Lot Split*;
- H. ~~G.~~ Approval of a Request for Expansion, Enlargement or Modification of a *Non-Conforming Development* or *Use*; and
- I. ~~H.~~ Approval of any local development order not classified elsewhere in this LDC.

(Ord. # 1253, 12-13-12; Ord. #1254, 11/14/13; Ord. # 1304, 3/27/14)

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

The following application, 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.

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

#### **10.04.04 Applications Subject to Type III Review – Legislative Proceedings**

The following applications, which all pertain to legislative decisions, shall be processed pursuant to the Type III procedures:

- A. A Zoning or **Rezoning** which involves one or more **Parcels** of land that, in the aggregate, are so large as to affect the community as a whole and accordingly does not constitute a quasi-judicial action;
- B. Any annexation; and
- C. Comprehensive Plan Amendment

(Ord. #1254, 11/14/13; Ord. # 1271, 4-25-13; Ord. # 1304, 3/27/14)

#### **10.04.05 Applications Subject to Type IV Review - Telecommunications Proceedings**

The following applications shall be processed pursuant to the Type IV procedures:

- A. Telecommunications Tower or Antenna;
- B. Reserved

#### **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 ~~S~~site ~~D~~evelopment (see subject to section 7.02.03P);

~~D. Variances to the FBO district requirements;~~

~~D-E.~~ Conditional **Uses** involving any **Parcel** or combination of contiguous **Parcels** encompassing three (3) or less acres of land (small conditional **Uses**);

~~E-F.~~ Application to expand, enlarge or modify Non-Conforming Development or Uses pursuant to section 9.02.02.

(Ord. # 1271, 4-25-13; Ord. # 1304, 3/27/14; Ord. #1410, 4-13-17)

#### **10.04.07 Applications Subject to Type VI Review**

The following applications shall be processed pursuant to the Type VI procedures.

A. **Variances** before the Planning Board;

B. Appeal of a termination of a restricted or conditional **Variance**;

C. An Administrative Appeal to the Planning Board is not a Type VI proceeding.

SECTION 3. From and after the effective date of this ordinance, Section 10.06.00 of the Land Development Code of the City of Panama City Beach related to Type I Applications, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

#### **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, Large Site Development, 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.

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

**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, Large Site Development, 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, Large Site Development, 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)

**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 4. From and after the effective date of this ordinance, Section 10.10.00 of the Land Development Code of the City of Panama City Beach related to Type V Applications—Planning Board Proceedings, is amended to read as follows

(new text **bold and underlined**, deleted text ~~struckthrough~~):

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

**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**, 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 **FBO district Large Site Development Master Plan, the PUD Master Plan or the TNOD 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.

**F. For approval of a PUD Master Plan, the Planning Board shall follow the requirements of section 4.02.05.**

**G. For approval of a FBO district Large Site Development Master Plan, the Planning Board shall follow the requirements of section 7.02.03.**

(Ord. #1254, 11/14/13; Ord. # 1304, 3/27/14; Ord# 1410, 4/13/17)

#### **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. **For all Type V applications,** ~~That~~ the **Development** is planned under unified ownership and control rather than as an aggregation of individual and unrelated **Buildings** and **Uses**;

2. **For FBO district Large Site Development, PUD or TNOD Master Plans,** ~~That~~ the applicant has met the intent of the applicable sections ~~addressing PUD or TNOD~~;

3. **For all Type V applications,** ~~That~~ the applicant is providing sufficient public benefit to allow the applicant to deviate from the regulations applicable within the underlying zoning district generally; and

4. **For Conditional use applications,** ~~That~~ the applicant meets the Conditional use criteria set forth in Section 5.06.00; **and**

**5. For applications to expand, enlarge or modify Non-Conforming Development the application meets the criteria set forth in section 9.02.02.**

(Ord. #1254, 11/14/13 Ord. #1367, 11/12/15)

**D.** At the conclusion of the quasi-judicial hearing or within thirty (30) days thereafter, the Planning Board's decision shall be reduced to a proposed, written order containing conclusions of applicable law, findings of relevant fact and signed by the chairman or vice-chairman and attested by the Board's secretary.

**E.** Notice of the proposed order shall be mailed to the applicant and any person who shall have requested a copy during or at the conclusion of the public hearing. A sign-up sheet for such notice requests shall be provided and announced at the public hearing. Such notice shall include a copy of the proposed order, a description of the persons entitled to appeal and a statement of the appeal procedures set forth in this section.

**F.** Within ten (10) days after mailing the notice of proposed order, the **City**, the applicant or an **Adversely Affected Person** who appeared at the hearing shall be entitled to file with the secretary of the Planning Board a written request for a rehearing before the City Council. The written request for a rehearing shall set forth the specific grounds for such request. Any amendments to the written request for a rehearing may be made no less than ten (10) days prior to the City Council's public hearing on the application.

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

**G.** If no such request is timely filed, the Planning Board's proposed order shall become final and the City Council shall have no jurisdiction in the matter.

**H.** If such a request is timely filed, the Planning Board's proposed order shall be superseded by the City Council's final action on the request pursuant to section 10.17.00.

**10.10.03 Revisions to Master Plan**

Any revisions to an approved Master Plan shall be submitted to the Planning Board for approval with the same procedures and formality as approval of the original Master Plan **except at authorized by section 10.15.00 for non-substantial deviations.**

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

**10.10.04 Progress Report to Planning Board**

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

**10.10.05 Invalidation of Master Plan**

**A.** Failure to complete a benchmark by the time specified in the Master Plan timeline shall, upon notice and hearing, result in the invalidation of the Master Plan and Final **Development** Plan by written order of the Planning Board.

**B.** Upon invalidation of the Master Plan, all land **Development** regulations ~~applicable to the underlying zoning district in the case of a TNOD, the prior zoning in the case of a PUD or other regulations~~ in effect prior to the approval of the Master Plan, as applicable shall apply to the property which was the subject of the Master Plan.

**C. Property subject to an invalidated TNOD Master Plan shall be subject to underlying zoning district regulations.**

**D. Property subject to an invalidated PUD Master Plan shall be subject to the regulations for the zoning district in effect prior to approval of the PUD zoning.**

**E. Property subject to an invalidated FBO district Master Plan shall be subject to the applicable FBO district regulations.**

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 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 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 8<sup>th</sup> day of  
February, 2018.

  
MAYOR

ATTEST:

  
CITY CLERK

EXAMINED AND APPROVED by me this 8<sup>th</sup> day of  
February, 2018.

  
MAYOR

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