

## ORDINANCE NO. 1552

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S LAND DEVELOPMENT CODE RELATED TO PUBLIC ART; DEFINING PUBLIC ART; PLACING ADDITIONAL REQUIREMENTS FOR THE SUBMISSION AND APPROVAL OF THE PLACEMENT OF PUBLIC ART IN THE CITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

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

### 5.07.00 SIGN CODE

#### 5.07.01 Definitions and Short Title.

This section 0 shall be known as the "*City of Panama City Beach Sign Code*."  
(Ord. #1254, 11/14/13)

As used in this section, the following additional, defined terms have the meanings assigned to them. When one or more defined terms are used together, their meanings shall also be combined as the context requires or *Permits*....

***Projecting Sign***: a ***Sign*** affixed to any ***Building*** or wall whose single leading edge extends, often perpendicular, beyond such ***Building*** or wall. For purposes of this definition, the single leading edge shall mean the furthest projection from the ***Building*** or wall.

**Public Art**: **Tangible creations by artists that exhibit the highest quality of skill and aesthetic principles, including the following: paintings, sculptures, stained glass, projections, light pieces, statues, bas reliefs, engravings, carvings, frescoes, mobiles, murals, collages, mosaics, tapestries, photographs, drawings, monuments and fountains or combinations thereof, and that are one-**

of-a-kind or part of an original, numbered series. The artwork must be created for placement in a public place or publicly accessible private space, or integrated into the underlying architecture, landscape design or site. "Public Art" does not include items manufactured in large quantities by the means of industrial machines, reproductions, or architectural elements. Works of art may be permanent, temporary or functional, and can encompass the broadest range of expression, media and materials.

Publicly Accessible with regard to Public Art means exterior locations that are highly visible and accessible twenty-four hours a day, seven days a week at no charge to the public.

SECTION 2. From and after the effective date of this ordinance, Section 5.07.07 of the Land Development Code of the City of Panama City Beach related to On-Premises Sign Standards, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

**5.07.07 On-Premises Sign Standards**

The following *On-Premises Signs* may be *Erected* and displayed in *Business District* s pursuant to a *Permit*.

...

G. The following *Public Art* may be placed on public property or on *Publicly Accessible private property* pursuant to a *Permit*.

1. All applications shall be reviewed by a Public Art Committee comprised of the following:

(a). The City Planning Director;

(b). One member appointed by majority vote of the City Council; and

(c). One member selected by the Planning Board with significant experience in the arts and the arts community which shall be evidenced by experience as a professional artist, service on a community arts board, or similar commensurate experience.

2. The Public Art Committee shall consider each application based upon the following selection criteria:

(a). The *Public Art* shall be created by an *Artist* or by an entity or organization affiliated with an educational institution or the local arts community. *Artist* means an individual generally recognized by critics and peers as a professional practitioner of the visual arts, as judged by the quality of that professional practitioner's body of work, educational background, experience, past public commissions, exhibition record, publications, receipt of honors and awards, training in the arts, and production of artwork.

(b). The proposed art demonstrates excellence in aesthetic quality, workmanship, innovation and creativity.

(c). The proposed art is not directly or overtly commercial or political. Art including prominent or conspicuous symbols, designs, or logos commonly associated with a particular company, brand, political party, political affiliation, or cause shall be subject to denial under this section.

(d). The art is appropriate in scale, form, content, and of materials/media suitable for the site's location and manner of placement.

(e). Demonstrate feasibility in terms of budget, timeline, safety, durability, operation, maintenance, conservation, security and/or storage and siting; and

(f). The art is compatible with the surrounding neighborhood and not injurious to the neighborhood or otherwise detrimental to the public safety or welfare.

(g). The art furthers the City's goal of promoting a broad range of artistic styles and media to maintain an overall balance of art within the City.

3. *Public Art* approved and *Erected* pursuant to this section shall not count towards any limitation on *Signs* in this *Sign Code*.

4. All *Public Art* shall be adequately maintained throughout the life of the art. Failure to adequately maintain *Public Art* shall constitute a public nuisance as that term is defined in Chapter 15 of the City's Code of Ordinances and may be abated in accordance with the provisions of that Chapter.

SECTION 3. From and after the effective date of this ordinance, Section 5.07.08 of the Land Development Code of the City of Panama City Beach related to Sign Permit Applications, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

### 5.07.08 Sign Permit Applications

A. A **Sign Permit** application for a **Sign** that is required by this **Sign Code**, or separate **City Council** resolution, shall be prepared and submitted on forms available at the **Building** Department. The **Sign Permit** is in addition to any **Permit** required by the **Florida Building Code** or other applicable health and safety code or law, and the issuance of a **Sign Permit** creates no rights with respect to any other **Permit** or under any body of law other than this **Sign Code**. The applicant shall furnish the following information on or with the **Sign Permit** application form:

1. Name, address and telephone number of the person making application for the **Permit**. If the applicant is anyone other than the property owner, the applicant shall provide written authorization from the property owner **Permitting** the installation of the **Sign**.
2. Name, address and telephone number of the property owner. If the owner is an entity other than an individual, list the contact person's name and telephone number.
3. Name, address and telephone number of the business tenant, if applicable. If the tenant is an entity other than an individual, list the contact person's name and telephone number.
4. Name, address, telephone and license number of the contractor, if applicable. If the contractor is an entity other than an individual, list the contact person's name and telephone number.
5. Address and **Bay County Property Appraiser's** parcel identification number of the property upon which the **Sign** is to be located.
6. Dimensions, elevation and **Area** of the proposed **Sign**, drawn to scale.
7. For an **On-Premises Sign**, the **Frontage** of the **Premises** and the **Building Frontage**, as needed to determine the **Area** of the **Sign**.
8. For an **On-Premises Sign**, a photograph of the **Facade** of each principle **Building**, photographs of all **On-Premises Signs** on the same **Premises**, and a statement listing, by reference to the photographs, the **Area** of each **On-Premises Sign** computed as required by this **Sign Code**.
9. For a **Free-Standing On-Premises Sign**, a **Site Plan** of the **Premises** indicating in feet and inches the location of the **Sign** in relation to all property lines, public rights-of-way, easements, **Buildings** and any other **Free-Standing Sign** on the **Premises**.

10. For an **On-Premises Building Sign**, the **Façade** elevation showing all existing **Signs**, the proposed **Sign** and all windows and doors, all drawn to scale with dimensions given for the **Facade** and for each element required to be shown
11. For an **Off-Premises Sign**, descriptions and **Street** addresses of the closest two (2) **Off-Premises Signs**, the distance from the location of the proposed **Sign** to each of those **Signs**, measured as required by this **Sign Code**, and including a map or drawing showing the route of measurement
12. Number of **Faces**. If a **Multi-Vision Sign**, the method of changing **Faces**.
13. For a **Free-Standing Sign**, all sign dimensions, including the **Height** of the top of the **Sign** and the distance between the bottom of the **Sign** and grade.
14. Dimensions of the **Sign Structure**, if any.
15. **Sign** illumination, specifying illumination type, placement and intensity.
16. For an Illuminated **Sign**, a complete application for an electrical **Permit** submitted, with appropriate fee, by a qualified and licensed electrical contractor.
17. Three (3) copies of the plans, specifications, calculations and details, signed and sealed by an engineer licensed in Florida documenting the applicable wind load and demonstrating compliance with the **Florida Building Code** for:
  - (a) A **Free-Standing Sign** exceeding one hundred (100) square feet in **Sign Area** of any **Face**, or
  - (b) A **Projecting Signs** over twenty-four (24) square feet in **Sign Area** of any **Face**.This requirement is in addition to any **Permitting** or substantive requirement imposed from time to time by the **Florida Building Code** or similar law.
18. Landscape plan, as applicable.
19. If applicable, the cost to repair and the cost to replace a **Sign** damaged by casualty, certified by a **Sign** contractor licensed to do business in the **City** and who does not have a direct or indirect economic or other interest in the subject **Sign**.
20. If the value of construction is \$2,500.00 or greater, a certified **Copy** of notice of commencement shall be required prior to **Permit** issuance.
21. Signature of applicant verifying accuracy of information supplied.

**22. An application for Public Art shall include all information regarding the art's compliance with section 5.07.07.G of this Sign Code.**

- B. An application for a **Permit** shall be accompanied by a **Permit** fee in the amount of twenty-five dollars (\$25.00) reflecting the actual or reasonably anticipated expenses associated with the application, which fee may be changed from time to time by resolution of the **City Council** to reflect changed expenses associated with processing **Permit** applications.
- C. Any **Permit** issued through mistake of fact or law shall confer no right upon the permittee and such **Permit** shall be revoked by the **City Manager** or his designee upon discovery of such mistake, and the **Sign** for which the **Permit** was obtained shall be corrected or removed immediately by the owner or person entitled to possession thereof.
- D. A **Permit**, **except for a Permit for Public Art**, shall become null and void if the **Sign** for which the **Permit** was issued has not been **Erected** and completed within a period of one hundred eighty (180) days after the date of issuance or in the case of a **Permit**. **A Permit for Public Art shall be valid for three hundred sixty-five days from the date of issuance.** Only one thirty (30) day extension may be granted by the **City Manager** or his designee for good cause shown. A fee shall not be refunded.
- E. When a **Sign Permit** has been issued, it shall be unlawful to change, modify, alter, or otherwise deviate in any material respect from the size, location and design of the **Sign** or **Sign Structure** represented in the application for such **Permit**.
- F. The **City Manager** or designee may make or require any inspections to ascertain compliance with the provisions of this **Sign Code**, the comprehensive plan of the **City**, this **LDC**, the **Florida Building Code** and any other law.
- G. If the work under any **Sign Permit** is proceeding in violation of this **Sign Code**, the **Florida Building Code**, or any other ordinance of the **City**, or should the **City** be denied access to inspect the work, or should it be found that there has been any false statement or misrepresentation of a material fact in the application or plans on which the **Permit** was based, the **Permit** holder shall be notified of the violation, denial or falsity. If the **Permit** holder fails or refuses to make corrections within ten days, or within three business days **Permit** access or demonstrate revised material facts justifying the **Permit**, it shall be the duty of the **City Manager** or designee to revoke such **Permit** and serve notice upon such **Permit** holder. Such notice shall be in writing and signed by the **City Manager** or his designee. It shall be unlawful for any person to proceed with any part of work after such notice is issued.

#### H. **Sign Permit** Application Review.

1. An applicant shall deliver a **Permit** application to the **Building** Department, or such other office as may be designated by the **City Manager**. The application shall be reviewed for a determination of whether the proposed **Sign** meets the applicable requirements of this **Sign Code** and any applicable **Building** code or land development regulation. The review of the **Permit** application shall be completed within forty-five (45) days following receipt of a completed application, and any applicable fees, not counting the day of receipt and not counting any Saturday, Sunday, or legal holiday which falls upon the first or the forty-fifth (45) day after the date of receipt. A **Sign Permit** shall either be approved, approved with conditions (meaning legal conditions existing in the **Sign Code**, **Building** code or land development regulations, such as dimensional requirements), or disapproved, and the decision shall be reduced to writing. A disapproval shall include or be accompanied by a statement of the reason(s) for the disapproval. In the event that no decision is rendered within forty-five (45) calendar days following submission, the application shall be deemed denied. If disapproval is the consequence of a failure to decide upon the application within the deadline set forth herein, the **City Manager** or designee shall upon request refund any applicable fee to the person who paid the fee. In the event that no decision is rendered within forty-five (45) calendar days following submission, the application shall be deemed denied and the applicant may appeal to the **Planning Board**.
2. In the case of an approval with conditions or disapproval an applicant may ask for reconsideration of the decision on the grounds that the **City Manager** or designee may have overlooked or failed to consider any fact(s) that would support a different decision. A written request for reconsideration accompanied by such additional fact(s) as the applicant may wish the **City Manager** or designee to consider, shall be filed with the **City Manager** or designee within ten (10) calendar days after receipt of the decision. No fee shall be required for a request for reconsideration. Upon the timely filing of a request for reconsideration, the decision of the **City Manager** or designee shall be deemed stayed and not a final decision, until the request for reconsideration is decided. The request for reconsideration shall be decided within seven (7) days of receipt by the **City**, not counting any intervening **Saturday, Sunday, or City** holiday. Such decision shall be in writing and shall include a statement of the reason(s) for the decision. If the disapproval of the request for reconsideration was a consequence of a failure to decide upon the application within the deadline set forth herein, the **City Manager** or designee shall verify upon

request that any applicable fee was refunded even if the **City Manager** or designee approves the application upon reconsideration.

3. All decisions shall be mailed, transmitted electronically, or hand delivered to the applicant. A record shall be kept of the date of mailing, electronic transmittal, or hand delivery. For the purposes of calculating compliance with the forty-five (45) day deadline for a decision upon an application or the seven-day deadline for a decision upon request for reconsideration, the decision shall be deemed made when deposited in the mail, transmitted electronically, or hand delivered to the applicant.
4. As exceptions to the foregoing, the forty-five (45) day deadline for approval and the seven (7) day deadline for a decision upon receipt of a request for a reconsideration shall not apply (that is, the time shall be suspended):
  - (a) In any case in which the application requires a variance from any provision of the **LDC**, the **City Code of Ordinances**, a rezoning of the property, or an amendment to the comprehensive plan of the **City**. In such cases, the time shall be suspended until a final decision is made upon the application for the variance, rezoning, or comprehensive plan amendment.
  - (b) If the applicant is required to make any change to the application in order to obtain an unconditional approval, the time shall be suspended while the applicant makes such change.
  - (c) If an applicant is required to obtain an approval from any other governmental agency, the time shall be suspended until such approval is obtained.
  - (d) In any of the foregoing cases, the applicant may elect to seek a variance, rezoning of the property, or an amendment to the comprehensive plan of the **City**, make no change to the application, or obtain an approval that may be required by another governmental agency, and may instead demand a decision upon the **Sign Permit** application as filed, subject to obtaining a variance, rezoning of the property, or an amendment to the comprehensive plan of the **City**, or approval by another agency being obtained. In such event, the **City Manager** or designee shall make a decision on the application as appropriate within five (5) business days after receiving such demand. If a decision is not made in such a time, the application shall be deemed denied and the **City Manager** or designee shall verify that any applicable fee was refunded to the person who paid the fee.



5. An application which is materially incomplete or which is not accompanied by the required fee shall not be deemed accepted and the time for review of the application shall not commence until a complete application accompanied by the required fee is filed with the **Building** Department or successor office designated by the **City Manager**. In addition, the **City Manager** or designee shall, within forty-five (45) days of receipt of an incomplete or unpaid application, send the applicant a written explanation of the deficiencies in the application and ask that the deficiencies be remedied, explaining that the application cannot proceed forward otherwise and the review will be suspended pending receipt of the required information or documentation. The applicant must then submit a new application with the deficiencies corrected in order for it to be considered by the **City Manager** or designee.
6. Any person aggrieved by the decision of the **City Manager** or designee upon his or her **Sign Permit** application shall have the right to appeal to the Planning Board as provided in this LDC. Failure to timely appeal the decision regarding a **Sign** application by the **City Manager** or designee shall waive the right to appeal, but constitute a failure to exhaust administrative remedies for purposes of a subsequent judicial action.
  - I. It shall be unlawful for any person or business or the person in charge of the business to **Erect**, construct, alter or maintain an outdoor advertising display **Sign**, as defined in the **Florida Building Code**, without first obtaining a **Building Permit** from the **City** in accordance with the provisions of the **Florida Building Code** and applicable law. **Permit** fees for a **Building Permit** shall be paid in accordance with the applicable **City** fee schedules. The requirement of a **Building Permit** under the **Florida Building Code** is separate and independent of the requirement for a **Sign Permit** under this **Sign Code**.

SECTION 4. From and after the effective date of this ordinance, Section 5.07.12 of the Land Development Code of the City of Panama City Beach related to Sign Code Severability, is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

**5.07.12 Severability.**

- J. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this **Sign Code** is declared unconstitutional or invalid by

the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this **Sign Code**.

- K. **Severability where Less Speech Results**. Without diminishing or limiting in any way the declaration of severability set forth above or elsewhere in this **Sign Code**, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this **Sign Code** is declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this **Sign Code**, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt **Signs** to **Permitting** or otherwise.
- L. **Severability of Provisions Pertaining to Prohibited Signs or General Sign Standards**. Without diminishing or limiting in any way the declaration of severability set forth above or elsewhere in this **Sign Code**, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this **Sign Code** or any other law is declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this **Sign Code** that pertains to prohibited **Signs** or general **Sign** standards, including specifically those **Signs** and **Sign**-types prohibited and not allowed under section **Error! Reference source not found.** of this **Sign Code** and those general **Sign** standards set forth in section **Error! Reference source not found.** of this **Sign Code**. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of section **Error! Reference source not found.** of this **Sign Code** is declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of section 5.07.04. Further still, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of section **Error! Reference source not found.** of this **Sign Code** is declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of section **Error! Reference source not found.**.

- M. Severability of Prohibition or Limitation on Billboards.** If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this **Sign Code** and/or any other **Code** provisions and/or laws are declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality or invalidity shall not affect the prohibition or limitation (“cap and replace”) of **Off-Premises Commercial Signs** or “billboards” contained in this **Sign Code**.
- N. Severability of Portions of Definition of “Sign.”** If any part, sentence, phrase, clause, term, or word of the definition of **Sign** in this **Sign Code**, or any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this **Sign Code** employing that definition, is declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality or invalidity shall not affect any other part, sentence, phrase, clause, term, or word of the definition of **Sign** or any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this **Sign Code**.
- O. Severability of Definitions relating to Commercial or Non-Commercial.** For many situations, this **Sign Code** relies on the distinction between commercial speech and non-commercial speech to determine the degree of regulation that is appropriate. This **Sign Code** is not intended to modify existing or future judicially established definitions of or distinctions between commercial speech or non-commercial speech. To the extent that this **Sign Code** misstates or misapplies a definition for commercial speech or non-commercial speech as related to First Amendment and is declared unconstitutional or invalid on its face or as applied by the valid judgment or decree of any court of competent jurisdiction, it is the City’s intent that the court incorporate and apply the correct, then-prevailing judicial definitions and distinctions, and that the City will amend this Sign Code promptly thereafter to formalize such incorporation of the proper standard.

(Ord. #1428, 9/14/17)

- P. ~~Reference is made to the fact that the definition of **Sign** is intended to treat murals and other public art as a **Sign, Permitted** within the limitations prescribed for all **Signs** and otherwise prohibited, because the **City** has found and determined, and here states, that there is no logical or constitutional way to distinguish between certain elements of what traditionally and universally has been considered a **Sign**, including some **Commercial Signs**, and what traditionally and universally has been considered a mural or other public art, and that the adverse secondary effects (visual clutter, aesthetic nuisance, traffic distraction, etc., as described in the recitals to this **Sign Code**) attributable to “traditional” **Signs** on the one hand and to murals or other public art on the other hand are materially the same, and that~~**

~~there is no practical and enforceable way for the City to fairly and consistently distinguish between all elements of "traditional" Signs and murals or other public art so as to regulate them separately. In addition, the City has found and determined, and here states, that creating a second regulatory scheme for murals and other public art will inevitably result in murals or other public art being added to or associated with "traditional" Signs, thereby increasing the size, number and mass of what for all practical purposes appears to be signage within the City beyond that which the people of the City of Panama City Beach have found to be for them and their lifestyles a reasonable time, place and manner limitation. Nonetheless, if for any reason the regulation of murals and other public art as a Sign is declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality or invalidity shall not affect those portions of the definition of Sign describing "traditional" Signs, especially billboards and Off-Premises Commercial Signs, and On-Premises Commercial Signs, which shall continue to be regulated.~~

[Cross references: Display of Signs by Building, general and Residential contractors, § 8-96; restrictions on posting on public property § 16-4. State law references: Municipal authority to establish Sign ordinance, F.S. § 166.0425; outdoor advertisers, F.S. Ch. 479.]

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 9<sup>th</sup> day of September, 2021.

By: 

MARK SHELDON, MAYOR

**ATTEST:**



LYNNE FASONE, CITY CLERK

EXAMINED AND APPROVED by me this this 9<sup>th</sup> day of September, 2021.

By: 

MARK SHELDON, MAYOR

Published in the News Herald on the 20<sup>th</sup> day of August, 2021.

Posted on pcbfl.gov on the 24<sup>th</sup> day of August, 2021.