



PLANNING BOARD MEETING

CITY OF ST. PETE BEACH

155 Corey Avenue
St. Pete Beach, FL 33706

Monday, November 18, 2019
4:00 P.M.

Call to Order
Pledge of Allegiance
Roll Call

1. **Changes to the Agenda** – Agenda items to be added, moved or deleted will be addressed at this time. Items added will be assigned agenda item numbers and items that are moved will retain the same item numbers. A notation will be made that those items will be taken out of order.
2. **Audience Comments** – Three minutes per person to issues not on the agenda.
3. **Approval of Minutes**
 - a. **10/21/19**
4. **Action Items: Sitting as Local Planning Agency (LPA)**
 - a. **Ordinance No. 2019-xx** – To amend the Land Development Code, Section 22.4. – Type, quality and size of plant material; Section 22.14. - Tree removal permit requirements and Appendix “A” for the establishment of fees
 - b. **Ordinance No. 2019-xx** – To amend the Land Development Code, Section 3.10 – Vested rights and nonconformities
 - c. **Ordinance No. 2019-xx** – To amend the Land Development Code, Section 2.1 – Words, terms and phrases defined; Section 3.12 – Variances and Appendix “A” for the establishment of fees
 - d. **Ordinance No. 2019-xx** – To amend the Land Development Code, Section 3.14 – Appeals

- e. **Ordinance No. 2019-xx** – To amend the Land Development Code, Sec. 6.25 – Mobile food establishment and Appendix “A” for the establishment of fees

5. Discussion Items

- a. **Architectural Renderings Request for Corey Circle/East Corey Ave** – Discussion of staff request for a consultant to render a design archetype for the east end of Corey Ave.
- b. **November 6, 2019 TRC Update** – Review of cases from the prior week’s Technical Review Committee.

6. Adjournment – Next Meeting: 12/16/19

The public is cordially invited to attend.

APPEAL: Florida Statutes Chapter 286.0105 Notices of meetings and hearings must advise that a record is required to appeal. Each board, commission, or agency of this state or of any political subdivision thereof shall include in the notice of any meeting or hearing, if notice of the meeting or hearing is required, of such board, commission, or agency, conspicuously on such notice, the advice that, if a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

AMERICANS WITH DISABILITIES ACT: Florida Statutes 286.26. Accessibility of public meetings to the physically handicapped. In accordance with the Americans with Disabilities Act and Florida Statutes, persons needing special accommodations to participate in a meeting should contact City Hall at (727) 367-2735 no later than forty-eight (48) hours prior to the meeting for assistance.

Electronic media must be submitted a minimum of 24 hours in advance to cityclerk@stpetebeach.org

All agenda material is available for review at City Hall.

PLANNING BOARD MINUTES

October 21, 2019

4:00 P.M.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT:

Tiffany Secka, Chairwoman
Marvin Shavlan, Vice Chairman
Mark Grill, Member
Bev Jackson, Member

ABSENT: Tom DeYampert, Member

ALSO PRESENT:

Andrew Dickman, City Attorney
Ginny Keeter-Bodkin, Deputy City Clerk
Wesley Wright, Community Development Director
Lynn Rosetti, Senior Planner
Brandon Berry, Planner I

1. Changes to the Agenda

There were no changes to the agenda.

2. Audience Comments

There were no audience comments.

3. Approval of Minutes

a. 9/16/2019

Member Grill made a motion to approve the 9/16/2019 minutes as presented. The motion was seconded by Vice Chair Shavlan and approved by a unanimous roll call vote.

City Attorney Dickman stated that the Action Items involve changes to the Land Development Code, to be reviewed by the Local Planning Agency.

Chair Secka adjourned and reconvened the meeting as the Local Planning Agency.

4. Action Items

- a. Ordinance No. 2019-xx – To amend the Land Development Code, Section 22.4. – Type, quality and size of plant material; Section 22.14. - Tree removal permit requirements**

Community Development Director Wesley Wright reviewed the drafted amendments of Sections 22.4 and 22.14 of the Land Development Code with the board. City Attorney Dickman suggested adding language to define new construction and establishing best practices as guidance for staff. Mr. Dickman also suggested changing verbiage in Section 22.14(a) to “Unless pre-empted by state law...” and removing Section 22.14(b).

There was no public comment prior to board discussion.

Vice Chair Shavlan made a motion to recommend that proposed Ordinance 2019-xx, to amend the Land Development Code Section 22.4 and Section 22.15, be presented to the City Commission for approval with the following amendments: Define ‘new construction’ and establish best practices (in Section 22.4) and change section (a) to ‘Unless preempted by state law’ and strike section (b) (in Section 22.14). The motion was seconded by Member Jackson and approved by a unanimous roll call vote.

- b. Ordinance No. 2019-xx – To amend the Land Development Code, Section 3.10 – Vested rights and nonconformities**

Mr. Wright reviewed the proposed amendments to Section 3.10 of the Land Development Code.

There was no public comment prior to board discussion.

Member Jackson made a motion to recommend that proposed Ordinance 2019-xx, amending the Land Development Code Section 3.10, be presented to the City Commission for approval as written. The motion was seconded by Member Grill and approved by a unanimous roll call vote.

- c. Ordinance No. 2019-xx – To amend the Land Development Code, Section 2.1 – Words, terms and phrases defined; Section 3.12 – Variances**

Mr. Dickman stated that he would like to evaluate moving the definition of pervious in Section 2.1 to another section or striking. Planner I Brandon Berry reviewed the consultant/staff proposal to rebrand the current Hardship Variance to Unnecessary and Undue Hardship Variance and add Practical Difficulty and Administrative (de-minimus) Variances. Mr. Berry explained each type.

There was no public comment prior to board discussion.

Member Jackson made a motion to recommend that proposed Ordinance 2019-xx, amending the Land Development Code Section 2.1, be presented to the City Commission for approval with the amendment that the definition of the term 'pervious' be moved to another section or stricken. The motion was seconded by Member Grill and approved by a unanimous roll call vote.

**d. Ordinance No. 2019-xx – To amend the Land Development Code,
Section 3.14 – Appeals**

Mr. Wright reviewed the proposed amendments with the board. Mr. Dickman clarified that Land Development Code Appeals Section 3.14(a) does not apply to building permits. He suggested recommending approval of section (a) to the Commission and that Sections (b) and (c) should be further considered.

The Chair called for public comment and there was none. Board discussion followed.

Member Grill withdrew his first motion and moved to recommend that proposed Ordinance 2019-xx, amending the Land Development Code Section 3.14, be presented to the City Commission for approval with paragraph (a) as written, but striking paragraphs (b) and (c). The motion was seconded by Vice Chair Shavlan and approved by a unanimous roll call vote.

Chair Secka adjourned the Local Planning Agency meeting and reconvened the meeting as the Planning Board.

5. Discussion Items

a. None.

6. Adjournment – Next Meeting: 11/18/2019

There being no further business to come before the Board, the meeting was adjourned at 5:38 p.m.

Attest:

Rebecca C. Haynes, City Clerk

Tiffany Secka, Chairwoman

Minutes approved on: _____

CITY OF ST. PETE BEACH PLANNING BOARD STAFF REPORT

TO: Planning Board

FROM: Wesley Wright, Community Development Director

DATE: November 18, 2019

SUBJECT: Ordinance No. 2019-xx to amend the Land Development Code as it relates to the term “pervious”, Section 22.4 – Type, quality and size of plant material; Section 22.14 – Tree removal permit requirements and Appendix “A” for the establishment of fees.

BACKGROUND:

Ordinance No, 2019-xx pertains primarily to the issue of ground covers as specified in Section 22.4 of the Land Development Code (LDC). Ground covers can be divided into two categories, vegetative and nonvegetative. At the present time, the only allowable nonvegetative ground covers per the LDC are stone and gravel. Increasingly, property owners seeking to develop or redevelop their property have been requesting alternatives to the allowed stone and gravel materials. Some alternatives materials such as shell have been historically used in the past as evidenced by staff’s field observations in the City’s residential neighborhoods. In addition, there are some forms of artificial turf that are permeable as well.

In addition to ground covers, Section 22.14 has been amended to address potential conflicts between State law and the City’s local ordinance requirements.

DISCUSSION:

Community Development Department staff have reviewed the issue of ground covers and find that there is little difference between stone and gravel when compared to shell and artificial turf provided that all of these ground covers be installed in such a manner as to allow water to percolate into the ground. The proposed changes to the LDC will allow for attractive and innovative ways to landscape a portion of the required pervious area in a manner that retains stormwater on-site while reducing the need for irrigation and the application of fertilizers that could potentially run off into Boca Ciega Bay or the Gulf of Mexico. The maximum 20 percent of nonvegetative material, of the required pervious area, could be allowed to increase administratively if the homeowner installs an approved innovative design that incorporates features that ensure the retention of stormwater on-site, reduce the need for irrigation, and/or increase the property’s tree canopy.

PLANNING BOARD:

On October 21, 2019, The Planning Board, sitting as the Local Planning Agency (LPA), heard the proposed amendments to Ordinance No. 2019-xx and unanimously recommended approval to the City Commission with the following amendments: Define “new construction” and establish best practices (in Section 22-4) and change section (a) to “Unless preempted by state law” and strike section (b) (in Section 22.14). Staff has revised the proposed Ordinance to reflect these changes.

The Planning Board, sitting as the LPA, will review proposed Ordinance 2019-xx on November 18, 2019 for consistency with St. Pete Beach’s Comprehensive Plan.

CONSISTENCY WITH THE COMPREHENSIVE PLAN – STAFF REVIEW

Staff has reviewed the proposed Ordinance and finds it to be consistent with the City of St. Pete Beach’s Comprehensive Plan specifically as follows:

FUTURE LAND USE ELEMENT

GOAL 2:

The City shall ensure that the residential character of the City of St. Pete Beach is maintained and protected while:

- Maximizing the potential for economic benefit resulting from the tourist trade and the enjoyment of natural and man-made resources by residents and visitors alike.
- Minimizing the threat to health, safety, and welfare posed by hazards, nuisances, incompatible land uses, and environmental degradation.
- Maintaining the community's recreation, open space and beaches.

Objective 2.7

Consistent with this comprehensive plan, as amended, development activities shall be regulated to ensure the protection of natural resources.

Policy 2.7.10

As administered through the LDC, land use proposals which could potentially increase point-source air and water pollution shall not be permitted, and Green building and site design standards, strategies, practices and technologies that reduce air and water pollution shall be adopted and implemented in the LDC.

Policy 2.7.13

The City shall cooperate with Pinellas County, regional and state efforts to monitor and improve the water quality of Boca Ciega Bay.

Policy 2.7.14

The City's limited non-potable water resources shall be conserved and protected from depletion or over-development through the implementation of water conservation site design techniques including Florida Friendly and waterwise landscapes through the administration of the Future Land Use Map and Future Land Use Element Policies.

Objective 2.8

Consistent with this comprehensive plan, as amended, the City shall seek to improve the storm water drainage system located within its municipal boundaries.

Policy 2.8.4

Impervious surfaces shall be limited through the application of lot coverage standards in the Future Land Use Element.

Coastal and Conservation Element

GOAL 1:

To ensure the highest environmental quality possible, the City of St. Pete Beach shall conserve, protect and appropriately manage the natural resources (aquatic, wetland and terrestrial).

Objective 1.1

In accordance with this Comprehensive Plan the City shall continue to protect the quality and quantity of surface and groundwater.

Policy 1.1.3

The City shall continue to support the standards and regulations set forth in the Pinellas Aquatic Preserve Management Plan to protect and enhance the water quality of Boca Ciega Bay.

Objective 1.2

Regulations for development within the 100-year flood plain shall be strictly enforced.

Policy 1.2.5

The City shall minimize the amount of impervious surface in order to promote groundwater filtration, minimize runoff and stabilize water quality.

STAFF RECOMMENDATION:

Staff recommends the approval of Ordinance No. 2019-xx as revised by the Planning Board on Second and Final reading on December 10, 2019.

ORDINANCE NO. 2019-XX

AN ORDINANCE OF THE CITY OF ST. PETE BEACH, AMENDING THE LAND DEVELOPMENT CODE, SECTION 2.1 – WORDS, TERMS AND PHRASES DEFINED; SECTION 22.4. – TYPE, QUALITY AND SIZE OF PLANT MATERIAL; SECTION 22.14. - TREE REMOVAL PERMIT REQUIREMENTS; AND AMENDING APPENDIX “A” OF THE CODE OF ORDINANCES TO PROVIDE FOR A WORK WITHOUT A TREE PERMIT FEE, PROVIDING FOR CODIFICATION, PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of St. Pete Beach periodically finds sections in its Land Development Code which require clarification, updating and/or amending; and

WHEREAS, the City’s Land Development Code also serves to maintain an environment conducive to the health, safety, welfare of the City’s residents, and preserves and enhances property values within the City; and

WHEREAS, on October 21, 2019, the City’s Planning Board sitting as the Local Planning Agency held a public hearing to consider the proposed Land Development Code changes and provided recommendations to the City Commission; and

WHEREAS, the City Commission has found this ordinance to be in the best interest, safety and welfare of the citizens of the City and

WHEREAS, notice of this ordinance has been provided in accordance with applicable law.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH FLORIDA, HEREBY ORDAINS:

SECTION 1. Recitals. The above recitals (“Whereas” clauses) are hereby adopted as legislative findings, purpose and intent of the City Commission.

SECTION 2. The provisions in this Section pertaining to the City’s Land Development Code are amended as follows:

Division 2, Sec. 2.1 (Words, terms and phrases defined) shall be amended as follows:

Pervious refers to any surface or material that permits water penetration into the ground. Such materials may include stone, shell, gravel, artificial turf and other similar nonvegetative materials installed in such a manner to permit water to penetrate the ground beneath the material. The materials may be provided with a porous underlayment for stability or to enhance attractiveness of the area so long as the surface and any underlayment remains pervious.

Sec. 22.4. – (Type, quality and size of plant material) shall be amended as follows:

(f) *Ground covers.* Vegetative gGround covers in lieu of grass, in whole or in part, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage. In no instance shall nonvegetative pervious material (stone, shell, gravel, and artificial turf only)~~stone or gravel~~ be utilized for more than 20 percent of the minimum required pervious area. The 20 percent maximum nonvegetative portion of the required pervious area may be increased administratively if the homeowner installs an innovative landscape design that incorporates features that retain stormwater onsite, reduces the need for ground water irrigation, or increases the tree canopy as determined by professional best practices which include, but are not limited to, Florida-friendly landscaping, xeriscaping, and low-impact development. New construction that exceeds 10% of the zoning lot area shall require full compliance with this section. A recommended list of vegetative ground covers to be used includes, but is not limited to, the following:

Gallardia Pullchella (Gallardia)*

Helianthus Debilus (Beach Sunflower)*

Lantana Camara (Dwarf Yellow Lantana)*

Trachelospernum Jasmine Varigated (Varegated Confederate Jasmine)*

Trachelospernum Jasmine Minima Varegated (Varegated Dwarf Confederated Jasmine)*

Trachelospernum Jasminoides (Confederate Jasmine)*

Licania michauxii (Gopher Apple)

Scaevola plumieri (Inkberry)

Stachytarpheta jamaicensis (Prone Porterweed)*

Zamia pumila (Coontie)*

Muhlenbergia capillaris (Muhley Grass)*

Sec. 22.14. – (Tree removal permit requirements) shall be amended as follows:

(a) Unless preempted by state law, aAny person desiring a permit to remove a tree as required by this section shall make written application, accompanied by the payment of the applicable fee set forth in Appendix A, St. Pete Beach Code of Ordinances, to the city manager.

~~(b) Failure to obtain the required permit shall result in a penalty charge equal to twice the cost of the original permit or \$100.00, whichever is greater.~~

SECTION 3. “Appendix A” of the Code of Ordinance is hereby amended as illustrated in “Exhibit A,” which is attached and made a part of this Ordinance.

SECTION 4. Conflicts. All ordinances or parts of ordinances, in conflict herewith are hereby repealed to the extent of any conflict with the Ordinance.

SECTION 5. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 6. Construction. This Ordinance is to be liberally construed to accomplish its objectives.

SECTION 7. Publication. This Ordinance shall be published in accordance with the requirements of law.

SECTION 8. Effective Date. This ordinance shall take effect immediately upon adoption.

FIRST READING: _____

PUBLISHED: _____

SECOND READING: _____

PUBLIC HEARING: _____

Alan Johnson, Mayor

I, Rebecca C. Haynes, City Clerk of the City of St. Pete Beach, Florida, do hereby certify that the foregoing Ordinance was duly adopted in accordance with the provisions of applicable law this _____ day of _____, 2019.

Rebecca C. Haynes, City Clerk

APPROVED AS TO LEGAL FORM AND CORRECTNESS:

City Attorney

Andrew Dickman, Esq.

“Exhibit A”

APPENDIX A - FEE SCHEDULE

This appendix includes fees and charges that do not appear in other sections of the Code of Ordinances.

Description	Amount
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Chapter 130. Vegetation	
Tree removal permit application filing fee	25.00
Tree removal permit appeal fee	20.00
<u>Commencement of work without tree removal permit</u>	<u>100.00</u>

CITY OF ST. PETE BEACH PLANNING BOARD STAFF REPORT

TO: Planning Board

FROM: Wesley Wright, Community Development Director

DATE: November 18, 2019

SUBJECT: Ordinance No. 2019-xx to amend the Land Development Code, Section 3.10 pertaining to Vested Rights and Nonconformities.

BACKGROUND AND DISCUSSION:

Ordinance No, 2019-xx pertains to the issue of vested rights and nonconformities as specified in Section 3.10 of the Land Development Code (LDC). The Community Development Department presented the following code additions to Section 3:10 of the LDC:

(4) Any non-conforming structure may be reinforced to make it resistant to hurricanes for the health, safety and welfare of the public. These improvements include the addition of hurricane, shutters, impact windows and doors, and hurricane straps.

(5) Ordinary repairs and maintenance may be made to a non-conforming structure provided that such repairs or maintenance do not constitute a substantial improvement as defined in the Land Development Code.

The purpose of these amendments is to ensure that non-conforming buildings are kept in good repair especially with respect to increasing their resistance to damage from storm events. In addition, these amendments make clear that ordinary repair and maintenance to a non-conforming structure may be undertaken provided such work does not exceed the substantial improvement allowances prescribed by FEMA.

PLANNING BOARD:

On October 21, 2019, the Planning Board, sitting as the Local Planning Agency (LPA), heard the proposed amendments to Ordinance No. 2019-xx and unanimously recommended approval to the City Commission.

The Planning Board sitting as the LPA, will review proposed Ordinance 2019-xx on November 18, 2019 for consistency with the City of St. Pete Beach's Comprehensive Plan.

CONSISTENCY WITH THE COMPREHENSIVE PLAN:

Staff has reviewed the proposed Ordinance and finds it to be consistent with the City of St. Pete Beach's Comprehensive Plan specifically as follows:

HOUSING PLAN ELEMENT

GOAL 1:

The City shall provide decent, safe and sanitary housing in suitable neighborhoods at affordable costs to meet the needs of the present and future residents of the City, free from arbitrary discrimination because of race, sex, handicap, ethnic background, age, marital status or household composition.

Objective 1.4

In accordance with this comprehensive plan the City shall work to extend the useful life of the existing housing stock while maintaining the neighborhood quality through land development regulations.

Policy 1.4.3

The City shall, in as much as FEMA regulations permit, allow for older, traditionally non-conforming, residential structures to be rebuilt and maintained as domiciles at their existing densities.

Objective 1.6

As an ongoing objective, the City shall eliminate any substandard housing that may exist.

Policy 1.6.2

The City shall encourage housing improvement and replacement projects through the land development regulations.

Objective 1.8

Encourage, and provide incentives, when appropriate for design and construction techniques and building materials capable of significantly reducing the cost of maintenance and energy consumption of housing while providing for a more healthy and durable home environment.

STAFF RECOMMENDATION:

Staff recommends the approval of Ordinance No. 2019-xx as revised by the Planning Board on Second and Final reading on December 10, 2019.

ORDINANCE NO. 2019-XX

AN ORDINANCE OF THE CITY OF ST. PETE BEACH, AMENDING THE LAND DEVELOPMENT CODE, SECTION 3.10 – VESTED RIGHTS AND NONCONFORMITIES; AND PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of St. Pete Beach periodically finds sections in its Land Development Code which require clarification, updating and/or amending; and

WHEREAS, the City's Land Development Code also serves to maintain an environment conducive to the health, safety, welfare of the City's residents, and preserves and enhances property values within the City; and

WHEREAS, on October 21, 2019, the City's Planning Board sitting as the Local Planning Agency held a public hearing to consider the proposed Land Development Code changes and provided recommendations to the City Commission; and

WHEREAS, the City Commission has found this ordinance to be in the best interest, safety and welfare of the citizens of the City and

WHEREAS, notice of this ordinance has been provided in accordance with applicable law.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH FLORIDA, HEREBY ORDAINS:

SECTION 1. Recitals. The above recitals ("Whereas" clauses) are hereby adopted as legislative findings, purpose and intent of the City Commission.

SECTION 2. The provisions in this Section pertaining to the City's Land Development Code are amended as follows:

Division 3, Sec. 3.10 (Vested rights and nonconformities) shall be amended as follows:

(b) Nonconforming structures. Where a lawful structure exists at the time of adoption or amendment of this Code which could no longer be built under the terms of this Code by reason of restrictions on lot area, impervious surface,

height, or other such characteristics, such structure may continue to be used so long as it remains otherwise lawful, subject to the following provisions:

(1) No such structure may be enlarged, altered or improved in a manner which increases its non-conformity, except for the conditions set forth for elevating an existing structure in Section (3)A. below.

(2) Any nonconforming structure which suffers substantial damage, as defined in this Code, shall only be repaired, restored or reconstructed in a manner which brings the entire structure into compliance with all requirements of this Code and other applicable codes of the city.

(3) Should such nonconforming structure be moved, either vertically or horizontally, it shall comply with the following:

A. The structure shall be moved, vertically only, such that the lowest floor is elevated no higher than six inches above the base flood elevation, as defined and established in the city's flood damage prevention regulations set forth in Chapter 98 of the Code of Ordinances, except that minimum necessary additional height shall be allowed to provide for the construction of a garage underneath any structure which is so moved. The maximum height of the new construction for the garage shall not exceed nine feet from the existing grade of the lot to the bottom of the existing horizontal structural member of the lowest floor. Under no circumstances shall the resulting structure exceed the maximum height allowed by the zoning district.

B. The structure shall be moved, horizontally only, such that no additional non-conformities are created, and no existing non-conformities are increased, by such relocation; and

C. The structure shall be located on the property so that there is a setback of at least three feet from the nearest property line on all sides of the structure.

(4) Any nonconforming structure may be reinforced to make it resistant to hurricanes for the health safety and welfare of the public. These improvements include the addition of hurricane shutters, impact windows and doors, and hurricane straps.

Words ~~stricken~~ through shall be deleted. Words underscored constitute the amendment proposed. The symbol *** constitutes code sections not shown for purposes of brevity. Remaining provisions are now in effect and remain unchanged.

(5) Ordinary repairs and maintenance may be made to a non-conforming structure provided that such repairs or maintenance do not constitute a substantial improvement as defined in the Land Development Code.

SECTION 3. Conflicts. All ordinances or parts of ordinances, in conflict herewith are hereby repealed to the extent of any conflict with the Ordinance.

SECTION 4. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 5. Construction. This Ordinance is to be liberally construed to accomplish its objectives.

SECTION 6. Publication. This Ordinance shall be published in accordance with the requirements of law.

SECTION 7. Effective Date. This ordinance shall take effect immediately upon adoption.

FIRST READING: _____

PUBLISHED: _____

SECOND READING: _____

PUBLIC HEARING: _____

Alan Johnson, Mayor

Words ~~stricken~~ through shall be deleted. Words underscored constitute the amendment proposed. The symbol *** constitutes code sections not shown for purposes of brevity. Remaining provisions are now in effect and remain unchanged.

I, Rebecca C. Haynes, City Clerk of the City of St. Pete Beach, Florida, do hereby certify that the foregoing Ordinance was duly adopted in accordance with the provisions of applicable law this _____ day of _____, 2019.

Rebecca C. Haynes, City Clerk

APPROVED AS TO LEGAL FORM AND CORRECTNESS:

City Attorney

Andrew Dickman, Esq.

Words ~~stricken~~ through shall be deleted. Words underscored constitute the amendment proposed. The symbol *** constitutes code sections not shown for purposes of brevity. Remaining provisions are now in effect and remain unchanged.

CITY OF ST. PETE BEACH PLANNING BOARD STAFF REPORT

TO: Planning Board

FROM: Wesley Wright, Community Development Director

DATE: November 18, 2019

SUBJECT: Ordinance No. 2019-xx to amend the Land Development Code, Section 2.1 – Words, terms and phrases defined; Section 3.12 – Variances and Appendix “A” for the establishment of fees.

BACKGROUND:

Ordinance No. 2019-xx was prepared by consultant Amber Riviere which modifies the City’s variance section of the Code. A memorandum from Ms. Riviere is attached for the Commission’s review. A table prepared by staff is also attached that visually depicts the three types of variances being proposed. Essentially, the variance process is being divided into the following categories: 1) Unnecessary and undue hardship variances, 2) Practical difficulty variances, and 3) Administrative variances.

DISCUSSION:

Community Development Department staff have worked with Ms. Riviere for the past several months and reviewed the development of this ordinance during this time period. Staff finds that these three levels of variances will help streamline the variance process, especially for those that are relatively simple or minimal requests.

PLANNING BOARD:

On October 21, 2019, The Planning Board, sitting as the Local Planning Agency (LPA), heard the proposed amendments included in Ordinance No. 2019-xx. The Board recommended approval of the Ordinance with the amendment that the definition of the term “pervious” be moved to another section or stricken. The motion passed unanimously.

The term “pervious” was added to Ordinance 201-xx, Section 22.4, pertaining to vegetation.

The Planning Board, sitting as the LPA, will review proposed Ordinance 2019-xx on November 18, 2019 for consistency with St. Pete Beach’s Comprehensive Plan.

CONSISTENCY WITH THE COMPREHENSIVE PLAN – STAFF REVIEW

Staff has reviewed the proposed Ordinance and finds it to be consistent with the City of St. Pete Beach's Comprehensive Plan specifically as follows:

FUTURE LAND USE ELEMENT

GOAL 2:

The City shall ensure that the residential character of the City of St. Pete Beach is maintained and protected while:

- Maximizing the potential for economic benefit resulting from the tourist trade and the enjoyment of natural and man-made resources by residents and visitors alike.
- Minimizing the threat to health, safety, and welfare posed by hazards, nuisances, incompatible land uses, and environmental degradation.
- Maintaining the community's recreation, open space and beaches.

Objective 2.1

The integrity and quality of life throughout the City, including existing residential neighborhoods, as well as core commercial and resort areas, will be maintained through the enforcement of the land development regulations and shall be encouraged to be improved, and for those properties experiencing blighting conditions such as deterioration, degradation, and distress shall be encouraged to redevelop through the use of land development regulations and other incentives, in accordance with the Future Land Use Element.

Policy 2.1.4

The City will continue to encourage the construction of residential units suitable for families with children.

Policy 2.1.5

Through the enforcement of the land development regulations, existing residential areas shall be protected from the encroachment of incompatible uses; likewise, other land use areas shall be protected from the encroachment of incompatible residential uses.

Policy 2.1.6

The conservation, maintenance and rehabilitation of existing residential areas shall be encouraged through provisions contained in the land development regulations and other applicable City codes.

Policy 2.1.10

The land development regulations shall contain provisions which ensure that new residential areas are located and designed to protect life and property, as much as possible, from natural and man-made hazards such as flooding, excessive traffic, noxious odors, noise and deterioration of structures.

STAFF RECOMMENDATION:

Staff recommends the approval of Ordinance No. 2019-xx as revised by the Planning Board on Second and Final reading on December 10, 2019.

ORDINANCE NO. 2019-XX

AN ORDINANCE OF THE CITY OF ST. PETE BEACH, AMENDING THE LAND DEVELOPMENT CODE, SECTION 2.1 – WORDS, TERMS AND PHRASES DEFINED; SECTION 3.12 – VARIANCES; AND AMENDING APPENDIX “A” OF THE CODE OF ORDINANCES TO PROVIDE FOR UNNECESSARY HARDSHIP, PRACTICAL DIFFICULTY AND ADMINISTRATIVE VARIANCE FEES, AND PROVIDING FOR CODIFICATION, PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of St. Pete Beach periodically finds sections in its Land Development Code which require clarification, updating and/or amending; and

WHEREAS, the City’s Land Development Code also serves to maintain an environment conducive to the health, safety, welfare of the City’s residents, and preserves and enhances property values within the City; and

WHEREAS, on October 21, 2019, the City’s Planning Board sitting as the Local Planning Agency held a public hearing to consider the proposed Land Development Code changes and provided recommendations to the City Commission; and

WHEREAS, the City Commission has found this ordinance to be in the best interest, safety and welfare of the citizens of the City and

WHEREAS, notice of this ordinance has been provided in accordance with applicable law.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH FLORIDA, HEREBY ORDAINS:

SECTION 1. Recitals. The above recitals (“Whereas” clauses) are hereby adopted as legislative findings, purpose and intent of the City Commission.

SECTION 2. The provisions in this Section pertaining to the City’s Land Development Code are amended as follows:

Division 2, Sec. 2.1 (Words, terms and phrases defined) shall be amended as follows:

Variance means a grant of relief by the City Manager, appropriate board of authority or city commission from the requirements of the Land Development Code which permits development in a manner otherwise prohibited, subject to the standards set forth in section 3.12.

Division 3, Sec. 3.12 shall be amended as follows:

~~(a) — Authority and approval criteria.~~

~~(1) — The appropriate board of authority may authorize variances to the land development regulations if the applicant is able to demonstrate the following conditions:~~

~~(a) — The existence of conditions and circumstances that are peculiar to the subject land, structure or building and do not apply generally to neighboring lands, structures or buildings in the same district which have complied with these regulations without hardship; that the strict application of the provisions of the land development regulations would deprive the applicant of reasonable use of such land, structure or building; and the peculiar conditions and circumstances are not the result of the actions of the applicant; and~~

~~(b) — Neither a nonconforming use of neighboring lands, structures or buildings, legal or illegal, in the same district, nor a permitted use in adjacent districts shall be considered as grounds for issuance of a variance; and~~

~~(c) — The proposed variance will not have the effect of changing any district boundary on the zoning map, nor constitute the granting of a nonconforming use. Under no circumstances shall a variance permit an increase in development density or permit a use not specifically permitted in the district; and~~

~~(d) — The granting of a variance will be in harmony with the general purpose and intent of the land development regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In granting the variance, the appropriate board of authority may prescribe any conditions and safeguards it deems necessary or desirable as a condition of approval of the variance application; and~~

~~[e] — The appropriate board of authority finds as a reasonable conclusion that hardship would unnecessarily result from a literal enforcement of the provisions of the land development regulations as set forth in the application, and the variance proposed is the minimum variance that will make possible the reasonable use of the land, structure and building.~~

General Variances

(a) Purpose, definition, scope and limitations.

(1) Unnecessary and undue hardship variance. An unnecessary and undue hardship variance is a relaxation of the terms or provisions of the Land Development Code of the City of St Pete Beach (zoning code) where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of the zoning code would result in unnecessary and undue hardship on the property.

(2) Practical difficulty variance. A practical difficulty variance is a relaxation of the terms or provisions of the Land Development Code which is less rigorous than the unnecessary and undue hardship standard. Practical difficulty variances shall only be applicable to impervious surface ratio, setback lines, or landscaping for single family homes located on single lots in the established residential districts. If a practical difficulty variance is granted, the maximum reduction in the required pervious area of a property shall be 50 percent. A practical difficulty variance for a reduction in the required pervious area of a property shall only be granted by the city one time per property. The standard provides for a variance where a literal enforcement of a zoning regulation will create a practical difficulty in the use of the parcel of land for the purpose or in the manner for which it is zoned, considering various factors set forth below.

(3) Administrative (de minimis) variances. When the literal or strict enforcement of the provisions of this chapter causes unusual, exceptional, unnecessary difficulties or injustice because of the size of the tract, parcel or lot, the topography, the condition or nature of adjoining areas or the existence of other unusual physical conditions. The sum of all variances approved by the City Manager under these administrative procedures shall not exceed 12 inches for setbacks and accessory structure height for each property or lot.

(b) Authority and approval criteria.

(1) The City Manager or appropriate board of authority may authorize variances to the land development code if the applicant is able to demonstrate the following conditions:

a. Unnecessary and undue hardship variance. Standards of review for an unnecessary and undue hardship variance. The appropriate board of authority shall approve an unnecessary and undue hardship variance only if the variance applicant demonstrates by clear and convincing evidence that all of the following are met and satisfied:

1. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same zoning district;

2. The special conditions and circumstances do not result from the actions of the applicant or a prior owner of the property;

3. Literal interpretation of the provisions of the zoning code deprives the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the zoning code and results in unnecessary and undue hardship on the applicant;

4. The hardship has not been deliberately or knowingly created or suffered to establish a use or structure which is not otherwise consistent with the comprehensive plan or the zoning code, nor will it permit an increase in development density;

5. An applicant's desire or ability to achieve greater financial return or maximum financial return from his property does not constitute hardship;

6. Granting the variance application conveys the same treatment to the applicant as to the owner of other lands, buildings, or structures in the same zoning district;

7. The requested variance is the minimum variance that makes possible the reasonable use of the land, building, or structure; and

8. The requested variance is in harmony with the general intent and purpose of the comprehensive plan and the zoning code, is not injurious to the neighborhood or otherwise detrimental to the public safety and welfare, is compatible with the neighborhood, and will not substantially diminish or impair property values within the neighborhood.

b. Practical difficulty variance. Standards of review for a practical difficulty variance. The appropriate board of authority shall approve a practical difficulty variance if it finds, based on substantial competent evidence, that following factors demonstrate that a practical difficulty exists:

1. How substantial the variance is in relation to the requirement sought to be varied;

2. Whether an adverse change will be produced in the character of the neighborhood;

3. Whether the difficulty can be obviated by some method feasible for the applicant to pursue other than by a variance; and

4. Whether, in view of the manner in which the difficulty arose, the interest of justice will be served by allowing the variance.

c. Administrative (de minimis) variances. The City Manager may grant an Administrative (de minimis) variances to the setback and accessory

structure height requirements found in this chapter in accordance with the following procedure:

1. An application for an administrative variance shall be submitted to the City Manager. The application shall set forth the reasons justifying the administrative granting of the variance including:

a. Special conditions and circumstances that exist which are particular to the land involved and are not applicable to other surrounding lands;

b. The basis for seeking a variance;

c. How a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties located in the City;

d. That the granting of the variance requested will not confer on the applicant any special privilege that is otherwise denied other similarly situated lands, buildings, or structures in the same zoning district; and

e. An explanation of how the request meets the requirements for approval under this section.

2. To approve a variance application, the City Manager shall find:

a. That the requirements of this section have been met;

b. The reasons set forth in the application justify the administrative granting of the variance;

c. That the variance is the minimal variance that would make possible the use of the land;

d. That the granting of the variance would be in harmony with the general purpose and intent of this Code; and

e. That the variance shall not be injurious to the surrounding property owners and impair desirable general development of the neighborhood or the community as proposed in the Comprehensive Plan or otherwise be detrimental to the public welfare.

3. Notice of administrative variance. The City Manager shall, at the expense of the applicant, provide legal publication and posted notice of an application for variance approval on the subject property, and shall give written notice to adjacent property owners, of the preliminary determination regarding the administrative variance as provided herein, and shall hear any objections

regarding the preliminary determination during a subsequent 30-day period. At the conclusion of the 30-day period, the City Manager shall approve, approve with modifications and/or conditions, or deny the administrative variance request by written development order.

(2) When application is made to the city commission for approval of a conditional use permit, any necessary variances shall be considered by the commission at the same time as the conditional use permit request. Such variances may be approved or denied by the city commission without regard to the disposition of the conditional use permit request.

(3) Any variance granted hereunder shall expire one (1) year from the date of the development order providing for such variance, unless a building permit for the construction authorized by such variance is obtained within such time and said building permit has not expired prior to the completion of construction in accordance therewith.

(bc) Limitations on variance authority of appointed boards. Any request for variance to the city's coastal control line shall be made directly to the city commission. No board of authority shall grant a variance from any requirement imposed by the city commission as a condition of rezoning, conditional use approval or any other action of the commission resulting in the granting of specific development rights.

(ed) Application submission requirements. Each application is due no later than 30 days prior to the public hearing or final administrative determination and shall contain the following information, accompanied by the payment of the applicable fee set forth in Appendix A, St. Pete Beach Code of Ordinances:

(1) A completed application, signed by the property owner. The format of the application shall be determined by the City Manager.

(2) Proof of ownership.

(3) When the applicant is a representative of the property owner or purchaser under contract, a notarized statement authorizing the representative to act as an agent of the property owner with regard to the application and associated procedures.

(4) A property survey containing the legal description, land area, and existing improvements on the site. The survey shall be signed and sealed by a surveyor licensed in the State, and shall have been performed not more than ten (10) years prior to the date of application. The survey shall accurately depict all improvements on the site. If all improvements are not depicted on the survey, the applicant shall conduct a new survey of the property and submit it with the application materials.

(5) A site plan illustrating the request, drawn to scale. The sheet size shall not be less than eleven inches by seventeen inches (11 × 17) and shall not be more

than thirty-six inches by forty-eight inches (36 × 48). An electronic version may be required.

(6) Any stipulation, condition, or proffer the applicant wishes to offer along with the application.

(7) Applicants are encouraged and may be required to submit additional information, such as elevations, photos, and/or product information, when appropriate.

(de) Determination of completeness of application. The city shall determine whether the application is complete. If the application is complete, the application shall be forwarded for review. If the application is not complete the city shall take no further action on the application until the required information is submitted by the applicant.

SECTION 3. "Appendix A" of the Code of Ordinance is hereby amended as illustrated in "Exhibit A," which is attached and made a part of this Ordinance.

SECTION 4. Conflicts. All ordinances or parts of ordinances, in conflict herewith are hereby repealed to the extent of any conflict with the Ordinance.

SECTION 5. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 6. Construction. This Ordinance is to be liberally construed to accomplish its objectives.

SECTION 7. Publication. This Ordinance shall be published in accordance with the requirements of law.

SECTION 8. Effective Date. This ordinance shall take effect immediately upon adoption.

FIRST READING: _____

PUBLISHED: _____

Words ~~stricken~~ through shall be deleted. Words underscored constitute the amendment proposed. The symbol *** constitutes code sections not shown for purposes of brevity. Remaining provisions are now in effect and remain unchanged.

SECOND READING: _____

PUBLIC HEARING: _____

Alan Johnson, Mayor

I, Rebecca C. Haynes, City Clerk of the City of St. Pete Beach, Florida, do hereby certify that the foregoing Ordinance was duly adopted in accordance with the provisions of applicable law this _____ day of _____, 2019.

Rebecca C. Haynes, City Clerk

APPROVED AS TO LEGAL FORM AND CORRECTNESS:

City Attorney

Andrew Dickman, Esq.

“Exhibit A”

APPENDIX A - FEE SCHEDULE

This appendix includes fees and charges that do not appear in other sections of the Code of Ordinances.

Description	Amount
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Chapter 106. Flood Control	
Chapter 118. PLANNING AND DEVELOPMENT Planning and Zoning Fees	
Variance Request (<u>Unnecessary hardship / Practical difficulty</u>)	500.00 plus direct mailing cost
<u>Variance Request (Administrative)</u>	250.00 plus direct mailing cost

Words ~~stricken~~ through shall be deleted. Words underscored constitute the amendment proposed. The symbol *** constitutes code sections not shown for purposes of brevity. Remaining provisions are now in effect and remain unchanged.

CITY OF ST. PETE BEACH PLANNING BOARD STAFF REPORT

TO: Planning Board

FROM: Wesley Wright, Community Development Director

DATE: November 18, 2019

SUBJECT: Ordinance No. 2019-xx to amend the Land Development Code, Section 3.14 – Appeals.

BACKGROUND AND DISCUSSION:

Ordinance No, 2019-xx pertains to Appeals. Certain language relating to persons or entities is being revised. In addition, the code section is now applicable to zoning permits, but not building permits. Division 3, Section 3.14, (b) adds an appeal process of a final order of the Board of Adjustment to the City Commission if the decision of the Board and the staff recommendation are not consistent with each other. It also provides for any person aggrieved by the final order of the City Commission to appeal such order to the circuit court.

PLANNING BOARD:

On October 21, 2019, the Planning Board, sitting as the Local Planning Agency (LPA), heard the proposed amendments to Ordinance No. 2019-xx and recommended that paragraph (a) be approved as written, but also recommended striking paragraphs (b) and (c). Such was approved by unanimous roll call vote.

CONSISTENCY WITH THE COMPREHENSIVE PLAN – STAFF REVIEW AND LPA

Staff has reviewed the proposed Ordinance and find it to be consistent with the City of St. Pete Beach's Comprehensive Plan specifically as follows:

FUTURE LAND USE ELEMENT

GOAL 2:

The City shall ensure that the residential character of the City of St. Pete Beach is maintained and protected while:

- Maximizing the potential for economic benefit resulting from the tourist trade and the enjoyment of natural and man-made resources by residents and visitors alike.

- Minimizing the threat to health, safety, and welfare posed by hazards, nuisances, incompatible land uses, and environmental degradation.
- Maintaining the community's recreation, open space and beaches.

Gulf Boulevard Redevelopment District

Goals, Objectives and Policies for the Gulf Boulevard Redevelopment District

GOAL 1:

Gulf Boulevard shall be a place that attracts people for living, employment and recreation. The City shall encourage the revitalization of Gulf Boulevard through commercial and temporary lodging redevelopment that will attract residents and visitors to the Gulf Boulevard core resort area as a recreation, entertainment, resort and shopping destination.

Objective 1.1

All development and redevelopment within the Gulf Boulevard Redevelopment District shall further the goals, objectives and policies of the Community Redevelopment District, this District and each character district within which development occurs; and shall comply with the design guidelines and the applicable land development regulations for the respective character district.

Policies

Policy 1:

All development shall be consistent with building and site design guidelines and standards that establish the quality of design features expected for renovation, redevelopment and new construction in the Gulf Boulevard Redevelopment District.

Policy 2:

The character of each district shall be reinforced through the site plan review and approval process. Projects shall be consistent with and contribute positively to the vision of the character district in which they are located.

Downtown Redevelopment District

Goals, Objectives and Policies for the Downtown Redevelopment District

GOAL 1:

The downtown commercial core of the District shall be a community gathering place that attracts people to the area with living, working, shopping, entertainment and recreational opportunities. The City shall encourage revitalization through redevelopment that is designed to attract residents and visitors to Downtown core community destination. The downtown residential neighborhoods surrounding and within walking distance of the Downtown core

area, are encouraged to redevelop in a manner that enhances pedestrian and non-vehicular mobility.

Objective 1.1

All development and redevelopment within the Downtown Redevelopment District shall further the goals, objectives and policies of the Community Redevelopment District where applicable, and development and redevelopment shall be consistent with the policies for the character district within which the development occurs and shall comply with the design guidelines and the applicable land development regulations for each respective character district.

Objective 1.2

Residential uses in the Downtown are encouraged only as part of a mixed-use commercial project with a variety of densities, housing types and affordability, consistent with the character districts. Exclusively residential use projects shall be prohibited in the Town Center Core Districts located along Corey Avenue Corey Circle East, and Coquina West as well as the small commercial corridors located near Corey Avenue on Blind Pass Road and Gulf Boulevard.

Policies

Policy 1:

All projects shall be consistent with building and site design guidelines and standards that establish the quality design features expected for renovation, redevelopment and new construction in the Downtown Redevelopment District.

Policy 2:

The character of each district within Downtown shall be reinforced through the site plan review and approval process. Projects shall be consistent with and contribute positively to the vision of the character district in which it is located.

STAFF RECOMMENDATION:

Staff recommends the approval of Ordinance No. 2019-xx as recommended by the Planning Board on Second and Final reading on December 10, 2019.

ORDINANCE NO. 2019-XX

AN ORDINANCE OF THE CITY OF ST. PETE BEACH, AMENDING THE LAND DEVELOPMENT CODE, SECTION 3.14 – APPEALS; PROVIDING FOR CODIFICATION, PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of St. Pete Beach periodically finds sections in its Land Development Code which require clarification, updating and/or amending; and

WHEREAS, the City's Land Development Code also serves to maintain an environment conducive to the health, safety, welfare of the City's residents, and preserves and enhances property values within the City; and

WHEREAS, on October 21, 2019, the City's Planning Board sitting as the Local Planning Agency held a public hearing to consider the proposed Land Development Code changes and provided recommendations to the City Commission; and

WHEREAS, the City Commission has found this ordinance to be in the best interest, safety and welfare of the citizens of the City and

WHEREAS, notice of this ordinance has been provided in accordance with applicable law.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH FLORIDA, HEREBY ORDAINS:

SECTION 1. Recitals. The above recitals ("Whereas" clauses) are hereby adopted as legislative findings, purpose and intent of the City Commission.

SECTION 2. The provisions in this Section pertaining to the City's Land Development Code are amended as follows:

Division 3, Sec. 3.14 (Appeals) shall be amended as follows:

(a) An appeal to a hearing officer designated by the city commission may be taken by any person aggrieved by any final decision of ~~an administrative official~~ the City Manager or designee of the city where it is alleged there is an error in an order, zoning permit, condition, requirement, decision or determination by the ~~administrator~~ City Manager or designee in enforcing the Land Development Code. An appeal shall be filed in writing on or before 30 days from the day of the administrative decision. This section does not apply to building permits.

~~(b) Any person aggrieved by a final order of Board of Adjustment the city commission or may appeal the order to the City Commission if the decision of the board and the staff recommendation are not consistent with each other. to the circuit court. The appeal shall be filed with the circuit court City Clerk on or before 30 days following the issuance of the final development order.~~

(c) Any person aggrieved by a final order of the city commission may appeal the order to the circuit court. The appeal shall be filed with the circuit court on or before 30 days following the issuance of the final order.

~~(de)~~ When an appeal is filed, all proceedings in furtherance of the action affected by the decision being appealed from shall be stayed, unless the ~~Administrative Official~~ City Manager or designee certifies, after the notice of appeal has been filed with the city, that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property.

~~(ed)~~ If the hearing officer finds that said conditions exists, the hearing officer may deny the stay and allow the administrative order to be executed.

~~(fe)~~ The city commission may appoint one or more hearing officers to hear appeals as provided in this section. Such hearing officers shall be attorneys licensed to practice law in all state courts of the State of Florida, and shall have been so licensed for a continuous period of at least five years up to the date of such appointment.

SECTION 3. Conflicts. All ordinances or parts of ordinances, in conflict herewith are hereby repealed to the extent of any conflict with the Ordinance.

SECTION 4. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 5. Construction. This Ordinance is to be liberally construed to accomplish its objectives.

Words ~~stricken~~ through shall be deleted. Words underscored constitute the amendment proposed. The symbol *** constitutes code sections not shown for purposes of brevity. Remaining provisions are now in effect and remain unchanged.

SECTION 6. Publication. This Ordinance shall be published in accordance with the requirements of law.

SECTION 7. Effective Date. This ordinance shall take effect immediately upon adoption.

FIRST READING: _____

PUBLISHED: _____

SECOND READING: _____

PUBLIC HEARING: _____

Alan Johnson, Mayor

I, Rebecca C. Haynes, City Clerk of the City of St. Pete Beach, Florida, do hereby certify that the foregoing Ordinance was duly adopted in accordance with the provisions of applicable law this _____ day of _____, 2019.

Rebecca C. Haynes, City Clerk

APPROVED AS TO LEGAL FORM AND CORRECTNESS:

City Attorney
Andrew Dickman, Esq.

Words ~~stricken~~ through shall be deleted. Words underscored constitute the amendment proposed. The symbol *** constitutes code sections not shown for purposes of brevity. Remaining provisions are now in effect and remain unchanged.

CITY OF ST. PETE BEACH PLANNING BOARD STAFF REPORT

TO: Planning Board

FROM: Wesley Wright, Community Development Director

DATE: November 18, 2019

SUBJECT: Ordinance No. 2019-xx to amend the Land Development Code, Section 6.25 – Mobile food establishment.

BACKGROUND AND DISCUSSION:

Ordinance No, 2019-xx pertains to Mobile food establishments (mobile food trucks). Language addressing operations of mobile food establishments is being revised to clarify operations of vehicles regarding special events and permit non-customary operations of food trucks on private property at special events taking place in the City's downtown commercial districts.

CONSISTENCY WITH THE COMPREHENSIVE PLAN – STAFF REVIEW AND LPA

Staff has reviewed the proposed Ordinance and find it to be consistent with the City of St. Pete Beach's Comprehensive Plan specifically as follows:

FUTURE LAND USE ELEMENT

GOAL 2:

The City shall ensure that the residential character of the City of St. Pete Beach is maintained and protected while:

- Maximizing the potential for economic benefit resulting from the tourist trade and the enjoyment of natural and man-made resources by residents and visitors alike.
- Minimizing the threat to health, safety, and welfare posed by hazards, nuisances, incompatible land uses, and environmental degradation.
- Maintaining the community's recreation, open space and beaches.

Community Redevelopment District general redevelopment guidelines, standards and initiatives

- (a) 2. Ensure that a comprehensive redevelopment strategy can be and shall be implemented through land development regulations that maintain the City's

heritage of quality residential living complemented by resort facilities and supported by a tourist-based economy that includes temporary lodging uses, local retail, restaurants and local pubs and bars;

Goals, Objectives and Policies for the Downtown Redevelopment District

GOAL 1:

The downtown commercial core of the District shall be a community gathering place that attracts people to the area with living, working, shopping, entertainment and recreational opportunities. The City shall encourage revitalization through redevelopment that is designed to attract residents and visitors to Downtown core community destination. The downtown residential neighborhoods surrounding and within walking distance of the Downtown core area, are encouraged to redevelop in a manner that enhances pedestrian and non-vehicular mobility.

Objective 1.4

The City shall use all existing incentives to encourage an affordable mix of housing types and varieties that are located within walking distance of the downtown Corey Avenue core area integrated with retail, commercial, office and entertainment uses at street level to create a live, shop, work and play environment in the Corey downtown area that will revitalize the traditional main street as a vibrant center of activity for residents and visitors.

Objective 1.8

The City shall recognize the unique features of Downtown neighborhoods and shall continue to expand neighborhood retail, business, and recreation services.

STAFF RECOMMENDATION:

Staff recommends the approval of Ordinance No. 2019-xx as proposed.

ORDINANCE NO. 2019-XX

AN ORDINANCE OF THE CITY OF ST. PETE BEACH, AMENDING THE LAND DEVELOPMENT CODE, SECTION 6.25 – MOBILE FOOD ESTABLISHMENT; AND AMENDING APPENDIX “A” OF THE CODE OF ORDINANCES TO REDUCE THE COST OF A MOBILE FOOD ESTABLISHMENT PERMIT, PROVIDING FOR CODIFICATION, PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of St. Pete Beach (insert language); and

WHEREAS, (insert language); and

WHEREAS, (insert language); and

WHEREAS, (insert language); and

WHEREAS, (insert language)

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH FLORIDA, HEREBY ORDAINS:

SECTION 1. Recitals. The above recitals (“Whereas” clauses) are hereby adopted as legislative findings, purpose and intent of the City Commission.

SECTION 2. The provisions in this Section pertaining to the City’s Land Development Code are amended as follows:

Division 6, Sec. 6.25 (Mobile food establishment) shall be amended as follows:

It is a violation to vend any product from a mobile food truck at any location except in compliance with the requirements of this section.

(a) *Vehicle requirements.* A mobile food truck shall not be used for vending a product unless the vehicle has been designed and constructed specifically for such purpose. The mobile food truck shall be licensed in accordance with the rules and regulations of any local, state and federal agency having jurisdiction over the mobile food truck or products sold therein.

(b) *Special event permits.* Mobile food trucks may be permitted in public rights-of-way, or on public or private property, in conjunction with a special event permit as regulated in this section. Vending from mobile food trucks on private property shall additionally be subject to subsection (m) below.

- (1) Location. Operation of one or more mobile food trucks on private property is permitted for special events only in zoning districts of the City in which the use is permitted or conditional. Operation of mobile food trucks on public property or within public rights-of-way for special events is permitted in any district within the City, subject to approval of the City Commission.
- (2) Frequency. Mobile food trucks shall operate no more than three (3) calendar days per special event. Furthermore, no private property shall host special events in which mobile food trucks are present more than three (3) times per calendar year.
- (3) General operations. The operation of mobile food trucks in conjunction with a special event shall comply with Chapter 26, Article II of the City of St. Pete Beach Code of Ordinances and any other federal, state, and local laws as may be amended.

(b) *Insurance requirements.*

- (1) *Operating in rights-of-way.* The permittee, owner or operator shall at all times maintain any insurance which the city determines to be necessary, which may include but is not limited to, general liability insurance, commercial automobile liability insurance, worker's compensation insurance, and environmental liability insurance, issued by an insurance company licensed to do business in the State of Florida, in the amounts established by the city which shall be reasonable, based on industry standards and the risk determined to exist. The insurance policy shall be in occurrence form and the City of St. Pete Beach shall be named as an additional insured on the certificate of insurance. The permittee, owner or operator shall furnish the city with a certificate of insurance which shall be accepted by the city only after approval by the city commission. The permittee, owner or operator shall notify the city within three (3) business days of any changes in the insurance coverage. Upon the cancellation or lapse of any policy of insurance as required by this section, the permit shall be immediately revoked unless, prior to the expiration or cancellation date of the insurance policy, another insurance policy meeting all the requirements of the city is obtained and a new certificate of insurance is provided to the city.
- (2) *Operating in all other locations, not in rights-of-way.* A mobile food truck shall obtain at a minimum, the insurance as required by any local, state or federal laws and regulations.
- (3) *City issued permit (as defined herein).* In addition to the insurance requirements set forth in this section, a mobile food truck shall obtain any additional insurance which may be required to obtain a city issued permit (as defined herein).

Words ~~stricken~~ through shall be deleted. Words underscored constitute the amendment proposed. The symbol *** constitutes code sections not shown for purposes of brevity. Remaining provisions are now in effect and remain unchanged.

- (ed) *Open flame cooking.* Open flame cooking is prohibited; except that such activity may take place if permitted by the city fire marshal.
- (de) *Noise limitations.* Amplified music shall be prohibited; any other sounds from any mobile food truck shall comply with the noise requirements of the city.
- (ef) *Waste collection.* The operator shall provide a waste receptacle for public use within 100 feet of the truck. The area shall be kept neat and orderly at all times and garbage or trash shall be removed daily.
- (fg) *Improved surface.* Food trucks shall only operate from and be located on an improved surface at least 5 feet off the public right-of-way.
- (gh) *Signage.* All signage must comply with the sign section of the Land Development Code. In no case shall "A-frame" signs be permitted.
- (hi) *Alcohol sales.* Mobile food trucks are prohibited from selling alcoholic beverages, except as may be specifically allowed by a city issued permit in conjunction with a special event.
- (ij) *Business tax receipt.* A mobile food establishment permit is issued concurrent with the business tax receipt (BTR) confirmation. If an applicant is a resident of the City of St. Pete Beach, they will be required to obtain a BTR from the city.
- (jk) *Restroom facility.* ~~Class-I~~ Mobile food trucks operating at a site for a duration of more than three (3) hours shall have a written agreement, available upon request by the city, which confirms that employees have access to a flushable restroom within 150 feet of the vending location during the hours of operation.
- (kl) *Grease disposal.* ~~Class-I~~ Mobile food trucks shall have a current written agreement for the proper disposal of grease, available upon request by the city.
- (lm) *Location.* ~~The vending of products from a Class-I mobile food truck on public rights-of-way shall be prohibited unless in conjunction with a special event permit.~~ The vending of products from a ~~Class-I~~ mobile food truck on private lands shall be subject to the following conditions:
 - (1) *Private property.* The vending of products from a ~~Class-I~~ mobile food truck on private property, in conjunction with an established business is permitted only as a conditional use in zoning districts of the city as outlined herein, or in conjunction with a special event permit as specified in subsection (b) of this section.
 - (2) *Vacant property.* Operation of a ~~Class-I~~ mobile food truck is prohibited on vacant and unimproved property.
 - (3) *Permission.* A ~~Class-I~~ mobile food truck shall have the written permission of the owner of the property on which it is located. Such written permission shall accompany application for the mobile food truck permit.

Words ~~stricken~~ through shall be deleted. Words underscored constitute the amendment proposed. The symbol *** constitutes code sections not shown for purposes of brevity. Remaining provisions are now in effect and remain unchanged.

- (4) *Frequency.* Except as may be allowed as part of a special event permit, mobile food trucks are permitted on each property, a maximum of no more than three (3) days per calendar week. ~~Class 4~~ mobile food trucks may operate at different locations as allowed herein.
- (5) *Maximum number of mobile food trucks.* No more than two (2) mobile food trucks shall operate on any property at any one (1) time, ~~except as may be allowed by a special event permit.~~
- (6) *Parking.* Mobile food trucks shall not be required to provide additional parking on the principal business site. If a mobile food truck parks in a principal business required off-street provided space(s), then the principal business shall provide evidence, in the form of a site plan indicating that on-street parking exists within 800 feet of the establishment.
- (7) *Access.* A ~~Class 4~~ mobile food truck shall not be placed in any location that impedes the ingress or egress or building entrances or emergency exits.
- (8) *Hours of operation.* ~~Class 4~~ mobile food trucks shall be permitted to operate after 7:00 a.m. and before 10 p.m. The request for extended hours must be reviewed and approved by the city subject to the criteria contained in the application.
- (9) *Power.* Power for all ~~Class 4~~ mobile food trucks will be evaluated on a case by case basis during the conditional use process but in no case shall a generator be used within 200 feet of a residential district.
- ~~(nn)~~ *CUP expiration.* The conditional use permit shall automatically expire if the principal business does not hold a valid business tax receipt from the city.

SECTION 3. "Appendix A" of the Code of Ordinance is hereby amended as illustrated in "Exhibit A," which is attached and made a part of this Ordinance.

SECTION 4. Conflicts. All ordinances or parts of ordinances, in conflict herewith are hereby repealed to the extent of any conflict with the Ordinance.

SECTION 5. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Words ~~stricken~~ through shall be deleted. Words underscored constitute the amendment proposed. The symbol *** constitutes code sections not shown for purposes of brevity. Remaining provisions are now in effect and remain unchanged.

SECTION 6. Construction. This Ordinance is to be liberally construed to accomplish its objectives.

SECTION 7. Publication. This Ordinance shall be published in accordance with the requirements of law.

SECTION 8. Effective Date. This ordinance shall take effect immediately upon adoption.

FIRST READING: _____

PUBLISHED: _____

SECOND READING: _____

PUBLIC HEARING: _____

Alan Johnson, Mayor

I, Rebecca C. Haynes, City Clerk of the City of St. Pete Beach, Florida, do hereby certify that the foregoing Ordinance was duly adopted in accordance with the provisions of applicable law this _____ day of _____, 2019.

Rebecca C. Haynes, City Clerk

APPROVED AS TO LEGAL FORM AND CORRECTNESS:

Words ~~stricken~~ through shall be deleted. Words underscored constitute the amendment proposed. The symbol *** constitutes code sections not shown for purposes of brevity. Remaining provisions are now in effect and remain unchanged.

City Attorney
Andrew Dickman, Esq.

Words ~~stricken~~ through shall be deleted. Words underscored constitute the amendment proposed. The symbol *** constitutes code sections not shown for purposes of brevity. Remaining provisions are now in effect and remain unchanged.

“Exhibit A”

APPENDIX A - FEE SCHEDULE

This appendix includes fees and charges that do not appear in other sections of the Code of Ordinances.

Description	Amount
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Chapter 118. Planning and Development	
Mobile Food Establishment Permit	170.00
	85.00
Renewal of Mobile Food Permit	85.00

Words ~~stricken~~ through shall be deleted. Words underscored constitute the amendment proposed. The symbol *** constitutes code sections not shown for purposes of brevity. Remaining provisions are now in effect and remain unchanged.