

ORDINANCE NO. 2019-20

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 and November 18, 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:

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 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 Land Development 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 the Land Development Code 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 substantial competent 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 Land Development Code deprives the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Land Development 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 Land Development 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 Land Development 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 de minimis variances to the setback and accessory structure height requirements found in the Land Development Code in accordance with the following procedure:

1. An application for de minimis 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 the Land Development Code 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 the Land Development 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.

(c) 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.

(d) 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.

(e) 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: 11/12/2019

PUBLISHED: 11/29/2019

SECOND READING: 12/10/2019

PUBLIC HEARING: 12/10/2019



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 10th day of December 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	
Variance Request (Unnecessary hardship / Practical difficulty)	500.00 plus direct mailing cost
Variance Request (Administrative)	250.00 plus direct mailing cost
