

INTRODUCED BY
COUNCILOR WELDON



ORDINANCE NO. 2008- XX

A BILL TO BE ENTITLED

AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING CHAPTER 27 UNIFIED LAND DEVELOPMENT REGULATIONS ARTICLE III ADMINISTRATIVE AND ENFORCEMENT PROCEDURES DIVISION 8 VARIANCES SECTION 27-153 PROCEDURE FOR APPEAL AND DELETING SECTION 27-154 APPEAL OF CITY COUNCIL DECISIONS ON VARIANCES IN THE CODE OF ORDINANCES AND PROVIDING AN EFFECTIVE DATE.

Whereas, the City Council of the City of Neptune Beach, Florida has determined that it is desirable to appeals to be handled by the court

Now, Therefore, be it ordained by the City Council of Neptune Beach, Florida:

Section 1. Section 27-153 procedure for appeal is hereby amended as follows;

Sec. 27-153. Procedure for appeal.

- (a) ~~The following persons may appeal to the city council~~ Any final decision of the Board of Appeals with respect to a variance for the property located within the R-1, R-2, R-3, R-4 or R-5 zoning districts may be appealed within thirty (30) days to a court of competent jurisdiction as prescribed by law.
 - (b) Any final decision of the Board of Appeals with respect to a review of an administrative decision may be appealed within thirty (30) days to the City Council.
 - (c) Any final decision of the City Council with respect to a variance for the property located within the C-1, C-2, C-3, CBD and Conservation districts, shall be subject to review only as provided by Florida law. may be appealed within thirty (30) days to a court of competent jurisdiction as prescribed by law.
- ~~(1) The applicant for the variance;~~
 - ~~(2) The owner of any property within three hundred (300) feet, as described in section 27-144(c)(2), for which the variance was requested; or~~
 - ~~(3) Any person who appeared orally or in writing before the board of appeals.~~
- ~~(b) The notice of appeal shall state the specific error(s) alleged as the grounds for the appeal and shall be filed, along with the filing fee, as passed by resolution of the city council, with the city clerk within thirty (30) days from the date the decision of the applicable board is rendered.~~

~~(c) At its next regular meeting, following all appropriate notice, the city council shall review the record of the hearing conducted by the board of appeals. No new evidence may be presented unless it pertains to events or circumstances, which have substantially changed since the board of appeal's decision. The city council shall uphold the decision of the board of appeals unless the council finds that:~~

~~(1) Defects in notice or procedural due process are alleged and proven; or~~

~~(2) The decision of the board of appeals is not supported by competent substantial evidence and testimony produced at the public hearing.~~

~~(3) New evidence is available because of substantial changes in circumstance.~~

~~(d) The city council must affirm, modify, or reverse, each appeal of a variance. When the council acts on an appeal of a final decision of the applicable board, that action shall be deemed to be the final action of the city and shall be subjected to no further review by the city council.~~

Section 2. Section 27-154 Appeal of city council decisions on variances is hereby deleted as follows;

~~Sec. 27-154. Appeal of city council decisions on variances.~~

~~Decisions of the city council in accordance with the appeal procedures as described in section 27-153, or on variances for property located within the C-1, C-2, C-3, CBD and Conservation districts, shall be subject to review only as provided by Florida law.~~

~~(Ord. No. 2004-10, § 1, 10-4-04)~~

Section 3. The Ordinance shall become effective on after passage by the City Council.

VOTE RESULTS OF FIRST READING:

Mayor Richard A. Brown.
Vice Mayor Harriet Pruette
Councilor Eric Pardee
Councilor Fred Lee
Councilor John Weldon

Passed on First Reading this day.

VOTE RESULTS OF SECOND AND FINAL READING:

Mayor Richard A. Brown
Vice Mayor Harriet Pruette
Councilor Eric Pardee
Councilor Fred Lee
Councilor John Weldon

Passed on Second and Final Reading this.

Richard A. Brown
Mayor

ATTEST:

Lisa Volpe, CMC
City Clerk

Approved as to form and correctness:

Christopher A. White
City Attorney