

INTRODUCED BY:



ORDINANCE NO. 2009-04

A BILL TO BE ENTITLED

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING CHAPTER 27 UNIFIED LAND DEVELOPMENT REGULATIONS, ARTICLE XVIII NONCONFORMING LOTS, STRUCTURES, USES AND SIGNS, SECTION 27-706 NONCOMFORMING DEVELOPMENT, AND PROVIDING AN EFFECTIVE DATE.

Whereas, the City Council of the City of Neptune Beach, Florida has determined that it is necessary to amend the following:

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

Section 1. Chapter 27. Article XVIII, Section 27-706 Nonconforming Lots, Structures, Uses and Signs is hereby amended as follows:

Sec. 27-706. Nonconforming Development

- (a) *Continuance of nonconforming development.* Subject to the provisions below for terminating nonconforming development, nonconforming development may remain in its nonconforming state, in accordance with the following:
- (1) The nonconformity was otherwise lawful and in existence on the effective date of this Code, although such use does not now conform to the provisions hereof, or
 - (2) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building, if a building permit was issued prior to the adoption or amendment of this Code causing the nonconformity provided that construction commences within six (6) months of issuance and continues in good faith, as per article I. Otherwise, the issued building permit shall become invalid and shall not be renewed except in conformity with all provisions of this Code.
 - (3) Where open land, i.e. improved or unimproved vacant land, is being used for nonconforming use, such use shall not be extended or enlarged either on the same or adjoining property.
 - (4) On any nonconforming structure or portion of a structure and on any structure containing a nonconforming use, work may be done in any period of twelve (12)

consecutive months on ordinary repairs, provided that the cubic content of the structure existing after the date it became nonconforming shall not be increased.

- (5) If characteristics of use, including off-street parking and loading or other matters pertaining to the use of land, structure or premises are made nonconforming by this chapter as adopted or amended, no change shall thereafter be made in such characteristics of use which increases nonconformity with the regulations set out in this chapter; however, changes may be made that do not increase or that decrease such nonconformities.
 - (6) Additions may be made to a non-conforming structure provided all additions shall conform to Chapter 27 in the Code of Ordinances.
- (b) *Terminating nonconforming development.* Except as otherwise provided herein, nonconforming development shall be brought into full compliance with all provisions of this Code, in conjunction with the following activities:
- (1) The gross floor area of the development is expanded.
 - (2) Reconstruction of the principal structure after the structure has been substantially destroyed. A structure is “substantially destroyed” if the cost of reconstruction is fifty (50) percent or more of the fair market value of the structure before the damage. If there are multiple principal structures on a site, the cost of reconstruction shall be compared to the combined fair market value of all the structures. If a structure is damaged but not substantially destroyed, and is not substantially repaired or reconstructed, or used as before the time of damage within twenty-four (24) months of the date of such damage, such building shall thereafter comply with all provisions of this Code.
 - (3) Whenever a nonconforming use, building or portion thereof has been discontinued, as evidenced by the lack of use or a vacancy for a period of at least twenty-four (24) months, or if a conforming use is substituted, such nonconforming use shall not thereafter be reestablished; and the future use shall be in conformity with the provisions of the district in which it is located.
 - (4) If a nonconforming structure or portion of any structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs or maintenance and is declared by any duly authorized official of the city to be an unsafe building, it shall not thereafter be repaired or rebuilt except in conformity with the regulations of the district in which it is located.
- (c) *Reconstruction of substantially damaged or destroyed nonconforming structures.* Notwithstanding the other provisions of this ordinance, a nonconforming structure which was lawfully erected on a lot of record may be reconstructed if it is substantially damaged or destroyed, provided that:

- (1) The reconstruction does not result in an increase in nonconformity of a lot area, yards, or setbacks;
- (2) The number of dwelling units in such reconstructed structure does not exceed the number of units in existence on the effective date of this ordinance; and
- (3) The repair or reconstruction is substantially completed within twenty-four (24) months of the date of such damage.

Section 2. This Ordinance shall become effective immediately upon its final passage and adoption by the City Council.

VOTE RESULTS OF FIRST READING:

Mayor Harriet Pruette
Vice Mayor John Weldon
Councilor Fred Lee
Councilor Eric Pardee
Councilor Kara Tucker

Passed on First Reading this day of _____, 2009.

VOTE RESULTS OF SECOND AND FINAL READING:

Mayor Harriet Pruette
Vice Mayor John Weldon
Councilor Fred Lee
Councilor Eric Pardee
Councilor Kara Tucker

Adopted on Second and Final Reading this day of _____, 2009.

Harriet Pruette
Mayor

ATTEST:

Lisa Volpe, CMC
City Clerk

Approved as to form and correctness:

Christopher A. White
City Attorney