

SPONSORED BY:

VICE MAYOR JONES



ORDINANCE NO. 2021-05

**A BILL TO BE ENTITLED**

**AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA, ENACTING A TEMPORARY MORATORIUM TO PROHIBIT THE ACCEPTANCE OR PROCESSING OF CERTAIN APPLICATIONS FOR DEVELOPMENT ORDERS OR ANY OTHER OFFICIAL ACTION OF THE CITY HAVING THE EFFECT OF PERMITTING OR ALLOWING FOR THE ISSUANCE OF A DEVELOPMENT ORDER OR RELATED APPROVAL AS SET FORTH IN CHAPTER 27, UNIFIED LAND DEVELOPMENT REGULATIONS, DIVISION 2, DEVELOPMENT REVIEW SECTIONS 27-76 THROUGH 27-88 IN THE CENTRAL BUSINESS DISTRICT AND COMMERCIAL C-1 ZONING DISTRICT; PROVIDING FOR A TEMPORARY MORATORIUM TERM TO BE EXTENDED IF NECESSARY BY THE CITY COUNCIL; PROVIDING FOR EARLY TERMINATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Section 2(b), Article VIII of the Florida Constitution and Chapter 166 of the Florida Statutes, the City of Neptune Beach possesses the powers to enact ordinances in order to protect the health, safety, and welfare of the City's citizens and residents; and

**WHEREAS**, the City Council of the City of Neptune Beach, Florida determines that it is in the best interest of its residents, businesses and visitors to enact sufficient land use regulations and land use plans to ensure their health, safety and welfare; and

**WHEREAS**, the City has received feedback from residents and stakeholders that it should be a priority to preserve the unique character of Neptune Beach through this process; and

**WHEREAS**, development contrary to the desires of residents, stakeholders, and the City Council would undermine the planning efforts undertaken and create irreparable harm to the scheme of development sought within the City; and

**WHEREAS**, prior efforts inconsistent with such desires, including costly litigation, could have been mitigated had certain limitations been placed on the processing of applications during the course of the City's evaluation of revisions to the City of Neptune Beach Unified Land Development Code and/or Code of Ordinances; and

**WHEREAS**, the City Council does not intend to restrict application, processing, and undertaking of building permits and related work that do not substantially alter existing properties and, instead, seek to prevent new development or redevelopment contrary to the expressed desires of residents and stakeholders within the City; and

**WHEREAS**, to protect the public health, safety and welfare of its citizens, the City of Neptune Beach wants to permit additional time review and discuss its regulations regarding development, as defined in Section 27-15, within the Central Business District and Commercial C-1 zoning district; and

**WHEREAS**, the City Council has undertaken the process for the adoption of a new comprehensive plan and has submitted such plan to the Department of Economic Opportunity; and

**WHEREAS**, the City Council has also undertaken a process to analyze, revise, and refine the land development regulations contained in Chapter 27 of the City's Code; and

**WHEREAS**, the City Council has hired the services of Dover, Kohl & Partners, an award-winning planning firm, to assist with the comprehensive plan and land development regulation revision process; and

**WHEREAS**, the City and Dover, Kohl and Partners have conducted numerous forums, charettes, meetings, and collected feedback regarding the desires of the residents and stakeholders within the City regarding such matters; and

**WHEREAS**, the information received from such efforts demonstrates that revisions to the City's regulation of development within the Commercial Business District and Commercial C-1 zoning district are necessary to ensure the health, safety and welfare of the City's residents, businesses, and visitors; and

**WHEREAS**, the City Council determines that additional time is required to adopt the proposed comprehensive plan and to prepare and adopt an amendment or amendments to the City of Neptune Beach Unified Land Development Code and/or Code of Ordinances regarding development in the Central Business District and Commercial C-1 zoning district; and

**WHEREAS**, a temporary moratorium on the processing of applications for, and the issuance of development orders, approvals, or any other official action of the City of Neptune Beach permitting development in the Central Business District and Commercial C-1 zoning district not related to construction permits and similar approvals that do not materially deviate from the existing development on a property will allow time to prepare and adopt such amendment or amendments to the City of Neptune Beach Unified Land Development Code and/or Code of Ordinances and the comprehensive plan; and

**WHEREAS**, proper notice has been given of the public hearings of this proposed ordinance and of the public hearings in the City Council Chambers; and

**WHEREAS**, the public hearings were held pursuant to the published notice described at which hearings the parties in interest and all others had an opportunity to be and were, in fact, heard; and

**WHEREAS**, the City Council for the City of Neptune Beach, Florida finds and declares that this ordinance is in the best interest of the public health, safety and welfare of the citizens and residents of the City of Neptune Beach, Florida and that it advances a significant and important governmental interest;

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA, THAT:**

**ARTICLE III. – ADMINISTRATIVE AND ENFORCEMENT PROCEDURES**

**Sec. 27-89.**

**(a) Purpose.**

(1) The purpose of this ordinance is to enable the City of Neptune Beach sufficient time to review information collected and adopt an amendment or amendments to the City of Neptune Beach Unified Land Development Code and/or Code of Ordinances and the proposed comprehensive plan, relating to development in the Central Business District and Commercial C-1 zoning district. The City will not accept any application or issue any approvals for development orders or other development approvals authorizing development in the Central Business District or Commercial C-1 zoning district, except as provided in this ordinance, or as may otherwise be required by applicable law.

(2) It is further the purpose of this Ordinance to fulfill the City's constitutional charge and statutory obligations to protect and preserve the public health, safety and welfare of the citizens of the City of Neptune Beach, regarding development in the Central Business District or Commercial C-1 zoning district; and thus defer official government action until the City of Neptune Beach has properly analyzed the data it has collected and adopted amendments to the City of Neptune Beach Unified Land Development Code and/or Code of Ordinances and comprehensive plan, as necessary.

**(b) Imposition of Temporary Moratorium.**

No application for approval of development or any other official action of the City having the effect of permitting or allowing development in the Central Business District or Commercial C-1 zoning district may be accepted or processed or approved by the City, except as may be required by applicable law or as provided below. To the extent such an application is submitted, the City staff is authorized to take action to deny such application during the term of this moratorium. Notwithstanding anything to the contrary in this section, this moratorium shall not apply to or restrict the issuance of construction permits, including

but not limited to building, plumbing, electrical, mechanical, or other similar permits, so long as such permits relate to the alteration of an existing building or structure and pursuant to which no change is made to its gross floor area or the amount of impervious surface on the site, even if the net square footage for existing business within may change. Such moratorium also shall not restrict demolition permits for existing manmade structures so long as such permit is not issued in conjunction with or related to a permit or order to construct a building or structure having an effect of changing the footprint of current or previously existing buildings or structures on the property. In interpreting whether an application is prohibited or permitted by this moratorium, it is the City Council's intention to restrict new development and redevelopment having the effect of implementing a scheme of development different than that previously existing on the property and not of preventing work on properties consistent with the existing scheme of development on the property. In the event of any question as to such matters, the City shall apply its judgment to such matters to implement the intent of this moratorium.

(c) **Term.**

The moratorium imposed by this ordinance is temporary and, unless dissolved earlier by the City, shall automatically dissolve in three hundred and sixty-five (365) days from the effective date of this ordinance, unless extended in accordance with applicable law. This moratorium may be reasonably extended, if necessary, by ordinance of the City Council.

(d) **Early Termination.**

The moratorium imposed by this ordinance may terminate prior to its term upon the passage of an ordinance regulating, permitting, or allowing development in the Central Business District or Commercial C-1 zoning district, provided:

- (1) Specific language terminating the moratorium is contained within said enacted ordinance; or by
- (2) Passage of another ordinance providing for termination by the City Council.

(e) **Repeal of Laws in Conflict.**

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All local laws and ordinances in conflict with any provision of this ordinance are hereby repealed to the extent of any conflict.

(f) **Effective Date.**

This ordinance shall take effect immediately upon passage after second reading/public hearing.

**VOTE RESULTS OF FIRST READING:**

|                          |        |
|--------------------------|--------|
| Mayor Elaine Brown       | ABSENT |
| Vice Mayor Fred Jones    | YES    |
| Councilor Kerry Chin     | YES    |
| Councilor Lauren Key     | NO     |
| Councilor Josh Messinger | YES    |

Passed on First Reading this 2<sup>nd</sup> day of August, 2021.

**VOTE RESULTS OF SECOND AND FINAL READING:**

|                          |     |
|--------------------------|-----|
| Mayor Elaine Brown       | YES |
| Vice Mayor Fred Jones    | YES |
| Councilor Kerry Chin     | YES |
| Councilor Lauren Key     | NO  |
| Councilor Josh Messinger | YES |

Passed on Second and Final Reading this 8<sup>th</sup> day of September, 2021.

  
Elaine Brown, Mayor

ATTEST:

  
Catherine Ponson, City Clerk

Approved as to form and contents

  
Zachary Roth, City Attorney

