ORDINANCE NO. 1666

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING CHAPTER 25 OF THE CITY'S CODE OF ORDINANCES RELATED TO CODE ENFORCEMENT; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; SCRIVENER'S ERRORS; LIBERAL INTERPRETATION; MODIFICATIONS; CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE BE IT ENACTED BY THE PEOPLE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. From and after the effective date of this ordinance, Sections 25-17, 25- 18, and 25-31 of the Panama City Beach Code of Ordinances are amended to read as follows (new text **bold and underlined**, deleted text ~~struck through~~):

Sec. 25-17. Code Enforcement Procedure.

(a) For the purposes of this chapter, a "Code Inspector" is defined to be any agent or employee of the City whose duty it is to assure code compliance.

(b) Code Inspectors shall have the authority to initiate enforcement proceedings as provided below. No Hearing Officer shall have the power to initiate such proceedings.

(c) For the purposes of this chapter, "violators" shall be deemed to be those persons or entities creating or permitting a violation of City ordinances, or those persons or entities owning or possessing land on which a violation of ordinances is created or maintained. The City finds and determines that the owner of land has an obligation to know whether conditions created or maintained on that land violates any City ordinance and; therefore, is deemed to have actual or constructive knowledge of any such violation. The owner of land has a legal duty to determine whether conditions created or maintained on his or her land violate any City ordinance~~,~~ and to correct such violations.

(d) **Subject to subsection (i) below, a** ~~A~~ Code Inspector who finds a violation of the ordinances of this Code shall determine a reasonable time period within which the violator must correct the violation provided that such time period shall be no more than thirty (30) days. This determination shall be based on considerations of fairness; practicality; ease of correction; ability to correct; severity of violation; nature, extent and probability of danger or damage to the public; and other relevant factors relating to the reasonableness of the time period prescribed. A time for correction need not be specified if the violation is an uncorrectable violation.

(e) A Code Inspector who finds such a violation shall issue a civil violation notice to the violator, pursuant to Section 25-18.

(f) The civil violation notice shall include but not be limited to the following:

(1) Date and time of issuance.

(2) Name of Code Inspector and division or department issuing the notice.

(3) Name and address of the violator.

(4) Section number of the Code section that has been violated.

(5) Brief description of the nature of the violation~~,~~ including location, date, and time of violation.

(6) Amount of the civil penalty for which the violator may be liable.

(7) Instructions and due date for paying the civil fine or filing for an administrative hearing before a Hearing Officer to appeal the civil fine.

(8) Time within which the violation must be corrected if applicable.

(9) Notice that each day of continued violation after the time period for correction has run shall be deemed a continuing violation subject to additional penalty in the same amount, without the need for additional notices of violation.

(10) Notice that the filing of a request for an administrative hearing will toll the accrual of continuing violation penalties.

(11) Notice that failure to request an administrative hearing within twenty (20) days, or within the specified time period listed for a violation of a specific section of the Code, after issuance of the civil violation notice shall constitute a waiver of the violator's right to an administrative hearing before the Hearing Officer, and that such waiver shall constitute an admission of violation.

(12) Notice that the violator may be liable for the reasonable costs of the administrative hearing should he be found guilty of the violation.

(13) Notice that if the violator fails to pay civil penalty in the time allowed or fails to appear before the Hearing Officer to contest the violation, the violator shall be deemed to have waived his right to contest the violation and that, in such case, judgment may be entered against the violator by the Hearing Officer for the amount of the maximum civil penalty.

(g) After issuing a civil violation notice to an alleged violator, the Code Inspector shall promptly deposit the original civil violation notice and one (1) copy of the civil violation notice with the City Clerk or his or her designee.

(h) A Code Inspector may not initiate an investigation of a potential violation by way of an anonymous complaint. A person who reports a potential violation of a code or an ordinance must provide his or her name and address to the City before an investigation occurs. This paragraph does not apply if the person designated as a **C**~~c~~ode **I**~~i~~nspector has reason to believe that the violation presents an imminent threat to public health, safety, or welfare or imminent destruction of habitat or sensitive resources.

(i) Prior to issuing a civil violation notice, a Code Inspector shall provide a warning notice to the violator that the violator has committed a violation of a code or ordinance and shall establish a reasonable time period within which the violator must correct the violation. Such time period shall be no more than thirty (30) days. If, upon personal investigation, a **C**~~c~~ode **I**~~i~~nspector finds that the violator has not corrected the violation within the time period, the **C**~~c~~ode **I**~~i~~nspector may issue a civil violation notice to the violator. A **C**~~c~~ode **I**~~i~~nspector does not have to provide the violator with a reasonable time period to correct the violation prior to **i**~~I~~ssuing a citation and may immediately issue a citation if the **C**~~c~~ode **I**~~i~~nspector has reason to believe that the violation

presents a serious threat to the public health, safety, or welfare, ~~or~~ if the violation is uncorrectable**, or if the violator has received at least two prior warning notices for the same code violations within a one year period immediately preceding the present correctable violation.**

After issuing a civil violation notice, ~~a~~ **the** civil violation notice may only be dismissed by either the Hearing Officer or by the City Manager upon a finding that the City issued ~~in~~ the violation **notice** in error.

....

Sec. 25-18. Notices.

(a) **Except as set forth in subsection (d) below, a**~~A~~ll notices required by this ~~part~~ **Chapter** shall be provided to the alleged violator by:

(1) Certified mail, return receipt requested, provided ~~if~~ **that** such notice is sent under this paragraph to the owner of the property in question at the address listed in the Bay County Property Appraiser's public database, and at any other address provided to the City by such owner**. If the certified mail** ~~and~~ is returned as unclaimed or refused, notice may be provided by **publication or** posting as described in subparagraphs **(b)(1) and (2)**~~(2)(b)1. and 2.~~ and by first class mail directed to the addresses provided to the City by such owner with a properly executed proof of mailing or affidavit confirming the first-class mailing;

(2) Hand delivery by the sheriff or other law enforcement officer, Code Inspector, or other person designated by the local governing body;

(3) Leaving the notice at the violator's usual place of residence with any person residing therein who is above fifteen (15) years of age and informing such person of the contents of the notice; or

(4) In the case of commercial premises, leaving the notice with the manager or other person in charge.

(b) ~~(2)~~ In addition to providing notice as set forth in subsection (a) notice may also be served by publication or posting, as follows:

(1) ~~(a) 1.~~ Such notice shall be published once during each week for four (4) consecutive weeks (four (4) publications being sufficient) in a newspaper of general circulation in **Bay County,** ~~the county where the code enforcement board is located~~. The newspaper shall meet such requirements as are prescribed under ~~F.S. ch. 50~~, **Chapter 50, Florida Statutes,** for legal and official advertisements. **Proof of publication shall conform to the requirements of sections 50.041 and 50.051, Florida Statutes.**

~~2. Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.~~

(2) ~~(b) 1.~~ In lieu of publication as described in paragraph **(1)** ~~(a)~~, such notice may be posted at least ten (10) days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two (2) locations, one of which shall be at the property upon which the violation is alleged to exist and the other of which shall be **the** City website. **Proof of posting shall be by affidavit of the person posting the notice or by photographic evidence, which affidavit shall include a copy of the notice posted and the date and places of its posting.**

~~2. Proof of posting shall be by affidavit of the person posting the notice or by photographic evidence, which affidavit shall include a copy of the notice posted and the date and places of its posting.~~

(c) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (a).

Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (a), together with proof of publication or posting as provided in subsection (b), shall be sufficient to show that the notice requirements of this ~~part~~ **Chapter** have been met, without regard to whether or not the alleged violator actually received such notice.

(d) Warning notices under section 25-17(i) shall be provided to the alleged violator by:

(1) First class mail sent to the owner of the property in question at the address listed in the Bay County Property Appraiser's public database, and at any other address provided to the City by such owner with a properly executed proof of mailing or affidavit confirming the first-class mailing, and

(2) Posting it securely on the front or main door of the property in question, if the property has a structure, or on the front of an enclosure if the property is enclosed. Proof of posting shall be by affidavit of the person posting the notice or by photographic evidence, which affidavit shall include a copy of the notice posted and the date and places of its posting. If the property is unimproved, mail alone shall be deemed sufficient to provide notice.

(3) In lieu of service under subsections (d)(1) and (2), service of a warning notice shall be deemed sufficient if delivered to the alleged violator by the methods described in section (a)(2)-(4).

....

Sec. 25-31. Civil penalties and related terms construed.

(a) Penalties for violations of the ordinances to be enforced by this chapter shall be in the amount prescribed in the schedule of civil penalties adopted by resolution of the City Council.

(b) An *"uncorrectable violation"* is a violation which cannot be remedied after the violation has been committed because the violation constitutes a single prohibited act of a transitory nature rather than an ongoing condition or constant circumstance. Each reoccurrence of an uncorrectable violation shall constitute a separate violation and shall subject the violator to an additional penalty in the same amount as that prescribed for the original violation. If, however, a violator has been once found guilty of an uncorrectable violation, and causes the same uncorrectable violation to occur a second time, each reoccurrence of the uncorrectable violation by such violator shall constitute a "repeat violation" as provided in Section 25-31(d).

(c) *"Continuing violations"* are those violations which remain uncorrected beyond the reasonable time period for correction contained in either the civil violation notice or the final order of the Hearing Officer, whichever is applicable. For each day of continued violation after the time for correction has run, an additional penalty in the same amount as that prescribed **in the civil violation notice** ~~for the original violation~~ shall be added. The maximum total fine for any one

continuing violation shall not exceed twenty (20) times the **amount in the civil violation notice.** ~~original penalty amount~~.

(d) A "*repeat violation*" is a recurring violation of an ordinance by a violator who has been found guilty of the same violation within five (5) years prior to the present violation, or who has admitted violating the same provision within five (5) years prior to the present violation, notwithstanding the violations occurred at different locations. In the case of correctable violations, a repeat violation can occur only after correction of the previous violation has been made. For the first repeat violation, the amount of the civil penalty shall be double the amount of penalty prescribed for the original violation. The amount of civil penalty due for each subsequent repeat violation shall be double the amount of **the immediately preceding civil violation notice, not to exceed five hundred dollars ($500.00).** ~~penalty due for the first day of the immediately preceding violation, provided that the maximum penalty payable for the first day of any one (1) repeat violation shall be five hundred dollars ($500.00).~~ A repeat violation which remains uncorrected beyond the time prescribed for correction in the civil violation notice shall be treated as a continuing violation **and may incur daily penalties at the penalty amount set forth in the civil violation notice, subject to the limit set forth in subsection (c).**

(e) A *"correctable violation"* is a violation which is not an uncorrectable violation.

(f) A civil penalty imposed pursuant to this Section shall not exceed the limitations set forth by this Code or any Resolution of the City Council.

(g) If a request for administrative hearing is not timely filed continuing violation penalties shall accrue from the date of correction given in the civil violation notice until the correction is made and payment of fine is received. If the named violator requests an administrative hearing on a correctable violation and losses his appeal, the Hearing Officer shall determine a reasonable time period within which correction of the violation must be made, based on the considerations set forth in Section 25-17(d). If correction is not made within the period set by the Hearing Officer, continuing violation penalties shall begin after the time for correction has run. No continuing violation penalties shall accrue during the time period from the date of the civil violation notice until the date of the administrative hearing, if the named violator timely requests an administrative hearing to appeal the decision of the Code Inspector. Continuing violation penalties cannot be imposed by the Hearing Officer for uncorrectable violations.

(h) Civil penalties assessed pursuant to this chapter are due and payable to the City Clerk or his or her designee, on the last day of the period allowed for the filing of an appeal to the Circuit Court from the Hearing Officer's decision, or, if proper appeal is made, when the appeal has been finally decided adversely to the named violator.

(i) In addition, if the Code Inspector has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature, or if after attempts under this section to bring a repeat violation into compliance with a provision of a code or ordinance prove unsuccessful, the ~~e~~**C**ity may make all reasonable repairs which are required to bring the property into compliance and charge the owner with the reasonable cost of the repairs along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the ~~e~~**C**ity to make further repairs or to maintain the property and does not create any liability against the ~~e~~**C**ity for any damages to the property.

SECTION 2. CONFLICT WITH OTHER ORDINANCES OR CODES. All Ordinances or parts of Ordinances of the Code of Ordinances of Panama City Beach, Florida, in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 3. SEVERABILITY. If any provision of this Ordinance is held to be illegal, invalid, or unconstitutional by a court of competent jurisdiction, the other provisions of this ordinance shall remain in full force and effect.

SECTION 4. SCRIVENER'S ERRORS. It is the intention of the City, and it is hereby provided that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Panama City Beach, Florida, and to that end, the sections of this ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section" or "article" or other appropriate designation. Additionally, corrections of typographical errors which do not affect the intent of this Ordinance may be authorized by the City Attorney without public hearing, by filing a corrected or recodified copy with the City Clerk.

SECTION 5. ORDINANCE TO BE LIBERALLY CONSTRUED. This ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed not to adversely affect public health, safety, or welfare.

SECTION 6. MODIFICATIONS. It is the intent of the City that the provisions of this ordinance may be modified as a result of considerations that may arise during a public hearing. Such modifications shall be incorporated into the final version of the ordinance adopted by the City.

SECTION 7. CODIFICATION. The appropriate officers and agents of the City are authorized and directed to codify, include, and publish in electronic format the provisions of this Ordinance within the Panama City Beach Code of Ordinances, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 8. EFFECTIVE DATE. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED, and ADOPTED in regular session this 28 day of August 2025.

CITY OF PANAMA CITY BEACH

By: _____
Stuart Tettemer, Mayor

ATTEST:

_____
Lynne Fasone, MMC, City Clerk

Posted on pcbfl.gov on the 13 day of August , 2025.

Posted on publicnoticesbaycountyfl.gov on the 13 day of August 2025.

EXAMINED AND APPROVED by me this 28 day of August 2025.

Stuart Tettemer, Mayor