

PROPOSED
ORDINANCE NO. 20-21

ORDINANCE NO. 12-21

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE AMENDING TITLE XII OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE SECTION 12-3-43 BAYOU TEXAR SHORELINE PROTECTION DISTRICT; SECTION 12-4-3 PARKING LOTS; SECTION 12-8-4 EXEMPTIONS; SECTION 12-8-6 DESIGN STANDARDS FOR STORMWATER MANAGEMENT SYSTEM; AND SECTION 12-8-18 ILLICIT DISCHARGE EXEMPTIONS; TO PROVIDE FURTHER PROTECTION OF WATER RESOURCES AND PROMOTE STORMWATER MANAGEMENT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 12-3-43 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 12-3-43. - Bayou Texar shoreline protection district.

- (a) *Purpose.* The purpose of this district is to establish standards that recognize and protect the environmental resources of the Bayou Texar shoreline. This section ensures the preservation of the natural buffering effect of open spaces along the shoreline for storm surge abatement and the filtering of stormwater runoff; and enhances the public's recreational and aesthetic utilization of the shoreline and adjacent waters.
- (b) *Shoreline protection zone.* The Bayou Texar shoreline protection zone includes all property abutting Bayou Texar bounded on the north by the 12th Avenue bridge and on the south by the L & N trestle located at the mouth of the bayou.
- (c) *Permitted land use.* Land use shall be permitted in the shoreline protection zone as designated by the city comprehensive plan and zoning regulations.
- (d) *Procedure for review of plans.* Prior to the issuance of a building permit for construction within the Bayou Texar shoreline protection district the owner, developer or contractor shall submit to the city planning and engineering departments a drainage plan indicating soil erosion and sedimentation control measures that will be undertaken to prevent runoff into Bayou Texar during construction and indicating methods to accommodate stormwater runoff on-site

during and after construction. The drainage plan shall include the following information:

- (1) Existing topographical contours of the site (two-foot intervals).
- (2) Location of all structures, parking areas, curb cuts and other construction activities that could contribute to removal of vegetation, erosion and stormwater runoff.
- (3) Design of grades and retention measures to control stormwater runoff during and after construction, including type of surfacing material to be used, vegetation to be removed, and revegetation of the site.
 - a. *Review and approval.* The required drainage plan shall be subject to the review and approval of the planning services department and city engineer. If the developer intends to request a waiver of any of the provisions of this section concerning the drainage plan, the request must be submitted, in writing, with the drainage plan to the planning services department and the city engineer. The request shall itemize and shall state the reasons for which each waiver is requested. When considering waivers, the planning services department and the city engineer shall review the comprehensive plan objectives and policies pertaining to coastal management and conservation to determine if the waiver request is consistent with the intent of said plan.
 - b. *Exemptions.* Operations that shall be exempt from this section are set forth below. However, any exemption from this section does not relieve responsibility to take all action necessary to prevent erosion and sedimentation from occurring.
 1. Home gardening or other similar activity not expected to contribute to any on-site generated erosion or chemical pollution.
 2. Emergency repairs such as those on public and private utilities and roadways systems.
 3. Improvements such as driveways, buildings, pools, etc. and/or accessory structures that do not exceed 1,500 square feet and which are not part of a larger/future development plan shall be exempt from installation of a stormwater treatment facility. Specifically, this 1,500 square foot exemption is a cumulative, one-time exemption. Even so, any such construction shall go through the city's permitting process, have proper erosion/sedimentation control meeting city standards as described in section 12-8-6(c), and neither create nor exacerbate any flooding problems. The city engineer may increase

this requirement as warranted based upon site-specific circumstances and conditions.

(e) *Regulations.*

(1) *Shoreline setback.* All habitable structures shall observe the following minimum setback from the mean high water line. Docks and boathouses shall conform to the regulations set forth in section 12-3-60.

- a. R-2, R-2A and R-ZL zones shall require a 20-foot setback from the mean high water line of the bayou.
- b. R-1AA, R-1AAA and R-1AAAA zones shall require a 30-foot setback from the mean high water line of Bayou Texar.
- c. R-1AAAAA shall require a 60-foot setback from the mean high water line of Bayou Texar.
- d. Lots of record shall require a minimum 20-foot setback from the mean high water line of Bayou Texar.

(2) *Required yards.* The front and rear yard requirements shall be the same as the applicable zoning district requirements. Each required side yard shall be ten percent of the lot width, not to exceed 15 feet. For lots of record the front and rear yard requirements shall be the same as described in section 12-1-6(b), and the required side yards shall be ten percent of the lot width, not to exceed ten feet.

(3) *Protection of trees.* No person, organization, society, association or corporation, or any agent or representative thereof, directly or indirectly, shall cut down, destroy, undertake tree removal, or effectively destroy through damaging, any tree listed in chapter 12-6, Appendix A, "Protected Tree List," whether it be on private property or public right-of-way within the Bayou Texar shoreline protection district, without first having obtained a permit from the city to do so. Refer to section 12-6-7 for tree removal permit application procedures and guidelines.

(f) *Development guidelines.* The following guidelines should be utilized in the review of each development proposal within the district. The adoption of guidelines herein are intended to provide flexibility in the development of property within the district in a manner that balances the interests of the property owner with the public's need for assurance that development will be orderly and consistent with the intent of this section. Individual parcels of property may have physical attributes that justify departure from regulatory norms when strict application of such norms would deny a property owner a reasonable use of his or her property and when deviation from such norms is consistent with the intent of this regulation as described herein.

- (1) Structures should be sited to retain the maximum amount of open space for natural stormwater retention.
 - (2) Where possible and practical, existing vegetation, including shoreline vegetation, should be maintained as a buffer between development and the surface waters of Bayou Texar.
 - (3) Development within the shoreline protection zone which would be dependent on future bulkheading or other shoreline fortification for protection shall be discouraged.
 - (4) Proposed stormwater treatment facility(ies) shall be situated laterally across the width of the subject property and parallel to the shoreline (or provide grading, collection, and conveyance mechanism) to the greatest extent possible, in order to route and contain stormwater runoff from the up gradient yard into stormwater treatment facility(ies).
 - (5) Proposed stormwater treatment facility(ies) shall be located at the farthest possible and practical downstream location adjacent to the shoreline without causing any adverse impacts to the shoreline or existing vegetative buffers. Facility(ies) shall be sized to provide treatment for one inch (1") of runoff and provide a minimum of six inches (6") of freeboard above the treatment volume elevation. The city engineer may increase these requirements as warranted based upon site-specific circumstances and conditions.
- (g) *Public access to the shoreline.* All extensions of street rights-of-way that are perpendicular to or otherwise intersect Bayou Texar within the shoreline protection zone shall be reserved for public use unless officially vacated by city council action.
- (h) *Conflicts.* It is not intended that this section interfere with or abrogate or annul any other ordinances, rules, or regulations except where this section imposes a greater restriction upon land within a zone.

SECTION 2. Section 12-4-3 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 12-4-3. - Parking lots.

In addition to the provisions in this chapter all parking lots shall comply with tree preservation and landscaping provisions established in [chapter 12-6](#). The following requirements are applicable to all parking lots and parking spaces, whether or not such lots or spaces are required by the provisions of this chapter:

- (1) *Design of parking lots.* All parking lot plans must be reviewed by the city engineer or his or her designee. Proper ingress and egress from the lot shall be required and adequate interior drives shall be required for all parking lots.
- (2) *Grading and surfacing.*
 - a. *Parking lots that include lanes for drive-in windows or contain more than ten parking spaces.* Parking lots that include lanes for drive-in windows or contain more than ten parking spaces shall be graded and surfaced with asphalt, concrete or other material that will provide equivalent protection against potholes, erosion, and dust.
 - b. *Parking lots with ten or less parking spaces.* Parking lots with ten or less parking spaces may be surfaced with alternative surface materials (crushed stone, gravel, or other suitable material) other than those specified in subsection (2)a of this section, with the approval of the city engineer, to provide a surface that is stable and will help to avoid dust and erosion. The perimeter of such parking shall be defined by bricks, stones, railroad ties, or other similar devices. In addition, whenever a parking lot abuts a paved street, the driveway leading from such street to such area (or, if there is no driveway, the portion of the parking area in the public right-of-way), shall be paved as provided in subsection (2)a of this section.
- (3) *Demarcation of parking spaces.* Parking spaces in areas surfaced in accordance with subsection (2)a of this section shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with subsection (2)b of this section shall be demarcated whenever practicable.
- (4) *Maintenance.* Parking lots shall be properly maintained in all respects. Parking area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.
- (5) *Lighting.* Lighting shall be provided for parking lots with more than ten spaces, and this lighting shall be arranged to reflect away from the adjoining properties. The minimum illumination level required for the entire paved area shall be an average maintained 1.0 footcandle. The lowest footcandle value at any point on the pavement shall not be less than one-fourth of the required average.
- (6) *Screening.* Where a parking lot adjoins a residential district or fronts on a street adjoining a residential district, directly across said street, a solid wall, fence, or compact hedge not less than four feet high shall be erected along the lot lines, except that within a visibility triangle the height requirement shall be reduced to three feet.
- (7) *Measurement of parking stalls and/or drive aisles.* All parking stalls shall measure not less than nine feet by 18 feet, across the contiguous paved/improved surface and shall exclude any portion of the curb or gutter except as provided for herein.

For land uses that assign parking spaces to specific employees or residents, a maximum of 30 percent of all required vehicle parking spaces may be designed for compact cars. A compact car space may be a minimum of 7.5 feet by 16 feet across the contiguous paved/improved surface and shall exclude any portion of the curb or gutter. The occupant or owner of the principal use for which the parking is required shall enforce the use of such assigned compact car spaces. See attached drawing, "Minimum Space and Aisle Dimensions," below:



- (8) *Fencing, wheelstops or bumper guards.* Fencing, wheelstops or bumper guards are required along property and street lines to avoid the chance of encroachment on other properties or sidewalks.

SECTION 3. Section 12-8-4 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 12-8-4. - Exemptions.

- (a) *Individual single-family and duplex homes.* Individual single-family and duplex home construction plans shall be exempt from the required stormwater management plan providing the lot is in an approved platted subdivision. However, the owner, developer, or builder will be required to submit a description of the

methods they will utilize to ensure that no erosion or sedimentation will occur during construction. They will be required to clear the lot in stages such that a siltation barrier of natural vegetation around the lot perimeter will be maintained until lot stabilization is completed. If a siltation or erosion problem develops during construction, the owner, developer or builder will be required to provide an additional siltation barrier and will be responsible for restoring the affected area to predevelopment condition. This exemption does not apply within the Bayou Texar or Escambia Bay shoreline protection districts.

(b) *Impervious surface projects.* Projects that include the addition of 1,500 square feet or less of impervious surface and which are not part of a larger/future development plan shall be exempt from this chapter. Specifically, this 1,500 square foot exemption is a cumulative one-time exemption. Even so, any such construction shall go through the city's permitting process, have proper erosion/sedimentation control meeting city's standards as described in section 12-8-6(c), and neither create nor exacerbate any flooding problems. The city engineer may increase this requirement as warranted based upon site-specific circumstances and conditions.

~~(b)~~ (c) *Other exempted operations.* Operations which shall, in any case, be exempt from this chapter are the following. However, any exemption from this chapter does not relieve responsibility to take all action necessary to prevent erosion and sedimentation from occurring.

- (1) Home gardening or other similar activity not expected to contribute to any on-site generated erosion.
- (2) Emergency repairs such as those on public and private utilities and roadway systems.
- (3) Maintenance, alteration or improvement of an existing structure that will not change the rate or volume of stormwater runoff from the site on which that structure is located.

SECTION 4. Section 12-8-6 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 12-8-6. - Design standards for stormwater management system.

(a) *General.*

- (1) The design of stormwater management facilities including all water retention or detention structures and flow attenuation devices shall comply with applicable state regulations (i.e., F.A.C. ch. 62-330) and shall be subject to approval of the city engineer pursuant to the following requirements. In the event of conflict between the provisions of this chapter and the provisions of the applicable state regulations, the more strict requirements shall prevail.

- (2) All stormwater management facilities shall be designed for a minimum of 50-year life, have low maintenance cost and easy legal access for periodic maintenance.
- (3) All proposed stormwater management facilities shall be designed to prevent flooding, safety or health hazards and shall not contribute to the breeding of mosquitoes and arthropods.
- (4) The use of drainage facilities and vegetated buffer zones for open space, recreation, and conservation areas shall be encouraged.
- (5) The use of alternative permeable surface materials are encouraged for private parking lots and will be given due consideration in drainage plan review.

(b) *Water quality.*

- (1) The first one inch of runoff shall be retained on the development site. At the discretion of the city engineer, retention standards may be increased beyond the one-inch minimum standard on a site-specific basis to prevent flooding and drainage problems, and to protect environmentally sensitive water bodies.
- (2) Stormwater management facilities that receive stormwater runoff from areas containing a potential source of oil and grease contamination, including, but not limited to, any land use involving the sale or handling of petroleum products or any land use involving the repair, maintenance or cleaning of motor vehicles shall include a baffle, skimmer, grease trap, or other suitable oil and grease separation mechanism.
- (3) Channeling runoff directly into water bodies is prohibited. Runoff shall be routed through stormwater management systems designed to increase time of concentration, decrease velocity, increase infiltration, allow suspended solids to settle, and remove pollutants.

(c) *Erosion and sedimentation.*

- (1) Erosion and sediment control best management practices shall be used during construction to retain sediment on-site. These management practices shall be designed by an engineer or other competent professional experienced in the fields of soil conservation or sediment control according to specific site conditions and shall be shown or noted on the plans of the stormwater management system. The engineer or designer shall furnish the contractor with information pertaining to the construction, operation and maintenance of the erosion and sediment control practices.
- (2) The area of land disturbed by development shall be as small as practicable. Those areas that are not to be disturbed shall be protected by an adequate

barrier from construction activity. Whenever possible, natural vegetation shall be retained and protected.

- (3) No clearing, grading, cutting, filling or alteration to the site of any kind shall be commenced until adequate erosion and sedimentation structural controls have been installed as per plan between the disturbed area and water bodies, watercourses, and wetlands and inspected by the building official. Limited clearing shall be permitted as necessary to allow the installation of the structural controls.
- (4) Land that has been cleared for development and upon which construction has not commenced shall be protected from erosion by appropriate techniques designed to temporarily stabilize the areas.
- (5) Sediment shall be retained on the site of the development, unless discharged into an approved off-site drainage facility as provided for in section 12-8-7.
- (6) Erosion and sedimentation facilities shall receive regular maintenance during construction to ensure that they continue to function properly.
- (7) Vegetated buffer strips shall be created or, where practicable, retained in their natural state along the banks of all watercourses, water bodies, or wetlands. The width of the buffer shall be sufficient to prevent erosion, trap the sediment in overland runoff, maintain natural drainage patterns to the water body, and allow for periodic flooding without damage to structures.

(d) *Design frequency.*

- (1) Stormwater management facilities with approved positive outfall shall be designed to attenuate the 100 year/critical duration storm event. The city engineer may waive or reduce this requirement if the stormwater management facility discharges directly into a natural outfall after treatment, does not contribute to potential or existing flooding conditions and does not increase pollutant loading.
- (2) Retention facilities that fall within a closed drainage basin and have no positive outfall shall retain the entire runoff volume from a 100-year storm event and shall include all storm durations up to and including the 24-hour duration. This retention volume must be recovered within 72 hours of the contributing storm event by natural percolation or other approved means.
- (3) Detention and/or retention facilities that connect directly to the city's storm drainage system shall be designed so that the post-development discharge rate does not exceed the pre-development discharge rate for a ten-year/critical duration storm event. Where the existing capacity of the city storm drainage system is not adequate to accept the discharge from a ten-year storm event,

the city engineer may reduce the allowable post-development discharge rate from the detention facility to an acceptable level. Detention and/or retention facilities that do not connect directly to the city storm system or have a direct impact on the system shall be allowed to discharge up to the pre-development rate for the 100-year/critical duration storm event or as otherwise approved by the city engineer.

- (4) The drainage area used in runoff calculations shall be the total natural watershed area including areas beyond proposed site limits (offsite runoff).

(e) *Stormwater retention and/or detention facilities.*

(1) *General requirements.*

- a. Recovery time for treatment/retention volume shall be a maximum of 72 hours. Recovery time for facilities that are underdrained or side drained shall be 36 hours.
- b. Minimum freeboard for retention and/or detention facilities shall be one foot between design high water and top of facility. The city engineer may waive or reduce this requirement for shallow ponds and swales.
- c. Stormwater retention and/or detention facilities shall include appropriate access for periodic maintenance as approved by the city engineer.
- d. Stormwater retention and/or detention facilities located adjacent to a public right-of-way shall be landscaped with a visual screen installed in accordance with the provisions of section 12-3-56(d) through (g) or landscaped as a part of the overall landscaping for the development with plant species that are suitable for individual pond characteristics and that provide an effective and visually pleasing screen for the retention and/or detention facility. All landscaping shall be maintained in accordance with the provisions of section 12-6-5.
- e. Designs for stormwater detention and/or retention facilities that use predominantly non-angular, freeform, curvilinear contouring that functions to visually integrate the facility into the overall design and landscaping of the development shall be encouraged.
- f. The method in which proposed pond bottom will be stabilized shall be: rock, gravel, planting, or sprigging. Sod is not acceptable for pond bottom stabilization.

- (2) *Public facilities.* Stormwater retention and/or detention facilities to be dedicated to the city for maintenance shall comply with the following requirements in addition to the general requirement specified in subsection (e)(1) of this section.

- a. Slide slopes of facilities shall be no steeper than four horizontal feet for every one vertical foot (4:1) out to a depth of two feet below the control elevation. Grades steeper than 4:1 may be allowed where unique circumstances exist as approved by the city engineer.
 - b. Side slopes shall be stabilized with sod or other materials as approved by the city engineer.
 - c. Dry stormwater retention and/or detention facilities that contain side slopes that are steeper than 4:1 and have a retention depth greater than 30 inches shall be completely enclosed by a six-foot fence constructed of chain-link, wrought iron or other material as approved by the city engineer. Chain-link fences and related appurtenances (posts, gates, etc.) shall be vinyl-coated (dark green or black). The fence shall have a minimum 12-foot wide (15-foot maximum) gate opening. The maximum clearance from the bottom of the fence to existing grade shall be no more than three inches. This provision does not apply to shallow swales with a retention depth of 30 inches or less.
 - d. Permanently wet retention and/or detention facilities that contain side slopes that are steeper than 4:1 shall be fenced or otherwise restricted from public access in accordance with F.A.C. ch. 62-330. Where a fence is proposed it shall be constructed according to the provisions of subsection (e)(2)c of this section.
- (3) *Private facilities.* Stormwater retention and/or detention facilities to be maintained shall comply with the following requirements in addition to the general requirement specified in subsection (e)(1) of this section:
- a. Slide slopes of facilities with earthen slopes shall be no steeper than two horizontal feet for every one vertical foot (2:1). Grades steeper than 2:1 may be allowed where unique circumstances exist as approved by the city engineer.
 - b. Side slopes shall be stabilized with sod or other material as approved by the city engineer.
 - c. Private facilities with side slopes that are steeper than 4:1 shall be fenced or otherwise restricted from public access in accordance with F.A.C. ch. 62-330. Private stormwater retention and detention facilities that are located adjacent to a public right-of-way or easement shall be fenced in accordance with subsection (e)(2)c of this section.

(f) *Redevelopment.*

(1) The following redevelopment activities will not be subject to the requirements of this section:

- a. Alterations to the interior of an existing structure.
- b. Alterations of an existing structure that do not result in a net increase in impervious surface area.
- c. Routine building repair including adding a facade to a building.
- d. Resurfacing an existing paved area such as a parking lot, driveway or other vehicle use area.

(2) Redevelopment activities, including, but not limited to, alterations of existing buildings or structures or new construction following demolition of existing buildings and structures shall be subject to the requirements of this section only for the stormwater runoff that results from a net increase in impervious surface area provided that the new construction is under construction within two years of demolition. For the purpose of this subsection (f), under construction shall mean that a legal building permit has been issued and that actual construction has been or will be started within the period of validity of the permit, exclusive of any time extensions. Previously developed sites where buildings and structures were demolished and construction was not commenced within two years shall be considered new construction and subject to the requirements of this section. The following locations shall be excluded from the two-year time restriction:

- a. All properties located in the C-2A downtown retail commercial district, SPBD South Palafox business district or HC-2 historical commercial district.
- b. The area generally described as the Belmont/DeVillers Business Core area bounded by LaRua Street, Wright Street, Coyle Street, and Reus Street.
- c. The area generally described as the Brownsville Commercial Area that is within the city limits bounded by Strong Street, Gadsden Street, Pace Boulevard and the city limits.

(3) The city engineer may require certification from a licensed engineer that there is adequate capacity in the downstream stormwater conveyance system for the redevelopment site and that any known flooding or drainage problem will not be worsened.

SECTION 5. Section 12-8-18 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:
Sec. 12-8-18. - Illicit discharges exemptions.

The following activities shall not be considered either an illicit discharge or illicit connection unless such activities cause, or significantly contribute to the impairment of the use of the city's MS4 or the violation of the conditions of NPDES Permit No. FLS000019:

(1) Discharges from:

- a. Water line flushing;
- b. Flushing of reclaimed water lines;
- c. Street cleaning;
- d. Construction dust control;
- e. Landscape irrigation;
- f. Diverted stream flows;
- g. Rising groundwaters;
- h. Foundation and footing drains;
- ~~i. Swimming pool discharges;~~
- ij. Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20));
- jk. Uncontaminated pumped groundwater;
- ~~kl.~~ Discharges from potable water sources;
- ~~lm.~~ Air conditioning condensate;
- ~~mn.~~ Irrigation waters;
- ~~no.~~ Springs;
- ~~op.~~ Lawn watering;
- ~~pq.~~ Individual residential car washing;
- ~~qr.~~ Flows from riparian habitat and wetlands;
- rs. Discharges or flows from emergency firefighting activities; and emergency fire response activities done in accordance with an adopted spill response/action plan; and

st. Decanted water from MS4 cleaning operations.

- (2) Discharges which have obtained appropriate federal, state, and local permits and are in compliance with the conditions of these permits.

SECTION 6. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 7. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 8. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided, pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: June 17, 2021

Approved: s/Jared Moore
President of City Council

Attest:

s/Ericka L. Burnett
City Clerk