



Memorandum

Meeting Details: September 9th, 2026– Board of Commissioners Regular Meeting
Prepared For: Mayor Brooks and Board of Commissioners
Staff Contact: Community Development Department – Joseph Petraglia, CFM, Planner II
Subject: Ordinance 2026-09, Nonconformances and rebuilding regulations, 2nd Reading and Public Hearing

Background:

The City's nonconformity regulations generally allow legally established structures and uses that do not comply with current zoning regulations to continue, but discourage their expansion and encourage eventual conformity over time. The stated intent of Chapter 110, Article III is to allow lawful nonconformities to continue while restricting further investment that would make those nonconformities more permanent. The Code recognizes that lawful nonconforming uses, structures, and densities may continue until removed through economic forces, redevelopment, or other circumstances.

Sections 110-95 (Reestablishment of Uses After an Involuntary Loss) and 110-96 (Rebuilding After a Catastrophic Loss) provide exceptions that allow certain legally nonconforming uses, structures, and densities to be rebuilt following damage or destruction caused by hurricanes, similar involuntary events. Under the existing code, these provisions are only available if the property owner maintained a required Business Tax Receipt (BTR) at the time of the disaster.

Following the 2024 hurricane season, staff encountered properties that were legally nonconforming but were not operating with a current BTR at the time of the storm. In these situations, the absence of a BTR resulted in the loss of otherwise lawful nonconforming rights, even when the properties could have been permitted to retain those rights had the structures been repaired at grade under the 50% rule. At the April 29, 2026 Board of Commissioners Workshop, the Board directed staff to explore amendments that would preserve the intent of the BTR requirement while avoiding unintended consequences that could permanently eliminate lawful nonconforming rights in the absence of one.

With this update, staff is also providing the option for the commission to consider some other changes within the article highlighted in the discussion below.

The ordinance has been presented at the June 24th board of commissioners' regular workshop meeting, the July 6th and August 3rd Planning Commission Meetings, and was approved unanimously at the 1st reading and public hearing on August 12th.

Discussion:

There are different types of nonconformities. The stated intent of the city code is to eliminate nonconformities over time as they are incompatible with the provisions of the city's comprehensive plan and code. There are different types of nonconformities discussed in the code:

- Nonconforming uses: uses not permitted in that zoning district;
- Nonconforming density: the use is allowed, but there are more units than the land area would currently allow;
- Nonconforming structures: Do not meet the current setback, height, floodplain or other dimensional regulations;
- Nonconforming lots: do not meet the current lot area, lot width or lot depth dimensions required.

Staff plan to re-evaluate the entire nonconforming article of the code in the coming months, but that rewrite will require additional research, feedback, and discussion. The changes currently shown are highlighted below:

- As mentioned in the background above, Sections 110-95 and 110-96 have been amended to allow properties that were operating without a required BTR similar privileges to those that maintained a valid BTR. The proposed amendment includes a stipulation that such properties must either apply for the applicable permit or obtain a Zoning Verification Letter from the City on or before September 25, 2027. Staff recommends this requirement because, without either a reasonable deadline or a BTR to help document the legally established nonconforming use and/or density, it may become increasingly difficult to accurately verify pre-existing conditions in the future. The proposed deadline is consistent with the date by which hurricane repair permits associated with Hurricanes Helene and Milton must be completed and generally aligns with the anticipated expiration of temporary state-authorized RV occupancy provisions. Staff is also exploring additional methods to improve awareness of and compliance with the City's BTR requirements, including potential review triggers associated with multifamily and commercial building permits.
- Another change included in this ordinance would allow properties in the R-1 zoning district to apply through the redevelopment planning process to rebuild and retain legally nonconforming uses in a manner similar to the provisions available following a catastrophic or involuntary loss. Currently, nonconforming uses located within the R-1 zoning district may only be rebuilt following a declared disaster or substantial damage event, while properties in other zoning districts may seek approval to retain nonconformities through the redevelopment planning process.
- The amendments to Sections 110-96(b)(5) and 110-97(b)(5) clarify that commercial properties may retain their existing nonconforming floor area ratio (FAR) when rebuilt under the conditions specified in

those sections. FAR is generally more likely to be a limiting redevelopment factor for commercial properties than for residential properties. The proposed language also removes a reference to FEMA regulations that is unnecessary because compliance with applicable floodplain and building regulations is already required elsewhere in the Code. The amendment is intended as a clarification of the original intent of the section and does not reduce the City's ability to enforce applicable floodplain requirements.

- Finally, this ordinance proposes an amendment to extend the September 24th deadline an additional year to make repairs to nonconforming structures damaged less than 50% through the 2024 hurricanes. This recommendation is being proposed based on the responses received from the city's initial mailing that was sent to 452 pre-FIRM properties that have not yet obtained the required permits that the city is expected to produce to FEMA. A list of properties suspected of having received damage but not obtaining any related permits is being regularly updated and is publicly available at:

<https://madeirabeachfl.withforerunner.com/view/518ced28-2a44-46ce-8566-a918b9ad3820>

As of July 31st, of the 452 letters sent, 62 are no longer on the no permit status, and 14 resident conversations have been logged on properties still on the “no permit” status. This does not include the monthly update we provided to Forerunner at the beginning of the month of 48 repair or new build permits issued (at least half of which are currently on the no permit list). Based on this data, staff's best estimate is that about 25% of property owners who received the “no permit” notice mailed in May have either taken the required action or have reached out to staff regarding their property or reasons for delays. As of August 24th, just over 1,100 properties have obtained a remodel/repair permit associated with bringing the structure back to its pre-damage condition under the 50% rule, about 175 properties have obtained a permit to demolish, build new, or substantially improve, and an estimated 438 properties remain that received damage but have not obtained any of the associated permits.

The remaining proposed changes are intended solely for clarification purposes and would not result in any substantive change to the Code's current or historical interpretation and application. For example, the amendment to Section 110-97 expressly recognizes the City's longstanding practice of allowing legally nonconforming density to be consolidated or reconfigured through the redevelopment planning process, which requires publicly noticed hearings before both the Planning Commission and Board of Commissioners. This clarification does not create new redevelopment rights but rather codifies an existing administrative interpretation. At the same time, the Code does not currently provide similar flexibility for properties rebuilding after a catastrophic or involuntary loss, as those provisions are generally administrative approvals that do not require public hearings.

Fiscal Impact:

None anticipated. The proposed amendments are administrative in nature and are not expected to result in any direct fiscal impact to the City.

Recommendation(s):

The City's staff and the Planning Commission recommend approval to allow the ordinance to proceed to second reading at the next regularly scheduled Board of Commissioners meeting.

Attachments/Corresponding Documents:

- ORD 2026-09, Nonconformances and Rebuilding Regulations
- Business Impact Estimate
- Forward Pinellas Consistency Letter