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**CITY OF HOLMES BEACH
ORDINANCE 26-02**

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AN ORDINANCE OF THE CITY OF HOLMES BEACH, FLORIDA AMENDING THE LAND DEVELOPMENT CODE, SPECIFICALLY ARTICLE IV, NONCONFORMITIES, DIVISION 1 GENERALLY, SECTION 4.8 DISCONTINUATION OF A NONCONFORMING USES, BY AMENDING THE TIMEFRAME FOR DISCONTINUATION OF A NONCONFORMING USE; AMENDING SECTION 4.15 REPAIR OR RECONSTRUCTION OF A NONCONFORMING STRUCTURE, AMENDING THE TIMEFRAME AND PROCEDURE FOR NONCONFORMING STRUCTURES NEEDING RECONSTRUCTION OR REPAIR AFTER AN IDENTIFIABLE EVENT AND TO GOVERN THE REDEVELOPMENT AND RESILIENCY MEASURES FOR EXISTING NONCONFORMITIES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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WHEREAS, Section 163.3202 (1), Florida Statutes, requires that the City of Holmes Beach adopt or amend and enforce land development regulations that are consistent with and implement the City’s Comprehensive Plan; and

WHEREAS, Section 163.3202 (3), Florida Statutes, encourages the use of innovative land development regulations and requires that all land development regulations be combined into a single land development code; and

WHEREAS, from time to time, amendments and revisions to the City’s adopted Comprehensive Plan, progress in the field of planning and zoning, or changes to state law make it necessary or desirable to amend the City’s land development regulations; and

WHEREAS, and it is important that the regulations in the Land Development Code pertaining to the various types of nonconforming uses and structures, particularly the re-building of structures after catastrophic events, should be responsible and reflect current recovery conditions; and

WHEREAS, the City Commission recognizes that the uniqueness of the Holmes Beach community has created zoning and land use challenges as the underlying zoning has created a series of non-conformities that impact many of the existing units and their ability to re-construct or improve; and

WHEREAS, Article VII, Section 2, of the Florida Constitution and Section 166.021(1), Florida Statutes, provide that a municipality may exercise any power for municipal purposes, except when expressly prohibited by law.

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NOW THEREFORE, be it ordained by the City Commission of the City of Holmes Beach, Florida as follows:

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48 **Section 1. Findings of Fact.** The above whereas clauses are adopted and incorporated herein
49 as findings of fact.

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51 **Section 2.** The City’s Land Development Code, Section 2. Article IV (Nonconformities),
52 Division 1 (Generally), Section 4.8 (Discontinuation of a nonconforming use) shall be amended
53 as follows:

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55 **4.8 - Discontinuation of a nonconforming use**

56 If a nonconforming use is discontinued for a period of 18 months ~~365 consecutive~~
57 ~~days~~, including any period of discontinuation before the effective date of this
58 ordinance, then that use shall not be renewed or reestablished, and any subsequent
59 use of the lot, parcel, building or structure shall conform to the use regulations of
60 the zoning district in which the lot, parcel, building or structure is located.

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62 **Section 3.** The City’s Land Development Code, Section 2. Article IV (Nonconformities),
63 Division 1 (Generally), Section 4.15 (Repair or reconstruction of a nonconforming structure) shall
64 be amended as follows:

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66 **4.15 - Repair or reconstruction of a nonconforming structure.**

67 B. If a nonconforming building or structure is destroyed or damaged by a fire,
68 flood, windstorm or similar abnormal and identifiable event, the building or
69 structure may be restored to its original nonconforming condition, provided that a
70 building permit is secured, reconstruction is started within 18 months ~~365 days~~
71 from the date of the damage and such reconstruction is diligently completed. One
72 (1) extension of no more than 180 days may be submitted by written request to the
73 building official. The request shall be submitted within five (5) days of the
74 expiration of the 18 month ~~365-day~~ time period. Upon submission of the written
75 request, the building official shall, within a reasonable time, determine if there is
76 justifiable cause for the extension.

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78 **Section 4. Severability.** In the event that any words, phrases, portions, subsections, or
79 sections of this Ordinance, or application thereof, is held to be invalid by a court of competent
80 jurisdiction, then such invalidity shall not affect the remainder of this Ordinance. This ordinance
81 shall be construed in a manner to accomplish, to the greatest extent legally possible, the purposes
82 of this ordinance as expressed herein.

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84 **Section 5. Effective Date.** This ordinance shall be effective upon adoption by the City
85 Commission and approval by the Mayor in accordance with the Charter of the City of Holmes
86 Beach.

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88 **PASSED AND ADOPTED, by the City Commission of the City of Holmes Beach, Florida,**
89 **in regular session assembled, this _____ day of _____, 2026.**

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First Reading: _____

Publication Date: _____

Second Reading and Public Hearing Date: _____

Jessica Patel

Dan Diggins

Steve Oelfke

Terry W. Schaefer

Carol Whitmore

APPROVED BY ME THIS _____ DAY OF _____, 2026

Judy Titsworth, Mayor

ATTEST: _____
Stacey Johnston, MMC, City Clerk