

TOWN OF PALM BEACH

Information for Town Council Meeting on:

June 14, 2023

To: Mayor and Town Council, Serving as the Local Planning Agency & Town Council

Via: Kirk W. Blouin, Town Manager

From: Wayne Bergman, MCP, LEED-AP, Director PZ&B



Re: Amendment to the Definition of Building Height, Point of Measurement
Ordinance No. 011-2023

Date: June 14, 2023

STAFF RECOMMENDATION

Staff recommends that the Town Council approve the ordinance on first reading accepting the preliminary findings of on the proposed Code language related to building height definition related to point of measurement. The proposed language of the subject Ordinance will amend Chapter 134, Zoning, related to the definitions of Building Height, and to add definitions for Building Height and Exterior Wall Height, contained in Chapter 134, Article 1, Section 134-2(b), Definitions.

BOARD OR COMMISSION RECOMMENDATION

On April 27, 2023, the Planning and Zoning Commission recommended Ordinance No. 011-2023, attached as Exhibit D, move forward to first and second reading on Code language related to building height, point of measurement.

GENERAL INFORMATION

There are currently nine (9) separate definitions for Building Height, as outlined in Chapter 134, Article I, Section 134-2, Definitions, of the Town of Palm Beach, Florida Code of Ordinances (See Exhibit A). The different building height definitions cover various situations and districts, that include the following:

- Height measured vertically from a zero datum (point of measurement) point to either the bottom of the top chord of the roof framing member (for pitched roofs) or the point where the ceiling meets the exterior wall (for flat roofs).
- Zero datum (point of measurement) varies depending on district and building location, such as the crown of the street at its highest elevation, minimum flood elevation, existing grade elevation, or the highest first floor elevation of an abutting principal building.
- Building height definitions account for different situations, such as corner lots, lots abutting low streets, through lots, and lots abutting Lake Trail.

Although it may appear that the specific definitions are tailored for unique circumstances and situations based on the location of the subject lot, they can be a source of confusion and redundancy.

The amended definition of Building Height and Exterior Wall Height (See Exhibits B & C) aims to accomplish two primary objectives:

- Consolidate the nine (9) definitions into a single and comprehensive definition by simplifying the point of measurement (zero datum) into three (3) standardized conditions, applicable to any lot within the Town of Palm Beach.
- Revise the method for measuring maximum building height to accommodate various roof types and allow for flexibility in maximum building height and maximum exterior wall height, depending on the requirements of individual districts. In districts with heightened sensitivity to the scale of new developments, such as the North End, the updated definition permits the imposition of more stringent requirements for both maximum building height and maximum exterior wall height. In contrast, other residential districts may benefit from increased maximum building height allowances, promoting a diverse range of architectural styles within the streetscape and built environment.

TOWN ATTORNEY REVIEW

The subject code amendment has been reviewed and approved for legal form and sufficiency.

Attachment: Proposed Ordinance No. 011-2023

cc: James Murphy, Assistant Planning Director
Jennifer Hofmeister-Drew, Planner III, AICP

EXHIBIT A

The nine (9) existing definitions of Building Height as outlined in Chapter 134, Article 1, Section 134-2, Definitions, of the Palm Beach, Florida, Code of Ordinances.

1. Building, height of (applicable only in the R-B districts) means the vertical distance from zero datum (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs, the measurement is to the point where the ceiling meets the exterior wall. The building height zero datum shall be a maximum of 18 inches above the crown of the public or private street or road at its highest street elevation or the minimum flood elevation as established in chapters 18 and 50 of this Code, whichever is higher. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of first floor slab of the existing building.
2. Building height of (applicable to all districts except the R-B districts) means the vertical distance from zero datum (excluding garage), which is the crown of the public or private street or road at its highest elevation abutting the lot or the minimum flood elevation as established in chapters 18 and 50 of the Code, whichever is higher, to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs, the measurement is to the point where the ceiling meets the exterior wall. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of first floor slab of the existing structure.
3. Building, height of, (applicable only to structures on lots located on the west side of South Ocean Boulevard between Via Agape and Sloan's Curve in the R-AA district and having a natural ground level lower than that of the roadway on which the lot fronts) means the vertical distance from the point of measurement zero datum for height to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs. For flat roofs, the point of measurement for height is height shall be measured from zero datum to the point where the ceiling meets the exterior wall. The point of measurement zero datum for height is the highest crown of road elevation in front of the lot for that portion of the lot which is within 50 feet west of the Coastal Construction Control Line (CCCL). The point of measurement for the portion of the lot west of that area shall be from the point where the exterior wall meets the minimum flood elevation as defined in chapter 50 or the natural grade, whichever is higher. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the lowest top of first floor slab of the existing structure building.
4. Building, height of, (applicable to lots or portions of lots east of the State of Florida Coastal Construction Control Line (CCCL)) means the vertical distance from the point of measurement for height zero datum to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is from the point of measurement for height shall be measured from zero datum to the point

where the ceiling meets the exterior wall. The point of measurement zero datum for height in all zoning districts for buildings either east or partially east of the CCCL shall be the minimum bottom of grade beam elevation as established by the Florida Building Code plus two feet, the highest crown of road in front of the lot, or the highest first floor elevation of an abutting principal building, whichever is highest, provided all of the following conditions are met:

- (1) The proposed principal building can be no closer to the bulkhead line than the average setback of the closest principal buildings on the north and south side of the subject lot, provided the required rear setback is met; and
 - (2) The proposed principal building can be no closer to the front property line than the average front setback of the closest principal buildings on the north and south side of the subject lot, provided the required front setback is met; and
 - (3) The proposed building can be no taller than five feet above the average height of the principal buildings on the north and south side of the subject property provided the overall height does not exceed the maximum overall height allowed. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the point of measurement for height shall be the top of the lowest floor slab on the existing structure provided that said addition(s) meet the minimum requirements as established in the Florida Building Code for construction east or partially east of the CCCL.
5. Building height of corner lot. In those cases involving a corner lot as defined in this section, the zero datum of the lot set forth in the definition of the term "building, height of (applicable to all districts except the R-B district)" and the definition of the term "building, height of (applicable only in the R-B district)" shall be measured from the average elevation (taken at the crown of the street) of each of the two intersecting streets abutting the lot. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of the first-floor slab of the existing building.
 6. Building, height of, lot abutting low streets, means for the purpose of establishing zero datum lot grade in the definition of the term "building, height of (applicable to all districts except the R-B districts)"; the definition of the term "building, height of (applicable only in the R-B district)"; the definition for the term "building, height of, corner lot"; and the definition of "building, height of, through lot," those cases involving a street having a low existing street elevation abutting the lot, and if such street elevation is below the minimum flood elevation as established in chapter 50 of this Code. Zero datum for measuring building height shall be measured from the minimum flood elevation.
 7. Building, height of, through lot. In those cases involving a through lot as defined in this section, zero datum as set forth in the definition of the term "building height of (applicable to all districts except in the R-B district)" and the definition of the term "building, height of (applicable only in the R-B district)" and the definition of the term "building, height of, corner lot" of the portion of the building fronting on the front street to one-half of the mean lot depth shall be from the crown of the public street at its highest elevation abutting the front of the lot zero datum for the portion of the building fronting on the rear street shall

be from the crown of the public street at its highest elevation abutting the rear street yard of the lot. For the purpose of the definition, North Lake Trail shall not be considered a rear street. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest floor slab on the existing building.

8. Building, height of, (applicable to R-B lots abutting Lake Trail), means the vertical distance from zero datum (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs, the measurement is to the point where the ceiling meets the exterior wall. The top of the floor slab for buildings may be raised to either 18 inches above the crown of the public street at its highest elevation abutting the lot, the minimum flood elevation, or to the existing grade elevation of the lot at its midpoint, whichever is higher, provided that the top of the floor slab is at a minimum elevation of the crown of the public street at its highest elevation abutting the lot and the minimum flood elevation. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest first floor on the existing building.
9. Building, height of, (applicable to all other lots abutting Lake Trail), means the vertical distance from zero datum (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is to the point where the ceiling meets the exterior wall. Zero datum for buildings shall be either the crown of the public street at its highest elevation abutting the lot, the minimum flood elevation or to the existing grade elevation of the lot at its midpoint, whichever is higher, provided that the top of the floor slab is at a minimum elevation of the crown of the public street at its highest elevation abutting the lot. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest floor slab on the existing building.

EXHIBIT B

Amended / new definition of Building Height to replace the existing nine (9) definitions of Building Height as outlined in Chapter 134, Article 1, Section 134-2, Definitions, of the Palm Beach, Florida, Code of Ordinances.

A. Building Height

The maximum height of the building is measured from the point of measurement to the highest point of the roof system, excluding chimneys, skylights, spires, cupolas, and similar architectural features that are usually carried above the roof level and not used for human occupancy, provided that each of the feature shall be erected only to such height and size as is necessary to accomplish the purpose it serves.

The building height point of measurement (zero datum) shall be the greater of the following conditions as applied to the location of the subject lot:

1. For lots in the Special Flood Hazard area, and not seaward of the CCCL, the point of measurement shall be at the current FEMA base flood elevation plus one foot of freeboard.
2. For lots seaward of the Coastal Construction Control Line (CCCL), the point of measurement shall be 15.9 feet NAVD (13.9 feet NAVD plus two feet above the lowest horizontal structural member).
3. For lots outside the Special Flood Hazard area and lots that are not seaward of the CCCL, the point of measurement shall be a maximum of 18 inches above the highest street elevation of the crown of the public or private street or road, measured along the front property line of the subject lot.

Additional requirements:

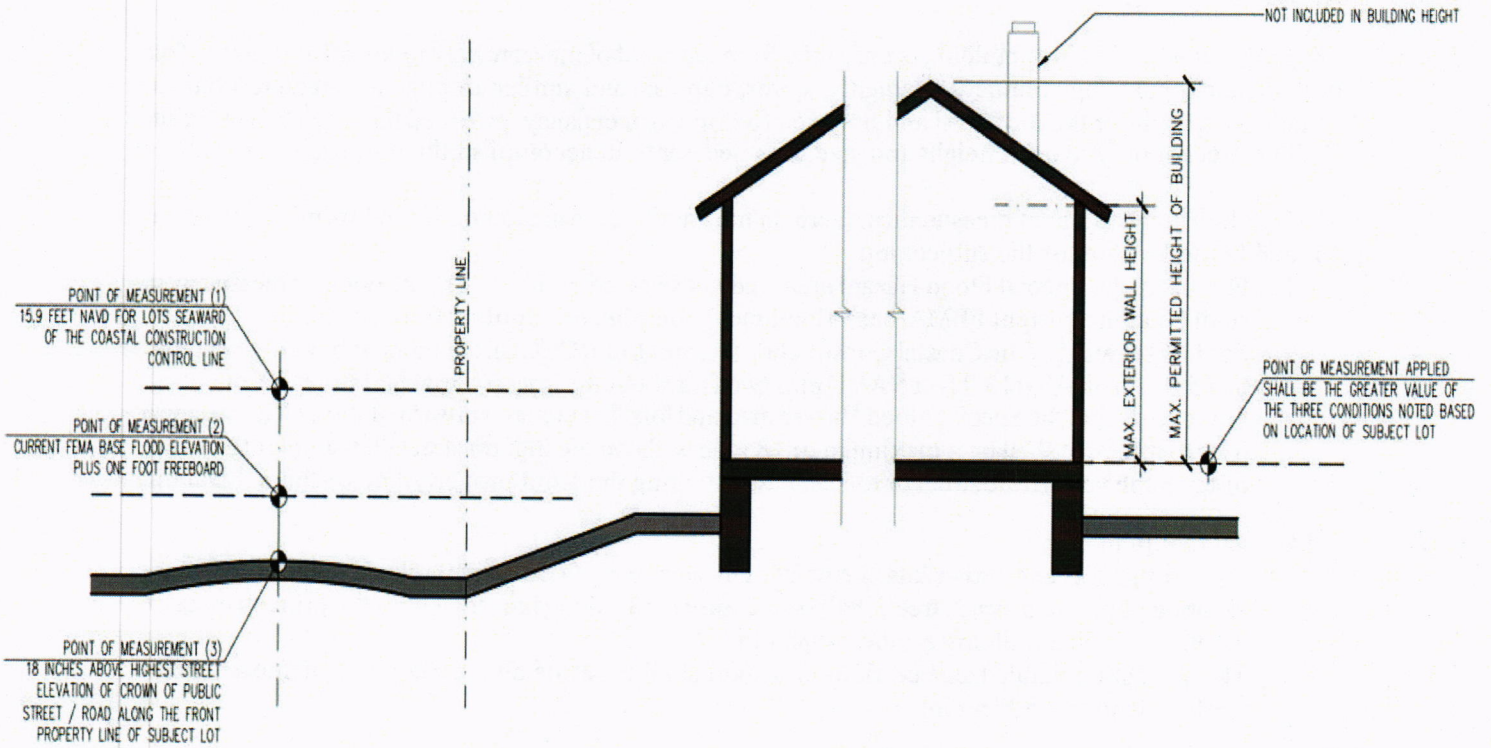
- i. For through lots and corner lots, the point of measurement (zero datum) related to the crown of the abutting public or private street, shall be measured only along the street with the primary entrance for the proposed building on the subject lot.
- ii. The lowest habitable finished floor elevation shall be at or above the point of measurement applicable to the subject lot.

B. Exterior Wall Height

The height of the outside exterior walls is measured from the point of measurement to the point at which the outside wall meets the horizontal eave of the roof or the bottom of a parapet wall.

Please refer to Chapter 134, Article 6, for information on allowable building heights, exterior wall heights, and other bulk regulations specific to various zoning districts.

EXHIBIT C
Diagram for the amended / new definition of Building Height



ORDINANCE NO. 011-2023

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 134, ZONING, ARTICLE I, IN GENERAL; SECTION 134-2, DEFINITIONS AND RULES OF CONSTRUCTION, RELATED TO BUILDING HEIGHT POINT OF MEASUREMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Chapter 134, Zoning, Article I, In General, is hereby amended as follows:

Sec. 134-2. Definitions and rules of construction.

~~*Building, height of (applicable only in the R B districts)* means the vertical distance from zero datum (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs, the measurement is to the point where the ceiling meets the exterior wall. The building height zero datum shall be a maximum of 18 inches above the crown of the public or private street or road at its highest street elevation or the minimum flood elevation as established in chapters 18 and 50 of this Code, whichever is higher. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of first floor slab of the existing building.~~

~~*Building height of (applicable to all districts except the R B districts)* means the vertical distance from zero datum (excluding garage), which is the crown of the public or private street or road at its highest elevation abutting the lot or the minimum flood elevation as established in chapters 18 and 50 of the Code, whichever is higher, to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs, the measurement is to the point where the ceiling meets the exterior wall. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of first floor slab of the existing structure.~~

~~*Building, height of, (applicable only to structures on lots located on the west side of South Ocean Boulevard between Via Agape and Sloan's Curve in the R AA district and having a natural ground level lower than that of the roadway on which the lot fronts)* means the vertical distance from the point of measurement zero datum for height to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs. For flat roofs, the point of measurement for height is height shall be measured from zero datum to the point where the ceiling meets the exterior wall. The point of measurement zero datum~~

for height is the highest crown of road elevation in front of the lot for that portion of the lot which is within 50 feet west of the Coastal Construction Control Line (CCCL). The point of measurement for the portion of the lot west of that area shall be from the point where the exterior wall meets the minimum flood elevation as defined in chapter 50 or the natural grade, whichever is higher. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the lowest top of first floor slab of the existing structure building.

Building, height of, (applicable to lots or portions of lots east of the State of Florida Coastal Construction Control Line (CCCL)) means the vertical distance from the point of measurement for height zero datum to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is from the point of measurement for height shall be measured from zero datum to the point where the ceiling meets the exterior wall. The point of measurement zero datum for height in all zoning districts for buildings either east or partially east of the CCCL shall be the minimum bottom of grade beam elevation as established by the Florida Building Code plus two feet, the highest crown of road in front of the lot, or the highest first floor elevation of an abutting principal building, whichever is highest, provided all of the following conditions are met:

- (1) The proposed principal building can be no closer to the bulkhead line than the average setback of the closest principal buildings on the north and south side of the subject lot, provided the required rear setback is met;
- (2) The proposed principal building can be no closer to the front property line than the average front setback of the closest principal buildings on the north and south side of the subject lot, provided the required front setback is met; and
- (3) The proposed building can be no taller than five feet above the average height of the principal buildings on the north and south side of the subject property provided the overall height does not exceed the maximum overall height allowed. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the point of measurement for height shall be the top of the lowest floor slab on the existing structure provided that said addition(s) meet the minimum requirements as established in the Florida Building Code for construction east or partially east of the CCCL.

Building height of corner lot. In those cases involving a corner lot as defined in this section, the zero datum of the lot set forth in the definition of the term "building, height of (applicable to all districts except the R-B district)" and the definition of the term "building, height of (applicable only in the R-B district)" shall be measured from the average elevation (taken at the crown of the street) of each of the two intersecting streets abutting the lot. For the purpose of constructing additions of less than 800 square feet, the zero datum shall be the top of the lowest top of the first floor slab of the existing building.

Building, height of, lot abutting low streets, means for the purpose of establishing zero datum lot grade in the definition of the term "building, height of (applicable to all districts except the R-B districts)"; the definition of the term "building, height of (applicable only in the R-B district)"; the definition for the term "building, height of, corner lot"; and the definition of "building, height of, through lot," those cases involving a street having a low existing street elevation abutting the

lot, and if such street elevation is below the minimum flood elevation as established in chapter 50 of this Code. Zero datum for measuring building height shall be measured from the minimum flood elevation.

~~*Building, height of, through lot.* In those cases involving a through lot as defined in this section, zero datum as set forth in the definition of the term "building height of (applicable to all districts except in the R-B district)" and the definition of the term "building, height of (applicable only in the R-B district)" and the definition of the term "building, height of, corner lot" of the portion of the building fronting on the front street to one half of the mean lot depth shall be from the crown of the public street at its highest elevation abutting the front of the lot zero datum for the portion of the building fronting on the rear street shall be from the crown of the public street at its highest elevation abutting the rear street yard of the lot. For the purpose of the definition, North Lake Trail shall not be considered a rear street. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest floor slab on the existing building.~~

~~*Building, height of, (applicable to R-B lots abutting Lake Trail),* means the vertical distance from zero datum (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs, the measurement is to the point where the ceiling meets the exterior wall. The top of the floor slab for buildings may be raised to either 18 inches above the crown of the public street at its highest elevation abutting the lot, the minimum flood elevation, or to the existing grade elevation of the lot at its midpoint, whichever is higher, provided that the top of the floor slab is at a minimum elevation of the crown of the public street at its highest elevation abutting the lot and the minimum flood elevation. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest first floor on the existing building.~~

~~*Building, height of, (applicable to all other lots abutting Lake Trail),* means the vertical distance from zero datum (excluding garage) to the bottom of the top chord of the roof framing member where it intersects the plane of the outside face of the exterior wall for pitched roofs (excluding dormer windows in non-habitable space). For flat roofs the measurement is to the point where the ceiling meets the exterior wall. Zero datum for buildings shall be either the crown of the public street at its highest elevation abutting the lot, the minimum flood elevation or to the existing grade elevation of the lot at its midpoint, whichever is higher, provided that the top of the floor slab is at a minimum elevation of the crown of the public street at its highest elevation abutting the lot. For the purpose of constructing additions that do not exceed 800 square feet onto an existing structure on a lot, the zero datum shall be the top of the lowest floor slab on the existing building.~~

Building, height of, means the maximum height of the building measured from the point of measurement to the highest point of the roof system. It excludes chimneys, skylights, spires, cupolas, and similar architectural features that are usually carried above the roof level and not used for human occupancy, provided that each of the feature shall be erected only to such height and size as is necessary to accomplish the purpose it serves. The height of the outside exterior walls is measured from the point of measurement to the point at which the outside wall meets the horizontal eave of the roof or the bottom of a parapet wall. The lowest habitable finished floor elevation shall be at or above the point of measurement applicable to the subject lot.

The building height point of measurement (zero datum) shall be the greater of the following conditions as applied to the location of the subject lot:

- (1) For lots in the Special Flood Hazard Area, and not seaward of the CCCL, the point of measurement shall be at the current FEMA base flood elevation plus one foot of freeboard.
- (2) For lots seaward of the Coastal Construction Control Line (CCCL), the point of measurement shall be 15.9 feet NAVD (13.9 feet NAVD plus two feet above the lowest horizontal structural member).
- (3) For lots outside the Special Flood Hazard Area and lots that are not seaward of the CCCL, the point of measurement shall be a maximum of 18 inches above the highest street elevation of the crown of the public or private street or road, measured along the front property line of the subject lot.
- (4) For through lots and corner lots, the point of measurement (zero datum) related to the crown of the abutting public or private street, shall be measured only along the street with the primary entrance for the proposed building on the subject lot.

Section 2. Severability. If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 3. Repeal of Ordinances in Conflict. All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 4. Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 5. Effective Date. This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach, Florida, on the First Reading this ____ day of ____, 2023; and for the Second and Final Reading on this ____ day of ____, 2023.

Danielle H. Moore, Mayor

Margaret Zeidman, Town Council President

Bobbie Lindsay, President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Lewis S.W. Crampton, Town Council Member

Kelly Churney, Acting Town Clerk

Edward Cooney, Town Council Member

DRAFT